

# CHALLENGES AND OUTLOOK



## Memorandum of Understanding

A draft Memorandum of Understanding was presented by the Australian Government to the Queensland Government in March 2019 setting out a proposed basis for funding, administration and reporting arrangements for the operation of the FRC. The Australian Government proposed a joint commitment to continue to support the role of the Commissioners until 31 December 2021. As at 30 June 2019 this Memorandum of Understanding is still under negotiation with the Queensland Government in regard to the term of the agreement. The Queensland Government has announced its commitment to continue funding the Commission for the 2019-20 financial year.

## Cape York Income Management

In February the Senate Standing Committee on Community Affairs, Legislation Committee, invited Commissioner David Glasgow to provide a written submission addressing issues that may be of relevance to the Commission regarding the inquiry into the Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019. The Bill amends the *Social Security (Administration) Act 1999* to extend the cashless debit card trial in three sites, and the income management program in Cape York, to 30 June 2020. A written submission was presented on 26 February to the Committee. Issues of relevance brought to the Committee's attention included:

- Commissioners have generally taken a moderate approach to issuing CIM orders, often concentrating on those clients who would be more receptive to the benefits of financial management. The Commissioners explain to those clients the advantages of income management as a means of managing their money to meet essential household needs and expenses, thereby assisting in stabilising their home situation and better providing for their children. Many clients therefore commence their orders in the spirit of an agreement.
- Commissioners order CIM for clients who have demonstrated a resistance to fulfilling their responsibilities for the children in their care, or their responsibilities to their community. In this respect CIM is used as an enabler for compliance with orders.
- CIM is used as an incentive to improve school attendance by reducing the CIM rate relative to improved school attendance.
- Commissioners continue to report that a number of clients are requesting CIM orders and to be placed on a BasicsCard. These clients request that the Commission order the CIM as a means of stabilising the household and ensuring bills are paid and children are fed, in preference to being placed on VIM where pressure from spouses and family members can erode the intent of income management.

The majority of CIM orders relate to education notices (not sending children to school). For example, as at 25 February 2019, 90 children were in the care of 54 Aurukun clients currently on a CIM order, with 34 of these clients on a 90 percent CIM order.



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Whilst the benefit of income management is in the capacity of the BasicsCard to assist people to manage their income, and the disadvantage is the perceived loss of choice, it is only one of the tools available to the Commissioners in restoring social responsibility in their communities. Income management is used in a targeted approach, mostly as a last resort, and only a small percentage of clients are subject to a CIM order.

In March the Committee further invited Commissioner Glasgow to appear at a public hearing for the inquiry to be held on 18 March 2019. On the instructions of, and in consultation with Commissioner Glasgow, Registrar Maxine McLeod appeared via telephone link at the hearing and presented a statement on behalf of Commissioner Glasgow. In early April the Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019 passed both Houses, extending CYIM to 30 June 2020.

## **Queensland Productivity Commission Inquiry into Imprisonment and Recidivism**

The Queensland Government has tasked the QPC with examining how government resources and policies can be best used to reduce imprisonment and recidivism, and improve outcomes for the community over the medium to longer term.

Commissioner David Glasgow and members of the Registry attended public consultations held in Townsville and Cairns in regard to this inquiry in October 2018. Commissioner Glasgow was further invited by the QPC to attend a public hearing held in Townsville on 8 May 2019. The Commissioner advised the hearing that issues surrounding imprisonment and recidivism affect the remote Indigenous communities in many and profound ways. These issues include:

- gaps in support for both offenders and victims on release from prison
- lack of meaningful employment available in community
- prison being a rite of passage rather than a deterrent
- lack of diversionary options
- disconnection from family and consequent impacts.

Of significance in the welfare reform communities are the unintended consequences of the blanket application of strong criminal sanctions. The Commissioner noted that domestic violence orders and breaches being inflexibly applied can often result in disproportionate incarceration rates in remote Indigenous communities. High incidence of convictions relating to drug and alcohol and public nuisance charges also prevent community members from obtaining blue cards and limit employment opportunities.

The Commission supported the recommendations outlined in the draft report to reduce the scope of criminal offences, and to expand diversionary options including exploring orders to attend mediation. As an example, domestic violence matters which occur between siblings and other family members would often be better dealt with by Indigenous mediators, or in a setting such as FRC conferences. These options are either not canvassed by police or not available as a referral mechanism to the courts.

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The Commission also strongly supported the recommendation to include victim focussed restitution and restoration. The FRC's model of Local Commissioners conferencing community members who have been referred to it provides a forum to hold people accountable for their actions in a culturally appropriate and effective way.

As the Queensland Government considers the future of the FRC, it seems there is significant opportunity to evolve and refresh the FRC model to incorporate alternative justice strategies more suited to the needs of Aboriginal and Torres Strait Islander people. Local Commissioners are established and respected local Elder authority groups that now have 11 years' standing in each community. They are an invaluable resource.

Local Commissioners have first-hand knowledge of the drivers of over-representation in the criminal justice system in each of their communities. Approaches such as restorative justice conferencing and justice reinvestment would seem to fit well with the existing FRC conferencing structure.

There are a range of options available to use the FRC to continue to make real change and contribute to improvements in imprisonment and recidivism in Indigenous communities. It will be up to the Queensland Government to recognise and embrace these opportunities.