

# **Administration of Income Management for ‘Vulnerable Youth’**

DEPARTMENT OF HUMAN SERVICES: CENTRELINK  
AND DEPARTMENT OF SOCIAL SERVICES

February 2016

Report by the Commonwealth Ombudsman,  
Colin Neave, under the *Ombudsman Act 1976*

REPORT NO. **01|2016**

# CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>PART 1—INTRODUCTION .....</b>	<b>2</b>
Background.....	2
<i>The Ombudsman’s 2012 Income Management report .....</i>	<i>3</i>
<i>The evolution of the vulnerable measure of income management and the Social Services Legislation Amendment (No. 2) Bill 2015 .....</i>	<i>4</i>
<i>The Vulnerable Youth measure of Income Management .....</i>	<i>5</i>
<b>PART 2—MR G’S SITUATION .....</b>	<b>9</b>
<b>PART 3—AUTOMATED ASSISTANCE IN ADMINISTRATIVE DECISION-MAKING .....</b>	<b>11</b>
Lawfulness of automated decisions to apply the vulnerable youth measure of VWPR IM.....	12
Lawfulness of automated decisions to extend vulnerable youth VWPR determinations beyond 12 months.....	15
<b>PART 4 - EXCLUSION PROCESS ISSUES .....</b>	<b>19</b>
Background.....	19
Process for referral of exclusion requests to DHS social workers .....	19
Requirement for DHS Social Workers to make a decision in response to exclusion requests .....	22
Lawfulness of exclusion decisions.....	24
<b>PART 5—OTHER ISSUES .....</b>	<b>26</b>
Review decisions .....	26
Levels of Social Worker Involvement.....	27
Failure to inform people of their right to request an exclusion from IM.....	30
Lack of reasons and other relevant information .....	32
<b>PART 6 – RECOMMENDATIONS AND AGENCY RESPONSES...</b>	<b>34</b>
<b>ABBREVIATIONS AND ACRONYMS .....</b>	<b>40</b>
<b>APPENDIX A – DHS’S RESPONSE.....</b>	<b>42</b>
<b>APPENDIX B – DSS’S RESPONSE .....</b>	<b>53</b>

## EXECUTIVE SUMMARY

Income Management (IM) is designed to ensure that income support payments are used to pay for necessary goods and services rather than discretionary items and activities. When people are subject to IM, it means that they can only access a portion of their income support payments in cash (50% in most cases, but sometimes less), while the remaining portion is managed by the Department of Human Services (DHS) through its Centrelink program. Initially targeting Indigenous Australians living in remote and very remote communities, IM has gradually been extended more broadly to different target groups, across different regions of Australia.

Our office has previously published two reports about administrative problems with IM. In August 2010, we published the report *Department of Families, Housing, Community Services and Indigenous Affairs and Centrelink: Review rights for income managed people in the Northern Territory*, and in June 2012, we published the report *Review of Centrelink Income Management Decisions in the Northern Territory: Financial Vulnerability Exemption and Vulnerable Welfare Payment Recipient Decisions*.

Since the publication of each of these reports, the breadth and coverage of IM has continued to grow, and our office continues to identify administrative problems through complaints we receive about different measures of the scheme.

This report highlights problems we recently identified concerning DHS’s administration of the ‘vulnerable youth’ measure of IM which commenced in July 2013. DHS’s administration of this measure of IM differs from other IM measures due to its greater reliance on automated decision-making.

Following receipt of a complaint from a person subject to this measure of IM, our office identified a number of problems which prompted us to undertake a broader assessment of the legislation, policy and procedures relevant to the vulnerable youth measure, as well as DHS’s template letters, decision-making templates and workflows.

We identified issues of concern, including failures of the automated decision-making process and ARO reviews to consider all mandatory legislative criteria; the lack of any process to allow DHS to give effect to the legislative power to revoke a determination and exit a person from IM when that person is otherwise eligible; problems with DHS’s internal processes for referring exclusion requests to an authorised decision-maker to make an exclusion decision; decision letters that do not provide adequate reasons for decisions, and a failure to inform people of their rights.

Some of the comments in this report replicate some of the same administrative problems identified in our 2012 report.

## PART 1—INTRODUCTION

### Background

1.1 Income Management (IM) is a measure which enables DHS to retain and manage at least 50% of a person’s income support payments, with the intention of ensuring that people’s priority needs and those of their families are met through the proper expenditure of income support money.<sup>1</sup>

1.2 The Department of Social Services (DSS) is the agency responsible for the IM legislation and associated policies, while the Department of Human Services (DHS) is the service delivery agency that administers IM, via its Centrelink program. DHS is bound by the instructions it receives from DSS. For ease of understanding, the term ‘DHS’ is mainly used in this report as it is the department which manages the Centrelink program. However, where it is necessary to refer to the Centrelink program itself, then the term ‘Centrelink’ is used.

1.3 IM aims to target groups of income support payment recipients who are considered to be at a higher risk of social isolation and disengagement, poor financial literacy and participation in risky behaviours.<sup>2</sup> Key target groups for IM currently comprise:

- Disengaged youth—persons between 15 and 24 years old who have been in receipt of one of the following payments for three of the last six months:
  - youth allowance
  - newstart allowance
  - special benefit
  - parenting payment
- Long-term welfare payment recipients—persons aged 25 years or more who have been in receipt of one of the following payments for more than one year of the last two years:
  - youth allowance
  - newstart allowance
  - special benefit
  - parenting payment
- Vulnerable welfare payment recipients (VWPR)—anyone a DHS social worker has assessed to be a VWPR
- People subject to the Child Protection IM measure—who are referred for IM by child protection authorities
- Voluntary IM (VIM)—people who live in an IM declared area and who volunteer for IM
- Cape York Initiative – people who are referred for IM by the Queensland Families Responsibilities Commission under the Cape York Welfare Reform program\*

---

<sup>1</sup> See s 123TB of the *Social Security (Administration) Act 1999*.

