



Key Income Support Issues for Aboriginal Australians in the Northern Territory

A briefing paper prepared with input from North Australian Aboriginal Justice Agency (NAAJA), the Central Australian Aboriginal Legal Aid Service (CAALAS) and the Darwin Community Legal Service (DCLS) and endorsed by the National Welfare Rights Network

April 2014

Prelude

This briefing paper was prepared with input from the North Australian Aboriginal Justice Agency (NAAJA), the Central Australian Aboriginal Legal Aid Service (CAALAS), Darwin Community Legal Centre (DCLS) and the National Welfare Rights Network (NWRN).

It is informed by the NT Issues Paper 2012, and the Department of Human Service response of 24 September 2012.

We appreciate the time and effort expended by the Department of Human Service to respond in detail to our concerns and action items.

We look forward to continuing this constructive dialogue.

The briefing paper is in two parts. The first part addresses the current income support issues in the NT. The second part addresses the Department's response of 24 September 2012.

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Part 1 - Current key income support issues in the NT

1. Reduction in remote servicing

We understand that the Remote Services Teams, which travel to communities across the Northern Territory which do not have permanent DHS offices, will receive significant budget cuts and there will be a drastic reduction in the frequency of their remote visits.

These teams provide vital services to remote customers. They distribute BasicsCards, input income reporting information, process SU19 forms and work to ensure that customers are on the correct payment and receiving their correct entitlements.

Currently, the Remote Services Team visit remote communities around every 4 weeks. We understand that this will be reduced to every 12 weeks.

BasicsCards are not distributed by agents or sent in the mail. Customers may have to wait up to 12 weeks and longer to get access to a new BasicsCard.

The vast majority of Centrelink recipients in remote communities cannot use other methods of accessing DHS, for example online services, due to a lack of access to computers. We have also been advised by clients who have attempted to report their earnings by telephone that they are discouraged to do so and told to use online services.

The reduction in services will lead to:

- People on income management who lose or have their BasicsCard stolen, will not be able to use their BasicsCard to access their income managed funds. We are concerned that this will lead to conflict within families. Those impacts will be exacerbated for those on 70% income management – that is Child Protection Income Management or income management ordered by the Alcohol Mandatory Treatment Tribunal.
- An increased reliance on direct store allocations when a person loses their BasicsCard, with associated problems. We refer to the NAAJA/CAALAS Briefing Paper of 2009 (**attached**) which discussed this issue:

Both NAAJA and CAALAS have received complaints of delays and confusion in the transfer of Income Management funds. Generally, if money is paid into a store under Income Management and the person moves or travels to another community, there have been significant delays in getting money back from the store and moved into another nominated account. The process is that Centrelink firstly requests the money from the store, the store then returns the money to Centrelink and Centrelink then disburses the money to another account (for example, the store where the person is now located). The whole process can take up to 2 weeks.

- An increase in preventable debts, as DHS will not be able to process information around income reporting or other changes in circumstances as frequently.

- An increase in remote customers receiving non payment penalties.
- An increase in remote customers falling off payments.

Action: DHS to identify how it will respond to these cuts, including distribution of BasicsCards

2. Low rate of engagement for Aboriginal men

We understand that the NWRN has consistently raised the issue of the low rate of engagement with Aboriginal men with DHS. We are aware that a significant proportion of Aboriginal men do not access Centrelink payments due to their difficulties in navigating the system.

An ABC News story which aired on 12 June 2013, titled 'Many not using Centrelink'¹, highlighted this ongoing and serious issue. We raised this issue directly with the Honourable Jan McLucas, then Minister for Human Services on 21 July 2013 and provided her with a transcript of the story.

The reduction in RST services will only exacerbate this problem.

Case study – Teddy

Teddy is from a small remote community in Arnhem Land. He used to be on the Disability Support Pension – it was cancelled in June 2012 because his wife did not provide her payslips to Centrelink.

Teddy appears to have a brain injury and is unable to complete forms or access Centrelink without assistance.

The community where he is from does not have a Centrelink office and the agents are not equipped to deal with the complexity of his needs.

In January 2014, Teddy made another claim for the DSP. NAAJA are asking for Centrelink to obtain payment records from his wife under section 192 of the *Social Security Act* or treat the couple as separated under section 24 of the *Social Security Act*.

Action: DHS to identify what actions it is taking to address this issue.

¹ <http://www.abc.net.au/news/2013-06-12/many-not-using-centrelink/4750372>

3. Disability Support Pension

3.1 Program of support in remote communities

Our understanding is that the job network provider is usually the only program of support in remote communities. This means that the programs of support are only available when the job network provider travels to the remote community.

This means that DSP applicants in remote communities have a far greater hurdle in meeting the program of support requirements, which has a disproportionate effect on Aboriginal people.

Action: DHS to provide information on program of support providers in the NT, including specific information on providers in remote communities, and what accommodation (if any) is made for people without a program of support consistently in their community

3.2 Job Capacity Assessments

We are aware that Job Capacity Assessments are conducted over the phone for customers in remote communities.

This has clear impacts on the reliability and robustness of the JCA report. The social worker conducting the presentation is not able to assess how the person presents. Basically, it does not allow a complete assessment of the person, which affects claims for DSP.

Action: DHS to require social workers to attend Remote Service Team visits to conduct JCAs

4. Timely investigation of Centrepay merchants

We are concerned that DHS has been slow to take action against problematic Centrepay merchants in the past.