<sup>2</sup> <http://guides.dss.gov.au/guide-social-security-law/11/1/1/20> last accessed 23 June 2015.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

- Supporting People at Risk (SPAR) - people referred for IM by other state and territory authorities, such as the NT Alcohol Mandatory Treatment Tribunal\*
- Vulnerable Youth – young people who qualify for a ‘trigger’ payment, including:
  - people aged under 16 years granted Special Benefit
  - people aged 16 years and over granted the Unreasonable to Live at Home payment
  - people under the age of 25 who receive a Crisis Payment due to prison release.\*<sup>3</sup>

1.4 IM has applied in the Northern Territory since 2007 and has since been progressively expanded to other regions across Australia. IM trial sites now operate in most states and Territories. In addition to the geographical expansion of IM, the range of different IM measures and target groups has also increased over time. Since publication of our 2012 IM own motion report, three new IM measures have been introduced. These are the last three measures outlined in paragraph 1.2 above (asterisked).

1.5 Recent data supplied by DHS indicates that as at March 2015, the number of Indigenous welfare recipients on IM still far outweighed the number of non-Indigenous income managed welfare recipients, with IM welfare recipients who identified as Indigenous making up 20,778 of the total 26,250 welfare recipients being income managed.<sup>4</sup>

### ***The Ombudsman’s 2012 Income Management report***

1.6 In 2012, following an in-depth review in which this office examined extracts from over 100 IM welfare recipients’ Centrelink files, the Ombudsman published a report detailing our assessment of two areas of DHS’s IM decision-making. These were exemption decisions based on DHS’s view that the person had indications of financial vulnerability in the past 12 months; and decisions to apply IM to people because DHS social workers had assessed those people as vulnerable welfare payment recipients.

1.7 We found significant problems with DHS’s decision-making and administrative practices in relation to these two areas, including decisions failing to address mandatory legislative criteria, decisions lacking a sound evidence base, a failure to adequately explain decisions or inform people of their review rights in correspondence, and other issues.

1.8 In the course of and following publication of our report, DHS and the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) the policy agency then responsible for IM, took steps to examine and respond to the issues our office identified, including making improvements to its letters and decision-making processes, workflows and templates in order to better assist staff to make lawful, evidence-based decisions.

1.9 In September 2014, the Social Policy Research Centre at the University of New South Wales released the *Final Evaluation Report, Evaluating new Income Management in the Northern Territory* (the Final Evaluation Report) That report,

---

<sup>3</sup> See subsection 8(1) of the *Social Security (Administration)(Vulnerable Welfare Payment Recipient) Principles 2013*.

<sup>4</sup> Data provided by DHS by email 11 June 2015 on IOI-2014-400021.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

commissioned by the Department of Social Services, noted that changes implemented in response to our office’s 2012 investigation report had resulted in improvements to the IM exemption process, including:

...more stringent reporting about reasons for not allowing an application for an exemption, and new processes to ensure that customers subject to the compulsory income management measures are regularly informed of their right to apply for exemptions when engaging with Centrelink regarding other matters. Many of these changes were welcomed by the exemptions staff interviewed for the evaluation, and they noted they now felt clearer about the process and more comfortable in granting exemptions than before the Ombudsman’s report:

*There were a lot of exemptions being rejected at first because sometimes it wasn’t always clear and there’s a fine line of what we saw as being financially vulnerable. The Ombudsman came in and that led to changes in how we did documentation and assessed change. Now it’s quite a process to reject an exemption. (Centrelink Customer Service Officer)<sup>5</sup>*

1.10 However, our investigations of more recent IM complaints continue to highlight problems with IM administration and decision-making by DHS.

### ***The evolution of the vulnerable measure of income management and the Social Services Legislation Amendment (No. 2) Bill 2015***

1.11 The vulnerable measure of IM was originally created in 2010 as a case by case measure. Under the original vulnerable measure of IM,<sup>6</sup> vulnerable welfare payment recipients are required to be identified and assessed by a DHS social worker as experiencing an indicator of vulnerability. Additionally, before placing these persons on IM, a social worker must be of the view that IM would be an appropriate response to the person’s particular vulnerability, and that the person would benefit from it.<sup>7</sup>

1.12 The vulnerable measure was expanded from 1 July 2013, to include an additional category of vulnerable welfare payment recipients who are not identified on a case by case basis, but rather, by virtue of the fact they meet various objective criteria, making them part of a specific class or group.<sup>8</sup> Persons subject to the *Vulnerable Youth* measure are identified by DHS’s computer system, and IM is automatically applied to them after they qualify for a ‘trigger’ payment.

1.13 The ease with which IM has been able to be applied under the vulnerable youth measure appears to have resulted in greater numbers of vulnerable youth being identified for IM than people identified under the traditional social worker initiated vulnerable measure. As at 27 March 2015, there were a total of 2,709 people being income managed under the vulnerable youth measure, compared with only 264 people on the social worker initiated measure of vulnerable IM.

1.14 In May 2015, the government introduced the *Social Services Legislation Amendment (No.2) Bill 2015*, which sought to end case by case social worker identification of vulnerable welfare payment recipients (VWPRs), and to move to a

---

<sup>5</sup> J Rob Bray, Matthew Gray, Kelly Hand and Ilan Katz, [Evaluating New Income Management in the Northern Territory: Final Evaluation Report](#), September 2014, p241

<sup>6</sup> See Part 2 of the Principles.

<sup>7</sup> See Part 2, section 7 of the Principles.

<sup>8</sup> These criteria are outlined in paragraph 1.18 below.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

system of identifying all vulnerable welfare payment recipients by virtue of their membership of a class or group of individuals, like the vulnerable youth measure.

1.15 The Bill was referred to the Senate Community Affairs Legislation Committee for inquiry and review and the committee tabled its report on 15 June 2015. Our office was one of a number of organisations and individuals who lodged submissions to the inquiry, cautioning against the removal of the case by case identification of vulnerable welfare payment recipients for income management.

1.16 Our office’s position was based largely on our observations of problems associated with the administration of the vulnerable youth measure of income management, and in particular, the way in which automated decision-making processes are currently being used to administer this scheme, which has the potential to result in IM being applied to people in circumstances where it could be detrimental to their wellbeing.

1.17 Other organisations’ submissions echoed our office’s concerns in this regard<sup>9</sup> and also raised concerns about the reduction of compulsory contact between income management clients and DHS social workers<sup>10</sup>. Our office addresses this issue in the context of the administration of the vulnerable youth measure of IM in part 5 of this report.

1.18 Another important issue raised in the submissions to the Senate Committee Inquiry, and in the Bills Digest<sup>11</sup> was that income management evaluation reports released to date suggest that membership of a class has not been an effective way to identify income support recipients likely to benefit from income management. The *Final Evaluation Report evaluating new income management in the Northern Territory* found that on the whole, the evidence it considered did not indicate that IM was achieving its objectives. However, it found there was some evidence to show that income management may be a successful intervention when used as part of an individually tailored program for people who had been specifically targeted as a result of their identified vulnerability or problem.<sup>12</sup>

1.19 We understand that the Bill has now been passed by both houses of Parliament, with the proposed changes to the vulnerable measure of income management omitted.

### ***The Vulnerable Youth measure of Income Management***

1.20 Under the current vulnerable youth measure, IM is automatically applied to people who live in an IM declared area and are classed as ‘vulnerable youth’ by virtue of their age and their qualification for a particular Centrelink payment type, including:

---

<sup>9</sup> See for example submissions number 1 and 2 by the Australian Council of Social Service (ACOSS) and UnitingCare Australia, respectively:  
[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Social\\_Services\\_No\\_2/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Social_Services_No_2/Submissions)

<sup>10</sup> See Submission number 2 by UnitingCare Australia.

<sup>11</sup> See p 9 of Bills Digest No. 123, 2014-15, available at:  
[http://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/3897939/upload\\_binary/3897939.pdf;fileType=application%2Fpdf#search=%22legislation/billsdgs/3897939%22](http://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/3897939/upload_binary/3897939.pdf;fileType=application%2Fpdf#search=%22legislation/billsdgs/3897939%22)

<sup>12</sup> J Rob Bray, Matthew Gray, Kelly Hand and Ilan Katz, *Evaluating New Income Management in the Northern Territory: Final Evaluation Report*, September 2014, p320

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

- people aged under 16 years and granted a special benefit; or
- people aged at least 16 years old but under 22 who are granted the unreasonable to live at home (UTLAH) rate of youth allowance, disability support pension or ABSTUDY; or
- people under 25 who receive a Crisis Payment due to prison release.<sup>13</sup>

1.21 DHS refers to these eligibility criteria as ‘youth triggers.’

1.22 The youth triggers are outlined in the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013* (The Principles), which DHS is required to comply with when it makes decisions relating to vulnerable welfare payment recipients (VWPR).<sup>14</sup> The Principles outline a number of mandatory considerations that decision-makers need to have regard to in all aspects of VWPR decision-making. The Principles are legally binding, which means that a failure to comply with them when making decisions, may render those decisions invalid.

1.23 Subsection 8(2) of the Principles additionally provides that the secretary is *not* required to make a VWPR determination if satisfied that:

- a) being subject to the VWPR measure of IM would place the person’s mental, physical or emotional wellbeing at risk, including that the person:
  - i. is not able to meaningfully engage in the IM process due to mental health issues; or
  - ii. does not have the capacity to comprehend the operation of IM; or
  - iii. is experiencing serious instability in their housing or living situation and IM would affect their ability to direct funds to housing; or
- b) the person is undertaking full-time study; or
- c) the person is actively involved in employment or study... and is applying appropriate resources to meet their relevant priority needs and, within at least 4 of the last 6 fortnights, the person has received less than 25% of (the maximum basic rate of their usual benefit, or equivalent); or
- d) the person is subject to the IM regime under section 123UGA of the Administration Act (voluntary IM).

1.24 As discussed further in part 3 of this report, our office is concerned that DHS does not appear to have a process in place which ensures that its staff consider the criteria in subsection 8(2). In our view, this brings into question the legal validity of the vulnerable youth VWPR determinations DHS has made to date.

1.25 Specified IM areas where this measure applies include:

- The whole of the Northern Territory
- Playford, the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands, and Ceduna and the surrounding region in South Australia

---

<sup>13</sup> See subsection 8(1) of the *Social Security (Administration)(Vulnerable Welfare Payment Recipient) Principles 2013*.

<sup>14</sup> According to s123UGA (2) of the *Social Security (Administration) Act 1999*.



## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

- Bankstown in New South Wales
- Rockhampton, Livingston and Logan in Queensland
- The Greater Shepparton region in Victoria
- The Ngaanyatjarra Lands (NG Lands) and Laverton Shire region in Western Australia

1.26 Subsection 123UCA(1) of the *Social Security (Administration) Act 1999* (the Administration Act) provides that a person is subject to the vulnerable welfare payment recipient measure of IM if, at the time the decision is made, the following conditions are also met:

- a) the person is receiving a category H welfare payment<sup>15</sup>
- b) the person usually resides within a declared IM area
- c) the person is determined to be a VWPR in accordance with s 123UGA(1) of the Administration Act<sup>16</sup>
- d) the person does not have an excluded payment nominee; and
- e) the person is not subject to IM under one of several other provisions

1.27 Vulnerable youth are determined to be vulnerable welfare payment recipients for the purpose of IM. According to DSS’s policy, vulnerable welfare payment recipients are considered to be ‘vulnerable to factors including financial hardship, economic abuse or financial exploitation and homelessness/risk of homelessness.’<sup>17</sup>

1.28 Vulnerable youth determinations remain in force for 12 months, unless the person is granted a temporary exclusion or is otherwise exited due to losing eligibility for the trigger payment which caused them to come under the scope of the measure.<sup>18</sup>

1.29 For people identified as vulnerable welfare payment recipients, options for exiting IM are more limited than they would be under other measures of IM, and an early exit or exclusion from this measure will, in most cases, require an assessment to be conducted by a DHS social worker.