NAAJA's submission to the review of Centrepay (attached) recommended that DHS act more responsively and in a more timely way to complaints and feedback about Centrepay merchants.

Case study – NAAJA complaint

In January 2013, NAAJA met with a Senior Manager at Centrelink to discuss our concerns with the conduct of a Centrepay merchant, a consumer lease provider operating in the NT.

We advised the Senior Manager that the Centrepay merchant is:

- operating door to door in Aboriginal town communities in the Darwin region;
- misleading customers into thinking that they would own rather than rent the goods;

- charging excessive amounts for the rental of the goods; and
- appeared to be targeting Aboriginal people on Centrelink payments.

We were advised that Centrelink 'does not look at how traders generate their business' and Centrelink's primary obligation once the Centrepay deduction was signed by the customer and processed, was to 'continue the payment'.

NAAJA forwarded a letter sent to ASIC regarding the conduct of this consumer lease provider to Centrelink in March 2013.

We understand that Centrelink completed a compliance check on the merchant in March 2013 and the organisation was found to be compliant.

We received a response to our letter on 26 March 2014, which states that Centrelink will wait until ASIC makes an adverse finding to consider whether it should continue to be approved to participate in the Centrepay Scheme.

Given that the conduct of this lease provider is similar to that of Zaam Rentals, we consider Centrelink should be taking more regular compliance checks to ensure that this and similar retailers are not in breach of their Centrepay merchant terms and conditions.

Our key recommendations were as follows:

- that DHS consider making affordability assessments of Centrepay deductions prior to establishment (which include reviewing the person's income management deductions and priority needs);
- that provisions be inserted into the Centrepay merchant contract that reiterate that merchants must comply with Australian consumer protection laws, that allow DHS to impose special conditions on Centrepay merchants and/or terminate the contract if merchants are conducting business without regard to their obligations under Australian consumer protection law, and DHS to conduct compliance and monitoring of Centrepay merchants.
- that Centrepay not be available for the purposes of entry into credit contracts, except in specific instances;
- that DHS provide the following information as part of a person's fortnightly income statement or on request:
 - o each established Centrepay deduction;
 - o the commencement date of the deduction;
 - o the name of the merchant;
 - o whether the deduction has a target amount or is an ongoing deduction;
 - o how to vary or cancel a Centrepay deduction; and
 - o how to provide feedback or make a complaint regarding a Centrepay merchant; and
- That DHS develop responsive and clearly articulated complaints and feedback mechanisms about Centrepay merchants.

We are aware that a number of the above concerns are reflected in the *Independent Report into the Review of Centrepay*. We also understand that DHS has drafted an income statement which aims to inform Centrepay users of their deduction amounts, details of merchants, etc.

Action: DHS to undertake pro-active investigations into Centrepay merchants which prey on vulnerable Aboriginal people and communities.

Action: DHS should seek feedback on the new income statement from stakeholders and Indigenous users of Centrepay.

5. Income management

5.1 Income management and rent deductions to Territory Housing

Legal services have been raising concerns around the practice of establishing rent deductions through income management by DHS staff, without there being evidence of the customer's liability to make rent payments, for a number of years.

DHS would be aware of the scale of this issue, which was highlighted in an ABC News report on 17 August 2012.²

Legal services have made a number of complaints to the Commonwealth Ombudsman regarding this issue.

We are aware that Territory Housing is in the process of reconciling all remote rent payments made to it since 2009; we understand that a significant portion of these payments were made via income management.

NAAJA is aware that a number of remote Northern Territory income support recipients are paying rent both by income management and by rent deduction payable to Territory Housing. For example, a Department of Human Services Remote Services Team member in Umbakumba on 10 April 2013 stated that she had seen four clients in one day with this issue.

We have a number of clients with the same issue and we expect to receive more. The following case study is excerpted from NAAJA's submission regarding the Housing Payment Deduction Scheme and illustrates the problem:

Case study – Rosie

Rosie lives in a three bedroom Territory Housing premises in a small remote community in North East Arnhem Land. Rosie shares this house with 18 other residents including six adults and 12 children.

Territory Housing advised Rosie that her rent was in arrears. Territory Housing told Rosie that her rent payments of \$26.00 ceased in August 2012.

² <http://www.abc.net.au/lateline/content/2012/s3570663.htm>

Rosie came to NAAJA for assistance in October 2012. We obtained a copy of her Centrelink records and her Territory Housing records.

Since June 2012, Rosie has paid \$50.00 each fortnight from her income managed funds into a Territory Housing account.

Rosie had also been asked to sign a Territory Housing Rent Deduction Form, which was given to Centrelink. This form authorised Centrelink to deduct \$26.00 each fortnight in rent from her income managed funds. Since July 2012, Rosie has paid \$26.00 from her Family Tax Benefit payment into a different Territory Housing account.

Rosie paid an excess of \$24.00 each fortnight to Territory from her Centrelink income managed funds for one year.

NAAJA assisted Rosie to obtain a refund of \$416.00 in rent.

We are unsure of the checks undertaken by DHS prior to establishing rent deductions or income management deductions payable to Territory Housing. It appears that the payments are made into two different Territory Housing accounts, which have different Centrelink Reference Numbers.

We note that the objects of income management are to 'reduce immediate hardship and deprivation'.

We are aware that Territory Housing has worked intensively with DHS to identify the origin of a significant amount of remote rent payments, by seconding DHS workers to Territory Housing, and identification of remote rent payments through CRNs.

We are further concerned that DHS workers assume that persons living in remote communities are automatically required to pay rent. A person only has a liability to pay rent if they have signed a tenancy agreement or an occupancy agreement.

NAAJA would welcome the opportunity to provide more feedback on this matter.

Action: DHS to take urgent action to address this issue by checking if a person is paying rent via income management before establishing a payment deduction payable to Territory Housing.

Action: DHS to conduct a review of remote rent payments in the NT.

Action: DHS to arrange for NAAJA to provide training on the remote rent framework to DHS staff.

5.2 New vulnerable income management categories

We raised our concerns with the new categories of vulnerable income management during a consultation with FaHCSIA organised by the NWRN on 1 May 2013.

The amended legislative instrument was not released for consultation prior to it being registered. This meant that our opportunity to provide feedback on the instrument was extremely circumscribed.

We remain concerned that the legislative instrument does not require a young person's 'vulnerability' to be assessed by a DHS social worker; meaning that the young person's 'vulnerability' will be assumed. We are further concerned that no enquiry will be made as to whether income management is an appropriate response to the young person's assumed 'vulnerability'. This will mean that there is a large cohort of young people who will be income managed unnecessarily.

The crafting of the vulnerability categories mean that young Aboriginal people will disproportionately be income managed under these changes, without an associated increase in the services available to engage young people in work and study.

We are further concerned that the 'exceptions' to income management are confusing and will be difficult for DHS and legal advocates to explain in plain language. This will have a negative impact on the number of young people who will be 'excepted.'

The drafting of the exceptions has the further effect of placing the onus on the young person to show that income management will be detrimental to them.

If DHS administers 'exceptions' in a similar way to 'exemptions' we are likely to see a similarly low rate of 'exception' for young Aboriginal people.

Action: DHS to draft plain English communications regarding the new categories of income management, specifically targeted to young people.

Action: DHS to provide its communications around exceptions to legal services in the NT for feedback and comment.

Action: DHS to provide data on the number of exceptions applied for and the result.

5.3 Payments to third parties

5.3.1 Payments to School Nutrition Program participants

NAAJA has made complaints to the Commonwealth Ombudsman regarding the School Nutrition Program, namely that income managed payments continue to be made once a child is no longer enrolled at or attending a school.

We note the Department's letter of 21 March 2013, which states that the Department was considering updating the *Guide to Social Security Law* to make it explicit that the payments are voluntary. To date this has not occurred and the language in the Guide does not reflect that it is voluntary. Currently, the Guide states:

"If the child/student is enrolled to attend school (approved absences aside), and an approved school meals/nutrition program is available at the school the child/student attends, then a deduction for the school meals/nutrition program is **strongly recommended**... a parent does not nominate to direct their income managed funds towards a school meals/nutrition program, where one is available, the delegate should investigate the reason for this choice. The onus is on the parent to show how they are meeting their children's daily food needs. If the delegate is not satisfied that the person meets the daily food needs of their children, the delegate must take action

to meet the priority need as set out in SS(Admin)Act section 123YA, including by allocating income managed funds to a school meals/nutrition program, where available”

We note that the response also states ‘it is not unreasonable to expect participants to identify any payments which are not required’. Given issues of mail security, language barriers and other communication barriers omnipresent in remote communities and the forecast reduction in remote service provision, we consider that DHS needs to take a greater role in ensuring that deductions are up to date and accurate.

Action: DHS to update the Guide to reflect that the School Nutrition Program is voluntary.

5.3.2 Payments to consumer lease providers through Income Managed funds.

We have raised our concerns with the ability of consumer lease providers to access Centrepay, as detailed above. We have similar concerns with DHS making payments direct to consumer lease providers through income managed funds.

There are widespread concerns regarding the sales practices of some consumer lease providers and what appears to be a pattern of systemic avoidance of consumer credit laws.³ We refer DHS to Consumer Action Law Centre’s submission regarding the *National Consumer Credit Protection Amendment (Credit Reform Phase 2) Bill 2012*.⁴

We are aware that consumer lease providers in the NT have been able to access customer’s income managed funds. We consider that DHS should take immediate action to prevent this from occurring and provide the following case study to illustrate the issue:

6. School Enrolment and Attendance Measure

We are concerned about a number of aspects of the School Enrollment and Attendance Measure (SEAM).

NAAJA has been approached by a number of people who have had their payments suspended under SEAM. It is NAAJA’s experience that people do not understand why their payment has been suspended, or what they need to do to have their payment restored.

As suspension of a vulnerable families’ Centrelink payment is such a serious step, that it is vital that all written and verbal communication prior to suspension is accessible and drafted in plain English.

We have been approached by employees from the Northern Territory Government and the Commonwealth Government who have expressed concerns regarding:

- the lack of detail in case management plans;

³ <http://www.asic.gov.au/asic/asic.nsf/byheadline/13-021MR+ASIC+takes+action+against+Zaam+rentals,+cancelling+its+licence+and+banning+its+directors?openDocument>; <http://www.asic.gov.au/asic/asic.nsf/byheadline/13-022MR+ASIC+accepts+enforceable+undertaking+from+Mr+Rental?openDocument>

⁴ Accessible at <http://consumeraction.org.au/submission-to-exposure-drafts-of-the-national-consumer-credit-protection-amendment-credit-reform-phase-2-bill-2012/>

- low understanding of SEAM communications, for instance letters and case management plans; and
- insufficient follow up between the drafting of case management plans and case management meetings with parents or carers.