---

<sup>15</sup> Category H payments are ABSTUDY (when it includes a living allowance), age pension, austudy, carer payment, defence force income support allowance, disability support pension, income support supplement, newstart allowance, parenting payment, partner allowance, service pension, sickness allowance, special benefit, bereavement allowance, widow allowance, widow B pension and youth allowance.

<sup>16</sup> See also subsection 123UGA(2) which requires DHS to comply with any relevant decision-making principles in making the VWPR determination. For vulnerable youth, the relevant decision making principles are outlined in Part 3 of the *Social Security (Administration)(Vulnerable Welfare Payment Recipient) Principles 2013*.

<sup>17</sup> See the Guide to social security law (the Guide) 11.4.1.10 at <http://guides.dss.gov.au/guide-social-security-law/11/4/1/10>

<sup>18</sup> See s 123UGA (3) of the Administration Act and the Guide 11.4.2.40 at <http://guides.dss.gov.au/guide-social-security-law/11/4/2/40>

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

1.30 Subsection 123UGA(5) of the Administration Act provides that the Secretary may vary or revoke a determination that a person is a vulnerable welfare payment recipient, and that they can do this on their own initiative, or at a person’s request.

1.31 The Principles provide at subsection 9(1) that, in deciding whether to revoke a vulnerable youth VWPR determination, the Secretary may revoke the current determination if:

- the person no longer meets the criteria in subsection 8(1) which allowed the current determination to be made and the person has requested that the determination be revoked,<sup>19</sup> or
- the vulnerable measure of income management would, due to specific and unusual individual circumstances, place the person’s mental, physical or emotional wellbeing at risk,<sup>20</sup> or
- It is not practicable to income manage the person under the vulnerable measure of income management because the person:
  - is undertaking full-time study;<sup>21</sup> or
  - is actively involved in employment or study and is meeting their priority needs, and has received less than 25% of the maximum basic rate of their income support payment within at least 4 of the last 6 fortnights;<sup>22</sup> or
  - has been subject to VWPR IM for at least 12 months and has successfully engaged in a supportive relationship that has provided mentoring, coaching or case management that included a transition to independence, and/or has demonstrated the skills and ability to manage their money and to live independently.<sup>23</sup>

1.32 Although the legislation refers to *revocations* and *variations* of VWPR determinations, DHS has developed its own terminology, referring to permanent revocations of IM determinations as *exits*, and temporary suspensions of determinations as *exclusions*. As explained further in part 4, there is an imprecise relationship between the *revocation* and *variation* powers defined in the legislation and the *exit* and *exclusion* processes used by DHS. In our view, and as discussed further in part 4, DHS has strayed from the legislative meaning of these concepts by its use of different administrative terminology.

1.33 People who are income managed by DHS rarely use the terminology outlined by the legislation or by DHS. When asking to have a VWPR determination revoked, people will generally ask DHS if they can ‘come off’ IM. These various terms will be used interchangeably throughout this report.<sup>24</sup>

---

<sup>19</sup> See s 9(1)(a) of the Principles.

<sup>20</sup> See s 9(1)(b) of the Principles.

<sup>21</sup> See s 9(1)(c) of the Principles.

<sup>22</sup> See s 9(1)(d) of the Principles.

<sup>23</sup> See subsection 9(1)(e) of the Principles.

<sup>24</sup> We also refer to *exception* criteria in part 3 of the report. These criteria are outlined in paragraph 1.21, and should be considered before DHS applies a VWPR determination to a person.

1.34 People’s circumstances are reassessed after 12 months has elapsed, and, if they remain eligible for the vulnerable youth measure of VWPR IM, DHS can decide to continue them on the measure for a further 12 months.<sup>25</sup> As outlined in part 3 of the report, we have concerns that the reassessment process currently used by DHS may be failing to consider mandatory legislative criteria.

## **PART 2—MR G’S SITUATION**

2.1 In June 2014, our office received a complaint from Mr G about DHS and IM. Mr G complained that he was in financial hardship both as a result of being on IM and because DHS had recently suspended his payments. He advised that he had been trying to come off IM since December 2013, and had called DHS many times to request this, but DHS had not dealt with his requests.

2.2 We commenced an investigation into Mr G’s complaint and noted that DHS had restored Mr G’s payments the day after he lodged his complaint with our office. We identified that, consistent with the legislation, DHS had automatically placed Mr G on the vulnerable youth measure of IM from 24 October 2013 as a result of his qualification for the UTLAH rate of Youth Allowance. At the time, Mr G was living in Logan in Queensland.

2.3 Since commencing on the vulnerable youth measure of VWPR IM, Mr G had made at least seven requests to come off IM before a social worker considered his request and made a decision on 1 October 2014 to temporarily exclude Mr G from IM.<sup>26</sup>

2.4 In response to most of Mr G’s earlier requests, DHS customer service officers (CSOs) told Mr G he was not eligible to come off IM. On each of these occasions, the CSO did not refer Mr G’s request to a DHS social worker authorised to make a decision in relation to his request, as required. One record noted:

...Once again, customer stated he wanted to come off the basicscard. I asked what his reasons were today (Customer attends CSC often with different reasons but never a sufficient enough reason to warrant a referral to SWO for exclusion)...

2.5 On 23 April 2014, a DHS CSO referred Mr G for a review of the original decision to place him on VWPR IM, citing his reasons as:

Cus disagrees with being originally placed on IM, cus is wishing to be taken off IM, as he feels that he should not be on it. Cus states that he is not able to utilise his funds properly whilst on BC.