These issues will have a detrimental impact on the outcomes that can be achieved under SEAM.

Action: DHS to provide communication material to legal services for feedback.

7. Participation Failures

Young Indigenous job seekers are subject to a high and disproportionate numbers of job seeker compliance penalties. We are aware that the Northern Territory has a very high rate of participation failures and this particularly affects Aboriginal people in remote locations where there are very limited employment opportunities. A quarter of all financial penalties were applied on Indigenous job seekers. In 2012-13, Indigenous job seekers accounted for 30 per cent of eight week no-payment penalties and 43 percent of smaller financial penalties (such as *No Show No Pay* and *Reconnection Penalties*).⁵ We consider that there is a low level of awareness in the community regarding the ability for decisions for non payment periods to be appealed or “worked off” via a compliance activity.

Action: DHS to take steps to increase awareness of appeal rights regarding participation failures

Action: DHS to provide data on participation failures in the NT, broken down by sex, age, region and Aboriginality
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8. Payment eligibility and rate

8.1 *Obligation to process claims*

We are concerned that DHS staff do not fulfill their obligations when customers make claims for payment. We are aware that DHS staff, when a customer asks to claim a payment, say the DSP, will advise the client that they are not eligible of for payment; that is without taking a claim and processing it.

We are also concerned that this extends to Payment Pending Review; if a request is made, DHS needs to make a decision as to whether to grant Payment Pending review and advise the customer of this decision via letter.

Action: DHS to regularly train and remind staff of their obligations to process claims, irrespective of the staff’s belief of eligibility criteria and to make decisions in response to a Payment Pending Review.

⁵ <http://ministers.employment.gov.au/hartsuyker/minister-releases-job-seeker-compliance-data>

8.2 Member of a Couple assessments in the NT

We are concerned that Aboriginal people in the NT are routinely placed on partnered rates of payments without any or any adequate assessment of whether they meet the member of a couple criteria detailed in section 4 of the *Social Security Administration Act*.

We note that in every other state and territory in Australia, there are more non-Indigenous customers being paid the single rate than Indigenous customers. In the NT, the Indigenous partnered rate is double the non-Indigenous partnered rate.

Action: That DHS undertake a review of its process regarding MOC assessments and institute training to all staff in the NT to reiterate the need for proper assessment, particularly remote services team staff.

8.3. Prison partnered payment

We note that there are 197 Indigenous customers in the NT on prison partnered payments.⁶ This is the highest amount of Indigenous customers on the prison partnered rate in the country, despite the NT being the least populated State or Territory.

There are less than 20 non-Indigenous customers on the prison partnered payment in the NT.

In light of the decision in *Tsangaris v Secretary, Department of Education, Employment and Workplace Relations* [2012] FCA 721, we consider that DHS should take action to identify those persons affected by this decision and provide them with information regarding their potential eligibility for the single rate of payment.

Action: DHS should take action to identify those persons affected by this decision and provide them with information regarding their potential eligibility for the single rate of payment.

Action: DHS to amend the *Guide to Social Security* to state that a person whose partner is in prison or is separated by illness should be assessed under section 24 of the *Social Security Act* as to whether there is a special reason in their case to not be treated as a member of a couple.

8.4 DSP and eligibility when a person is in psychiatric confinement

We are aware that as a result of a complaint to the Commonwealth Ombudsman, DHS has agreed to amend its protocols to require Territory Corrections and Health Departments to provide information to DHS about people who are unfit to plead and or mentally impaired, so that DHS can assess them for eligibility for the Disability Support Pension.

We seek information as to the progress of these actions in the Northern Territory.

⁶ Senate Community Affairs Legislation Committee, Supplementary Estimates, 18 October 2012, Answer to Question on Notice HS 59.

9. Communications

9.1 Aboriginal languages

We note that there is currently only one Aboriginal language, Pitjantjatjarra that is available on the Departments ICC line. We would request information in all the major Aboriginal languages spoken in the NT.

We would be interested to receive a copy of any evaluation of the talking albums referred to in DHS's response.

9.2 ABSTUDY Guide

We note that the ABSTUDY Guide is in the Guide to Social Security Law – meaning people are not able to easily access information on the eligibility requirements of ABSTUDY.

Action: That DHS liaise with DSS about the ABSTUDY Guide into the Guide to Social Security Law.

Part Two - Response to Northern Territory Issues: Response to Action Items of 24 September 2012

1. Debt prevention in the Northern Territory

1.1 Managing the high rate of Centrelink debt amongst Aboriginal people

Action: Further resources

We encourage DHS to actively book interpreters in relevant languages prior to each remote visit. In our experience, interpreters are not widely or routinely used by remote service teams, resulting in confusion for customers and undoubtedly increasing preventable debts.

We are concerned that DHS may be over-reliant on Centrelink agents to communicate reporting obligations. We are aware of a number of debts which have resulted from an agent completing SU19 forms incorrectly, particularly around the reporting of casual earnings and partner income.

Case study - Veronica

Veronica is a 60 year old Aboriginal woman. Veronica lives in remote community in East Arnhem Land. The closest town, Nhulunbuy is located about 220 km's away and the road between the remote community and Nhulunbuy is only accessible during the dry season.

Veronica worked as a Centrelink agent for about two and a half years. Veronica has a Centrelink debt of \$8000 due to undeclared earnings while she was employed as a Centrelink Agent.

The debt was raised against Veronica because she started working as a Centrelink Agent in September 2007 but did not tell Centrelink that she was working until June 2008.

Veronica thought she had given Centrelink the correct income details. Veronica believes she did not receive any information from Centrelink which said she was being overpaid.

NAAJA is assisting Veronica with a debt waiver. Throughout this process, Veronica has stated "Can I get into trouble by doing this process", that is seeking a review, and when asked why she consistently ticked "no" on her Centrelink SU19 Forms when she was working as a Centrelink Agent, she advised that she relied in part on another person to assist her to complete the forms.

Case study – John John

John John is a 45-year-old Aboriginal man living in a remote community in Central Australia. John John attended school to primary level only and is functionally illiterate in English – he is unable to read English and has only limited ability to write English.

DHS raised a debt against John John for an alleged overpayment of Newstart Allowance over a six-month period. John John working as part of the CDEP program, but believed that he was doing a 'work for the dole job' and did not need to report his earnings.

As he was unable to read or comprehend Centrelink forms or letters, John John relied wholly on the DHS agent in the community to complete and lodge his Application for Payment Forms.

John John would sign the form and then give it to the agent, who would then fill out the rest of the form. The agent was aware of John John's work as part of CDEP but did not ask John John for details of his CDEP employment or to verify his CDEP earnings and completed the forms incorrectly.

CAALAS assisted John John to appeal DHS's decision to raise the debt and it was fully waived on the basis of 'special circumstances' by an Authorised Review Officer.

Action: That regular training, particularly regarding reporting earnings and reporting partner earnings be provided to DHS agents..

We are encouraged by the work of the Indigenous Debt Management team based in Darwin, but understand that it has no capacity to undertake further projects. Further resourcing of this team which undertakes proactive debt prevention work, would be a net gain for DHS.

Action: National Indigenous Debt Preventative Strategy

We are deeply concerned that there is no current Debt Prevention Strategy for Aboriginal and Torres Strait Islander people, given the disproportionately high level of Indigenous people who have debts and the high percentage of those debts which are preventable.

We reiterate the necessity for such a properly resourced strategy with clear debt prevention outcomes.

Mainstreaming debt prevention for Aboriginal people fails to recognise that Aboriginal people and particularly Aboriginal people living in remote communities, access DHS differently and may require more intensive support for debts to be prevented given language, literacy and numeracy issues.

We consider that DHS is under a duty to provide services to Aboriginal people that are culturally appropriate, and tailored to their needs so to ensure Aboriginal people receive the same level of services as non-Indigenous people. We welcome the opportunity to provide input for such a strategy.

Action: Appropriate communication of Centrelink obligations

We look forward to receiving the communications response, the customized communication plans and strategic communications that are being developed around Indigenous debt.

We would be happy to provide feedback on these materials.

We consider that DHS's approach needs to take account of the fact that a significant portion of its remote customers are innumerate and functionally illiterate in English.

In terms of situations where Aboriginal people are most likely to incur a debt, we have identified that a number of our clients with DHS debts have only recently come onto payments, because of a recent job loss or a transition off CDEP. Often the person will not understand their reporting obligations as they have a limited or no history of receiving DHS payments.

Often DHS agents and DHS staff assume a level of knowledge of reporting obligations that is not warranted and debts result. Remote service team and Customer Service Centre staff should be directed to identify customers that have recently come onto payments, for intensive support regarding their reporting obligations – particularly around reporting partner earnings and reporting all work, including casual and part-time work. Checks should also be conducted in a timely manner (within three months) to ensure that any errors or misunderstandings are rectified at an early stage.

Identifying whether a person is innumerate and not functionally literate in English and recording this on their DHS record is also important. Often DHS staff over estimate a person's capacity to understand & communicate in English and do not engage interpreters appropriately or provide information in local languages.

We regularly see clients who have numerous debts, commonly for failing to report income correctly. Usually these clients have barriers to reporting their income correctly – literacy and numeracy limitations and may also receive information about their earnings after their reporting date.

Some of these clients are on reporting periods of between 4 to 12 weeks, which can lead to debts if the person is unable to accurately report their earnings.

We consider that DHS needs to take a more active role in identifying where its customers have barriers to reporting their income correctly and take steps to assist the customer to report correctly, or by obtaining information through the use of section 192.

In some of the Centrelink debt matters we have dealt with we notice that a DHS Officer might conduct a one off 'spot check' for a person, by checking their income over the reporting period with what was declared. Often a debt has accumulated and is raised for the reported period. These debts are often dealt with swiftly by the DHS Officer, and a payment plan set up by withholding income. However the opportunity to identify ongoing problems with reporting is often missed. Unlike serious non-compliance teams, local offices will fix the problem in the current or recent fortnight, but often will not investigate any debts that may have risen outside of the reporting period. An important debt prevention strategy is to identify debt early to identify problems with reporting. The person remains unaware of overpayments and is more likely to potentially accrue if they are not alerted to the problem.

It is concerning that we have come across multiple cases where these smaller debts raised are indications of a systemic reporting problem that is not investigated or addressed immediately with the remote client by the DHS Officer.

Further, the client is sometimes still left on the longer reporting period after a debt has been discovered. We have come across matters in which years later DHS reconcile the client payments, and discover that a large debt has accumulated over several years. This debt could have been prevented if the issues are investigated more thoroughly closer to the start date of the debt period, and perhaps if more attention was paid to issues affecting remote clients, such as literacy and cultural norms.