2.6 On 4 June 2014, when Mr G again asked to come off IM, a CSO referred his request to a DHS social worker for assessment. However, after several contacts and an eventual interview with Mr G on 18 July 2014, the social worker decided not to assess him for an exclusion. Rather, they adjusted Mr G’s IM allocations and provided referrals to assist him with his financial issues. The social worker’s notes indicate that they would monitor Mr G’s progress following these interventions and consider an exclusion in future if necessary.

---

<sup>25</sup> See the Guide 11.4.2.40 at <http://guides.dss.gov.au/guide-social-security-law/11/4/2/40>

<sup>26</sup> DHS’s records indicate that Mr G asked DHS to come off IM on 13 November 2013, 15 November 2013, 22 November 2013, 23 April 2014, 19 May 2014, 4 June 2014, and 17 July 2014

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

2.7 An Authorised Review Officer (ARO) reviewed the decision to place Mr G on the vulnerable youth measure of IM in late July 2014. The ARO decided to uphold the original decision and informed Mr G of this decision by letter dated 30 July 2014. Although the ARO’s decision letter outlined the reasons for the decision and evidence considered, the letter did not demonstrate that the ARO had considered each of the mandatory decision-making criteria that DHS is required to consider under the Principles.<sup>27</sup>

2.8 Following this meeting, Mr G told our office that despite his desire to come off IM, he had felt pressured to accept the social worker’s decision to change his IM allocations rather than assessing him for an exclusion. In response to our investigation DHS explained that in its view Mr G had at the meeting withdrawn his exclusion request because of the interventions implemented by the social worker to address his issues. The social worker believed that Mr G was satisfied with this approach at the time of the interview.

2.9 On 13 August 2014, after being on the vulnerable youth measure of IM for nearly ten months, Mr G contacted DHS to advise that he had moved address to a region that was not an IM declared area.<sup>28</sup>

2.10 DHS’s social worker records indicate that on 2 September 2014 Mr G advised DHS he was unhappy with IM because he found it confusing and difficult to pay \$400 rent per fortnight. His IM funds were insufficient to cover the total amount and he had to pay the remainder from the money DHS deposited into his bank account. A DHS social worker subsequently assessed Mr G for an exclusion on 15 September 2014 and finalised their decision on 1 October 2014.

2.11 The social worker decided to grant Mr G a 12-month exclusion from IM from 1 October 2014 to 30 September 2015. We understand from DHS’s records that the social worker’s decision to exclude Mr G was made on the basis that IM was considered detrimental to his wellbeing because it made it difficult for him to meet his rent payments, which exceeded 50% of his income, thereby exacerbating his housing instability and potentially placing him at risk of homelessness.

2.12 DHS wrote to Mr G confirming this decision on 2 October 2014. The decision letter did not contain any reasons for the decision or refer to the evidence or information the social worker relied on in arriving at their decision.

2.13 DHS advised our office that it reassessed Mr G’s eligibility for VWPR IM on 26 September 2014 and 24 October 2014 via automated system checks. DHS told us that its automated system checks reassess people’s eligibility for VWPR IM against all of the relevant legislative criteria leading up to and on the 12 month anniversary of their commencement on IM. However, despite Mr G’s change of address in August 2014 to an address that was not in an IM declared area (meaning he was no longer eligible for IM under subsection 123UCA(1)(b) of the Administration Act), DHS continued Mr G on the vulnerable youth measure of IM (albeit with a temporary exclusion).

---

<sup>27</sup> According to s123UGA (2) of the Administration Act

<sup>28</sup> Mr G subsequently updated his address again on 18 November 2014, to a different address in the same, non-IM declared region.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

2.14 DHS explained that because Mr G was still in receipt of the UTLAH rate of youth allowance at the date of the automated system checks, the system extended his VWPR IM end date for a further 12 months, until 30 September 2015.

2.15 DHS advised that it will reassess Mr G’s IM status when his exclusion ends on 30 September 2015.

2.16 In the course of investigating Mr G’s complaint, our office identified a number of potential problems and anomalies. This prompted us to undertake a broader assessment of the legislation, policy and procedures relevant to the vulnerable youth measure of IM, as well as some of DHS’s template letters, decision-making templates and workflows, with a view to assessing whether the issues in Mr G’s case might have been representative of broader systemic problems. Our office identified a number of issues of concern, which we have outlined in more detail below.

### **PART 3—AUTOMATED ASSISTANCE IN ADMINISTRATIVE DECISION-MAKING**

3.1 As noted above, DHS has automated the VWPR decision-making process for vulnerable youth, such that its computer system will automatically identify eligible people for IM when they qualify for a particular payment and meet other criteria.

3.2 In considering the issue of automated decision-making, this office acknowledges the efficiencies and benefits that the use of automated systems can offer in the realm of administrative decision-making. However, when using automated systems to assist with administrative decision-making, it is essential that the use of those systems accords with administrative law principles.

3.3 In 2007, our office, in conjunction with the Automated Assistance in Administrative Decision-making Working Group, published a better practice guide on Automated Assistance in Administrative Decision-Making.<sup>29</sup> That report cautioned that:

An automated system must be designed in a way that accurately reflects the government policy it models, and agencies should be careful that the system does not fetter the decision-maker in exercising any discretion he or she has been given (under relevant legislation, policy or procedure).<sup>30</sup>

3.4 The report goes on to note that in order to maximise the benefits of an automated system, agencies should also mandate the collection of the decision-maker’s deliberations or reasoning on matters of discretion or judgement. This provides an audit trail to facilitate internal and external review and audit and also enables the decision maker’s deliberations to be included in the notice of their decision to the affected customer or client.<sup>31</sup>

3.5 Where vulnerable youth VWPR IM decision-making is concerned, it would appear from the legislative principles and their explanatory memoranda, that the legislation intended for a decision-maker be involved in the decision-making process, and that the decision-maker exercise a level of judgement when deciding whether to

---

<sup>29</sup> See full report at: [http://www.ombudsman.gov.au/docs/better-practice-guides/aaadm\\_guide.pdf](http://www.ombudsman.gov.au/docs/better-practice-guides/aaadm_guide.pdf)

<sup>30</sup> Ibid at page 14

<sup>31</sup> Ibid at page 23

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

apply the vulnerable youth measure of VWPR IM to a person. However, the current decision-making framework does not incorporate this.