Case study – Tanya

Tanya is a mother of two children residing in Tennant Creek NT. Tanya came to CAALAS very distressed in September 2012 with a letter from DHS stating she had accumulated debts of around \$38,000 and she was at risk of prosecution. The debts were raised because her partner's earnings had been incorrectly reported over a number of years.

Prior to receiving the letter, Tanya was unaware that her partner's earnings were being reported incorrectly; Tanya had always been forthcoming with information as to where her partner worked in the community and how many hours he worked.

The debt amount was the sum of five individual debts for Parenting Payment Partnered, as follows:

1. Debt 1 for \$15,629.36 for overpayments from 22 Aug 2006 until 9 Dec 2008;
2. Debt 2 for \$18,839.17 for overpayments from 24 Dec 2008 until 9 Nov 2011, and smaller debts arising from 'spot checks' during the above periods;
3. Debt 4 for \$871.20 (repaid) for period 7 Jan 2009 to 3 Feb 2009;
4. Debt 5 for \$1857.66 (partially repaid) for period 10 Nov 2010 to 18 Jan 2011, and
5. Debt 6 for \$1124.30 (repaid) for period 30 March 2011 to 7 June 2011.

CAALAS were advised by Centrelink that the debts were all correct and the overlapping debts were a result of a separate inquiries, or 'spot checks' where Tanya was asked to provide pay slips for her husband for certain periods – the first for one month the later two for three months. As a result of those checks, overpayments were detected and debts raised for those particular periods only, Tanya was automatically placed on withholding to repay these debts.

The two larger debts were raised in 2012 after reconciliation with ATO records of her husband's earnings; these looked at a greater period of time which encompassed the previous smaller debt periods.

During the first larger debt period the department had access to the partners earning details as he worked through the CDEP and Tanya was not obliged to report his earnings at all.

Later, Centrelink file note stated that on 15 September 2009 the customer "*provided a series of payslips – appears to be declaring earnings fairly accurately*".

CAALAS helped Tanya have the debt reviewed administratively. During this process it became evident that the larger debts may have been prevented if Centrelink had explained the smaller debts to Tanya and investigated further at the time they were raised.

Tanya was not prosecuted and the debt was reduced. Tanya's partner has now moved on and Tanya is bringing up the children on her own. She pays \$75 out of her pension each fortnight to repay the debt. She will have to do this for the next six years.

Action: Recording rates of pay.

It would also be useful for DHS to record rates of pay if the person is casually employed on a flash doc on their record.

Action: Debt Prevention Outreach

With respect, we do not think that the current DHS approach to debt prevention is actively reducing debt levels for Aboriginal people. We would be pleased to receive evidence that the current approach of preventing debt through the 'Department's usual business activities' are achieving a substantial and sustained reduction in debt levels for Aboriginal people.

In the absence of such evidence, we reiterate our previous recommendation that debt prevention outreach workers accompany each remote service team on a rotational basis, and these teams include interpreters that are used in all interviews unless the client specifically advises they are not required.

2. Income Management

2.1 Exemptions from Income Management

We continue to be concerned regarding the level of exemptions in the NT and refer to our letter dated 1 October 2013 regarding our broader concerns about income management.

We would welcome the evidence indicating an increase in the number of exemptions as a result of the recent changes to communication and process by DHS .

In relation to exemptions from income management, the Auditor General stated:

'There would be benefit in DHS investigating whether there are any unintended barriers which either discourage particular customer groups from applying for an exemption, or affect the likelihood of their application being successful, and taking any necessary remedial action.⁷

We consider that only allowing exemptions to be applied for over the phone, is a barrier which discourages Aboriginal people, and particularly Aboriginal people with language and literacy concerns from applying from exemptions. The following case study illustrates this:

Case study - Paula

Paula is from a remote community in West Arnhem Land. She has limited English language skills. She is on Parenting Payment (Partnered) and she has been income managed since 2008. She has a 10 year old daughter.

She wants to 'come off the BasicsCard' and 'get cash'. NAAJA has assisted Paula to request an exemption from income management on two occasions.

⁷ Australian National Audit Office, The Auditor General Performance Audit, *Administration of New Income Management in the Northern Territory*, Audit Report No. 19 2012-13 Performance Audit, p. 68.

On the first occasion, a NAAJA lawyer contacted the DHS income management call centre with Paula. The DHS representative told Paula what she needed to do to gain an exemption. At NAAJA's request, the DHS representative obtained Paula's child school attendance records first.

DHS advised that her daughter had not been attending school regularly enough. DHS refused the exemption request.

Six months later, Paula spoke to NAAJA again and asked for assistance with her exemption. NAAJA assisted Paula to contact DHS. We asked DHS to arrange for an interpreter, but DHS could not locate an interpreter.

Given Paula's child's history of school attendance, we asked DHS to contact the school first; that is before doing the extensive financial vulnerability test. This request was refused.

The DHS representative asked a series of questions about Paula's financial situation. Paula gets embarrassed speaking in English. The DHS worker alternated between speaking in patronizing language and very high level English to Paula. The NAAJA lawyer 'interpreted' the question the DHS representative was asking into plain English.

At the end of a very long conversation, where Paula was asked many questions, she was visibly agitated and demoralised. The DHS representative advised that she had passed the financial vulnerability test.

Half an hour later, the DHS representative called NAAJA and advised that Paula's child was not attending school and so was not eligible for an exemption.

Action: Improve the skills of Remote Service Team to take IM exemption requests

We consider that Remote Service Team staff should be able to assist Indigenous clients with exemption requests. They would not necessarily have the capability to process the exemption request, but the ability for DHS to ask questions regarding financial vulnerability for example of its customers directly, would greatly improve the accessibility of exemptions.