3.6 In our view, it therefore appears that DHS’s use of automated decision-making in relation to the vulnerable youth measure of IM is inconsistent with the better practice principles.

### Lawfulness of automated decisions to apply the vulnerable youth measure of VWPR IM

3.7 The Explanatory Statement to the Principles indicates that a DHS social worker will make a VWPR determination if the person meets the relevant subsection 8(1)<sup>32</sup> criteria, *unless an exception applies*.

3.8 Subsection 8(2) of the Principles outlines a number of circumstances where the Secretary is *not required* to make a VWPR determination. These circumstances or *exception reasons* are outlined above in paragraph 1.21.

3.9 Subsection 123UGA(2) of the Administration Act provides that in determining whether a person is a vulnerable welfare payment recipient, the Secretary must comply with any decision-making principles set out in a legislative instrument made by the Minister for the purposes of the subsection.

3.10 In order to make a valid decision, it is therefore essential that when making a vulnerable youth VWPR determination, DHS considers if any of the exception reasons set out in subsection 8(2) apply to the person in question. We understand that DHS’s automated decision-making process checks the person’s record for objective recorded information to test criteria such as whether the person is undertaking full-time study,<sup>33</sup> or is on voluntary IM.<sup>34</sup> However, DHS’s computer system cannot assess whether being subject to VWPR IM might place a person’s mental, physical or emotional wellbeing at risk.<sup>35</sup> This is a subjective assessment that can only be made by a relevantly qualified decision maker by considering the individual circumstances of the person.

3.11 On 17 July 2014, we asked DHS how it satisfies itself in accordance with subsection 8(2) that the application of VWPR IM to persons identified for the vulnerable youth measure will not place the wellbeing of those people at risk. DHS replied on 18 August 2014, advising that when a person is identified for VWPR IM, a service officer will discuss with them how IM works and how it can be used to support their financial circumstances. At that point, if the service officer has any concerns for the person’s wellbeing, they will refer the person to a social worker, who can assess their circumstances and decide whether an exclusion from IM is appropriate. The person can also request this assessment themselves.

3.12 DHS noted that if the person has not contacted DHS after being identified for VWPR IM and receiving a notification letter, at the end of the 28 or 56 day engagement period IM will automatically commence.<sup>36</sup> DHS advised us that this

---

<sup>32</sup> See paragraph 1.18 above which outlines the vulnerable youth trigger criteria.

<sup>33</sup> As per subsection 8(2)(b)

<sup>34</sup> As per subsection 8(2)(d)

<sup>35</sup> As required by subsection 8(2)(a)

<sup>36</sup> We understand that although DHS will not commence allocating a person’s income managed funds towards their priority needs or BasicsCard until after they have conducted the initial IM interview, it will nevertheless start to quarantine 50% of the person’s

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

normally prompts the person to contact DHS. If the person does not contact DHS after a further 28 days, DHS will suspend their payment, further prompting them to contact DHS.

3.13 In our view, DHS’s response suggests that it is failing to give sufficient consideration to the mandatory criteria in subsection 8(2) of the principles before applying VWPR IM. Our understanding of the decision-making process is that rather than DHS making an assessment up front of whether an exception is appropriate for that person, it will presume that an exception is not appropriate. If the person indicates that they are dissatisfied with the application of VWPR IM, then they can request an exclusion. Thus, the exclusion criteria are only considered after a VWPR IM determination has been applied. This fails to recognise that, according to the legislation, DHS has an obligation to consider, before applying IM, whether the person’s circumstances are such that IM should not be applied to them in the first place.

3.14 Under DHS’s current approach, there is no requirement for it to consider whether IM might adversely affect the person’s wellbeing *before* commencing them on IM. DHS merely sends an automatically generated letter to the person, informing them that IM will apply to them soon, and asking them to contact DHS. If the person does not contact DHS within the relevant period, then it will automatically commence quarantining half of that person’s welfare payments into their income management account, leaving them with access to only 50% of their usual income. This means that people identified as vulnerable youth, who do not contact DHS, will miss out on the opportunity for DHS to consider their circumstances and their welfare before IM commences.

3.15 The current approach also assumes receipt of the letter by the person, which may not necessarily occur, particularly in cases where the person is experiencing housing instability, which ironically, is one of the reasons that DHS can decide not to apply IM.

3.16 The subsequent suspension of a vulnerable person’s payments if they continue not to contact DHS even after 50% of their payments have been quarantined, also appears to be an inappropriate response and, in circumstances where the person has mental health issues, lacks mental capacity or is experiencing housing instability, would be likely to result in further disadvantage and hardship.

3.17 Once a person is identified for the vulnerable youth measure, there is at least 28 days before IM will start to apply. This means that between the time DHS’s computer system identifies a person as a vulnerable youth, and when IM commences, DHS has a window of opportunity in which it could assess the person’s personal characteristics, including those outlined in subsection 8(2)(a), and could decide not to apply IM in situations where it would be likely to harm the person’s wellbeing.

3.18 In our view, the initial IM interview would be an appropriate opportunity for DHS to assess people against the mandatory subsection 8(2) exception criteria. However, DHS’s current procedures do not require staff to discuss with people, in the initial assessment interview, whether their circumstances are such that they might fit the exception criteria. Rather, the process focusses more on explaining income

---

payments into their income management account after the engagement period if the person has not made contact.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

management, determining the person’s priority needs and setting up income management deductions to third parties and the BasicsCard.<sup>37</sup>

3.19 The current procedure also does not require DHS to conduct the initial interview before IM commences, and instead relies on the person contacting DHS, as noted above.

3.20 In light of this information, we are concerned that DHS does not appear to have any process in place to consider the mandatory criteria outlined in subsection 8(2) before applying IM to persons identified as vulnerable youth.