2.1.1 Lack of communication regarding the ability and criteria to obtain an exemption and the process by which to do so

Action: Developing and implementing a communication strategy

We understand that DHS is taking steps to raise awareness of income management exemptions in the NT.

We commend DHS on its commitment to:

- conduct 'exemption' interviews every eight weeks, which is triggered by a flag on a parent's file; and
- include exemption information on all income management letters.

We seek an explanation as to why this 'service offer' will not be available to people without children, such as Indigenous people who can access the full-time study or work exemptions. It is concerning and apparently unjustified to have a non-uniform level of service for income managed customers to access exemptions.

We are pleased that DHS is contacting people directly, as if it relied on a 'letters only' approach, a large cohort of customers would not receive information on exemptions.

We note:

"Research undertaken by the Department of Human Services in 2011 indicates that Indigenous customers with language barriers prefer face-to face communication and calling to speak to one of our staff members."⁸

We have not observed these pamphlets in remote services centres or agent's offices. Clearly it is crucial for this information to be distributed if it is to have any impact.

We commend the Department on its changes to the income management letters and the introduction of pamphlets, but we caution DHS against being over-reliant on communications on exemptions in written formats. These exclude the substantial portion of people on Income Management who are not literate in English and/or in written English.

We will provide feedback on the revised income management letters in another forum.

We reiterate our previous recommendation that comprehensive communication strategy including radio, print and notifications on the Indigenous Call Centre and BasicsCard line be implemented and developed regarding exemptions. Communication materials need to be produced in major Aboriginal languages, as well as English.

Action: Training of DHS workers

We commend DHS for undertaking regular training to its NT staff about exemptions. We recommend that information regarding the low levels of exemptions and the barriers to exemption be a focus of the training, so as to encourage staff to be more proactive and informed when discussing exemptions with clients. Given staff turnover, we suggest that such training be regular and made compulsory for new staff members and existing staff moving to the NT.

Action: Incorporate exemption messaging into DHS scripts
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We look forward to receiving information as to DHS's exploration of including exemption messaging into relevant workflows and whether this will occur.

2.1.2 Lack of information in exemption rejection letters

We commend DHS for improving its Income Management exemption rejection letters.

We would be pleased to provide feedback on these letters.

⁸ Senate Community Affairs Legislation Committee, Supplementary Estimates, 18 October 2012, Answer to Question on Notice HS 57.

2.1.3 No follow up by DHS regarding exemptions

Action: Improving DHS follow up of exemption requests

We hope that the changes to the Income Management exemption rejection letters will lead to increases in exemption success rates.

We are concerned that it does not appear that the Income management team contacts a person who has met the financial vulnerability test, but otherwise is ineligible for an exemption – if they have not provided the required evidence or otherwise does not meet the criteria. By failing to do so, DHS is missing a valuable opportunity to identify why the exemption has failed or provide referrals to services which would assist the person to meet the criteria.

We are further disappointed that DHS appears unwilling to follow up with clients six months after their exemption request has been denied. We consider that this is one of the barriers mentioned by the ANAO Report mentioned above, and would reiterate the importance of this step being incorporated into DHS's follow-up processes with the aim of encouraging efforts to exit income management and avoid dependency as much as possible.

2.1.4 Lack of engagement with Department of Education and Training and Job Services Australia

Action: DHS engagement with DET and JSA

We would appreciate feedback on the outcome of this action item.

Discussions need to take place between DHS and the Department of Employment about improving awareness of exemptions from income management as a benefit of employment among Job Services Australia members, Indigenous Employment Service providers, Remote Jobs and Communities Program providers and educational providers. This is a significant pathway off income management and into economic independence and self-sufficiency.

Lack of awareness of this exemption will reduce the effectiveness of this 'pathway' off income management for those individuals without children. This will have a disproportionate effect on Aboriginal men. We refer to concerns regarding the level of engagement that Aboriginal men have with DHS above.

2.2 State or Territory Authority referrals from income management

NAAJA, CAALAS & DCLS made submissions to the Department of Families, Housing, Community Services & Indigenous Affairs regarding the **Public Housing Tenants' Support Bill 2013**, which established the Housing Payment Deduction Scheme.⁹

Those submissions express our serious concerns regarding any proposal that Territory Housing be empowered to make recommendations to the Secretary as to the percentage of

⁹ The NAAJA and DCLS submissions are available at: <http://www.fahcsia.gov.au/our-responsibilities/housing-support/programs-services/homelessness/exposure-draft-public-housing-tenants-support-bill-2013>

a person's income managed funds that is payable to it, given the current deficiencies in its records of remote rent payments.

Territory Housing is making efforts to resolve this issue, however we remain concerned that giving powers to Territory Housing regarding income management will act against the object of income management.

We seek information as to whether the Commonwealth is contemplating empowering public housing lessors to 'refer' people to income management. We also seek information as to whether the Commonwealth is reviewing the appropriateness of state and territory referrals in general.

2.3 Referral processes between NT Department of Children and Families (DCF) and DHS

Action: Review of the referral processes

We look forward to receiving the outcome of the review of process between DHS and DCF and information regarding any changes made to process as a result.

Action: Publication of referral decision processes

Given that DHS act on decisions made by Office of Children and Families (formerly Department of Children and Families), we consider that, for completeness, it should publish a link to these guidelines within *Guide to Social Security*.

2.4 Practical issues with income management

2.4.1 BasicsCard balances

Action: Improving access to BasicsCard balances

We would appreciate being updated on the progress of these agreements, and which retailers are providing balances. We would also appreciate advice on what percentage of community stores now offer this facility and if there are plans to extend this further.

2.4.2 Mobility

We would appreciate being provided with the details of the number of non-national merchants, and the number of second hand goods retailers in the NT that are participating in the BasicsCard scheme. We also request details of similar non-national merchants available in other states, and details of any efforts to expand numbers of these merchants.

3. School Enrolment and Attendance Measure

We would appreciate being provided with information of whether the SEAM evaluation incorporated our recommendations.

Communication on expansion of SEAM

Action: Appropriate communication and information dissemination in line with recommendations 7, 8 and 9 of the Senate Community Affairs Committee report into Stronger Futures Legislation.

We would appreciate being provided with the communication materials developed regarding SEAM, including the radio messages, letter and factsheets.

We consider information on appeal rights should be included in all letters and form part of all communication materials on SEAM.

4. Overcoming Aboriginal language barriers

We would encourage DHS to ensure that interpreters are available, if required, for all Aboriginal clients throughout the NT, in both urban and remote centres. DHS staff often assume an understanding of English that is not warranted, and we reiterate the importance of training for staff in identifying and utilizing interpreters.

Encouraging use of interpreters involves accommodating interpreters in CSOs and other DHS spaces so that they are able to discharge their duties professionally. For example, in Alice Springs, AIS interpreters are not provided with a work space at the DHS office. They are expected to sit in the public waiting area between jobs, effectively competing with CSO customers for seats.

AIS interpreters in Alice Springs have previously asked CSO staff for pens and paper to assist with their work. This request was refused. AIS staff have advised CAALAS that this treatment showed great disrespect for them as people and as professionals.

These concerns need to be addressed, as they impact on the quality of service that DHS is providing to its customers.

As stated above, we encourage DHS to actively book interpreters in relevant languages prior to each remote visit. This should also involve identifying a number of interpreters within and outside the community who may be able to assist. AIS has a number of interpreters that are available to provide interpreting services over the phone. We encourage DHS to inform itself of these services.

5. Review and Appeals

5.1 Delays in ARO decision making

The figures provided unfortunately do not reflect our experience with AROs in the NT.

The National Welfare Rights Network has raised problems with delays in the review system with the Minister for Human Services and in a recent media statement.¹⁰ We understand that DHS has implemented a new governance structure and a new workload management process, however, we remain concerned with the timeliness of ARO decisions in the NT.

Case study – Annabel

Annabel, who is from a remote community in West Arnhem Land, made a request for a review of a decision to cancel her Carer Payment on 30 November 2011. The decision was

¹⁰ National Welfare Rights Network, *Centrelink review and appeals system at breaking point*, Media Release, 10 April, 2014.

affirmed without speaking with Annabel.

NAAJA assisted Annabel customer to seek an ARO review of the decision on 15 February 2012. The review was not completed.

NAAJA wrote to DHS seeking review on 8 October 2012, 27 November 2012, 30 November 2012 and 4 December 2012.

It appears the ARO was finally allocated to a ARO on 21 December 2012.

NAAJA received notice of the favourable decision on 11 February 2013, a full year after the ARO was initially requested.

Case Study – Rosemary

DHS raised a \$14 000 debt against Rosemary and referred her matter to the CDPP for prosecution. CAALAS successfully obtained the withdrawal of the prosecution.

In August 2012, CAALAS assisted Rosemary to seek a review of the decision to raise the debt by an ARO.

In May 2013, CAALAS had not received a response from DHS regarding the ARO request, or an acknowledgement of receipt of the request.

Rosemary regularly visited CAALAS to find out about the progress of her matter. She was stressed by the length of time the matter it was taking.

Case Study – Darren

NAAJA assisted Darren to make an ARO request relating to a review of an overpayment.

NAAJA sent the ARO request via facsimile on 4 January 2013. NAAJA contacted DHS to confirm that the request had been received on 14 February 2013. It had been received but not allocated to an ARO.

On 12 April 2013, NAAJA contacted DHS again and the matter was still unallocated.

The first contact NAAJA received from the ARO was on 17 April 2013, and the debt was waived on the same day.

5.2 Low Rate of Indigenous appeals

Action: How is the Department addressing the low rate of Indigenous appeals

We are concerned that DHS does not appear to be taking any active steps to address the low rate of Indigenous appeals.

Its response focuses on the new internal review framework, which is activated once 'a customer requests a review of a decision'. We are concerned that the basic threshold step has not been addressed, which is informing customers of their right to appeal, taking the expression of dissatisfaction with a decision a de-facto request for a review, and assisting customers who are dissatisfied with DHS decisions to access an advocate.

Whilst we appreciate that two genuine attempts to contact a customer are made by Customer Support Officers, in a remote context this may not result in actual contact with the customer. We consider that Remote Servicing Team staff should follow up on these requests and this be communicated to DHS staff, via a flash doc.

5.3 Access to the Social Security Appeals Tribunal

On a positive note, it is pleasing that the Social Security Appeals Tribunal has agreed with the need to increase access to Indigenous income support recipients and to increase engagement with Indigenous organisations.¹¹ We will forward information regarding these action items to both the Department of Social Services and SSAT regarding the accessibility of the SSAT.

¹¹ Social Security Appeals Tribunal, *Annual Report, 2012-13*.