3.21 Clearly, it was intended that VWPR IM would not be applied if it would harm people’s wellbeing. The Principles provide specific exception provisions to ensure that IM will not be applied in cases where it could further disadvantage vulnerable people, or where applying IM would not be a practical way to manage the person’s finances. However, by failing to ensure that its staff consider the legislative principles before applying IM, DHS may not be appropriately identifying people for VWPR IM. Without conducting a proper assessment of people’s circumstances against the mandatory exception criteria in subsection 8(2) *before* applying IM, DHS could be inadvertently applying IM to vulnerable people in circumstances where it may adversely affect their wellbeing, and could even exacerbate mental health issues or housing instability.

3.22 In order to prevent such adverse consequences, we make the following recommendations:

### Recommendation 1

a) DHS should review its processes to ensure that it considers whether people meet any of the exception criteria outlined in subsection 8(2) of the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013* before commencing a person on the vulnerable youth measure of VWPR IM.

This should include:

- amending the initial IM letters to clearly outline the exception reasons in 8(2)
- amending the initial IM interview script to prompt customer service officers to ask questions to enable them to assess whether IM could possibly place the person’s mental, physical or emotional wellbeing at risk
- incorporating a mechanism and instructions for customer service officers to clearly record information gleaned through this line of questioning
- incorporating a mechanism for customer service officers to refer the person to a social worker during the initial IM interview if there is a possibility they could meet the s8(2) criteria
- ending the automatic quarantining and subsequent suspension of payments for people who do not contact DHS within the relevant time, and replacing these with prompts for DHS to contact the person to conduct the initial IM interview before commencing the person on IM.

<sup>37</sup> See DHS’s Operational Blueprint file 103-01180060, last accessed on 17 April 2015.



b) DHS should review all vulnerable youth VWPR IM determinations made to date, having regard to subsection 8(2) of the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013*.

## Lawfulness of automated decisions to extend vulnerable youth VWPR determinations beyond 12 months

3.23 Our investigation of Mr G’s complaint indicates that DHS may be incorrectly applying IM to people identified as vulnerable youth for longer than the timeframe anticipated by the legislation, due to its failure to correctly reassess all aspects of a person’s circumstances against all of the relevant legislative criteria leading up to the 12 month end date for VWPR determinations.

3.24 Subsection 123UCA(1)(b) of the Administration Act provides that a person will be subject to the IM regime at a particular time (the test time) if, *at the test time*, the person’s usual place of residence is within a designated IM area (emphasis added).<sup>38</sup> This means that a person must live in an IM declared area at the date the decision to place them on IM is made.

3.25 Subsection s123UGA(3)(b) of the Act states that VWPR determinations will remain in force for 12 months or a shorter period, unless earlier revoked.<sup>39</sup> This means that if DHS wants a person to remain on VWPR IM for more than 12 months, then it needs to make a *new* VWPR determination, having regard to all of the relevant eligibility criteria and decision-making principles, including the criteria outlined in subsection 123UCA(1).

3.26 Subsection 123UCA(2) of the Act provides that if a person is on VWPR IM and they move out of an IM declared area, if they continue to meet other eligibility criteria in subsection (1),<sup>40</sup> then IM will continue to apply to them until any of the other eligibility criteria outlined in subsection 123UCA (1) cease to apply. This means that vulnerable welfare payment recipients will remain on IM, even if they move out of an IM declared area, until they either lose eligibility for the measure for another reason,<sup>41</sup> the determination is revoked,<sup>42</sup> or the determination expires after 12 months.<sup>43</sup>

3.27 DHS has a process in place for reviewing eligibility for people identified as vulnerable youth at 28 days prior to, and on the 12-month anniversary of their VWPR determination. DHS’s system automatically conducts eligibility checks on these dates to assess if the person’s record still has the applicable VWPR IM trigger (e.g. they are receiving the UTLAH rate of their payment or a Special Benefit). If the trigger still exists, the system adjusts the VWPR IM end date for a further 12-month period, commencing on the 12-month end date of the initial VWPR period.<sup>44</sup>

3.28 Our investigation of Mr G’s case suggests that DHS’s current process does not check all of the relevant eligibility criteria required by the legislation. As noted in

<sup>38</sup> The person must also meet other eligibility criteria as outlined in paragraphs 1.18-1.24.

<sup>39</sup> Although this does not prevent the secretary from making a new VWPR determination at any time – see subsection 123UGA (4).

<sup>40</sup> See paragraph 1.24 above

<sup>41</sup> In accordance with s123UCA(1)

<sup>42</sup> In accordance with s123UGA(5), having regard to s9 of the decision-making principles

<sup>43</sup> As per ss123UGA(3)(b)(i)

<sup>44</sup> Information provided by DHS in response to Mr G investigation 13 March 2015

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

Part 2 above, Mr G moved out of an IM declared area in August 2014.<sup>45</sup> DHS advised our office that DHS reassessed Mr G’s eligibility for VWPR IM on 26 September 2014 and 24 October 2014 via automated system checks. However, despite Mr G’s change of address in August 2014, (meaning he was no longer eligible for IM under subsection 123UCA(1)(b) of the Administration Act), DHS decided to continue Mr G on the vulnerable youth measure of IM (albeit with a temporary exclusion) for a further 12 months.

3.29 DHS explained that it decided to extend Mr G’s VWPR IM for another 12 months because he was still in receipt of the UTLAH rate of youth allowance at the date of the automated system checks.

3.30 We asked DHS what effect Mr G’s change of address had on his VWPR status and DHS advised that Mr G’s address change had no practical effect on his VWPR IM eligibility. DHS explained that a person who is subject to VWPR IM and subsequently moves to a non-declared area will continue to be income managed, provided they:

- continue to receive an applicable Category H payment;
- are in receipt of the VWPR trigger (UTLAH or Special benefit);
- do not have an excluded payment nominee; and
- are not subject to another measure of Income Management such as Child Protection.

DHS referred to section 123UCA(2) of the Administration Act to support its explanation.<sup>46</sup>

3.31 DHS explained that Mr G continued to receive Youth Allowance, including the UTLAH component, did not have an excluded payment nominee and was not subject to a higher measure of IM. Therefore, his IM continued subject to the same rules that would have applied if he had remained in an IM declared area.

3.32 DHS’s explanation is correct insofar as it applies to Mr G’s original VWPR determination. However, it does not consider the impact of Mr G’s address change on his new VWPR determination which commenced from October 2014.

3.33 In our view, DHS’s explanation and its decision to continue Mr G on VWPR IM for a further 12 months were incorrect. This is because DHS failed to have regard to the fact that a VWPR determination can only remain in place for a maximum period of 12 months.<sup>47</sup> As we understand the legislative requirements, in order to continue a person on VWPR IM for longer, DHS needs to make a new VWPR determination and, in doing so, needs to consider *all* of the relevant legislative criteria, not just whether a person is continuing to receive a relevant trigger payment.

3.34 Importantly, when making a new VWPR decision, DHS needs to consider afresh whether, *at the test time*, a person’s usual place of residence is in an IM declared area. When DHS is considering whether to make a new VWPR decision, *the test time* is the date of the new decision.

---

<sup>45</sup> Mr G has continued residing outside of an IM declared area since this time.

<sup>46</sup> Information provided by DHS in response to Mr G investigation 13 March 2015

<sup>47</sup> As per ss123UGA(3)(b)(i) of the Administration Act.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

3.35 The fact that this error was able to occur in Mr G’s case, following an automated system check designed to reassess people’s VWPR IM eligibility, suggests that the system check does not consider all of the relevant eligibility criteria that it needs to consider in order to make a new and valid VWPR determination.

3.36 DHS’s process also fails to consider other key eligibility criteria.

3.37 As noted above, subsection 123UGA(3) of the Administration Act indicates that a VWPR determination will expire after 12 months. If DHS wishes to extend the determination beyond this time, it therefore needs to make a new determination. In order for the new determination to be legally valid, DHS must again consider each of the mandatory decision-making criteria outlined in section 8 of the Principles.<sup>48</sup>

3.38 The Explanatory Statement to the Principles provides that:

Centrelink social workers... must reconsider a person’s circumstances if they have been on the vulnerable youth measure of income management for 12 months. During this reconsideration, a Centrelink social worker will assess whether:

- The person is no longer eligible for income management.
- Being on the vulnerable measure of income management (because of Part 3 of the Principles) will place a person’s physical, mental or emotional wellbeing at risk.
- It is not practicable to income manage a person under the vulnerable measure by way of Part 3 of the Principles because of other criteria relating to, among other things, the person’s involvement in employment or study as well as engagement in supportive relationships and demonstration of skills and ability to manage money and live independently where the person has been subject to the vulnerable welfare payment recipient measure of income management by way of Part 3 of the Principles for a period, or periods, totalling at least 12 months.

3.39 The Explanatory Statement goes on to note that if any of these factors are satisfied, then DHS will revoke the VWPR determination, and that it is anticipated that in most cases the person will no longer be eligible for the vulnerable youth measure of IM.

3.40 The 12-month reconsideration process envisaged by the legislation differs from DHS’s current process. The key differences being that under DHS’s process:

- a social worker is not involved in the reconsideration of the person’s eligibility
- there is no consideration given to whether extending the determination will adversely affect the person’s wellbeing, or would be otherwise impracticable, in accordance with the mandatory decision-making principles in subsection 8(2) of the principles.<sup>49</sup>

3.41 According to the legislation and the Explanatory Statement, it was intended that when considering whether to extend a vulnerable youth VWPR determination past the initial 12 month period, DHS would in fact make a new decision, and the new decision would be made by a social worker who would consider subjective aspects of

---

<sup>48</sup> Subsection 8 sets out the mandatory decision-making principles which DHS must consider when making a vulnerable youth VWPR determination.

<sup>49</sup> See paragraph 1.21 for a summary of subsection 8(2) of the Principles.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

the person’s circumstances which cannot be automatically identified by DHS’s computer system.

3.42 By automating the 12-month reconsideration process, DHS has removed all human input in the decision-making process, thereby fettering the discretion of the [automated] decision maker, by removing any capacity for discretion altogether.

3.43 As with the automated process for applying VWPR IM, DHS’s automated 12-month reconsideration process also fails to give consideration to the mandatory decision-making criteria in subsection 8(2) of the Principles,<sup>50</sup> bringing into question the lawfulness of any and all decisions DHS has made to date to extend VWPR determinations for vulnerable youth.

3.44 The Explanatory Statement, and general principles of good administration would also indicate that when reconsidering a person’s circumstances at 12 months, DHS should also have regard to the revocation reasons in subsection 9(1)(e) of the Principles which can only apply to vulnerable youth after 12 months. The existence of these revocation reasons indicate it was not intended for people to continue to be income managed under the vulnerable youth measure in circumstances where they have been on the measure for 12 months and have improved their money management skills and independence to the point that they no longer needed to rely on income management for support.

3.45 DHS’s current practice of extending VWPR determinations beyond 12 months without properly assessing people’s eligibility and need means that numerous people are likely to continue being income managed for longer than envisaged by the legislation. The same can be said in regard to DHS’s failure to establish a process whereby it considers whether to revoke vulnerable youth determinations after 12 months has passed. In both cases, this is likely to have ramifications not only for the people affected, but will also result in greater costs for DHS to administer IM for people beyond the period originally anticipated.

### Recommendation 2

**a)** DHS should review its processes to ensure that VWPR determinations expire after 12 months unless a new determination is made which has regard to all of the relevant legislative eligibility criteria, including the legislative requirements in subsection 123UCA(1)(b) of the *Social Security (Administration) Act 1999*, and subsections 8(2) and 9(1)(e) of the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013*.

**b)** DHS should review all 12-month reconsideration decisions made to date, having regard to the applicable legislation.

---

<sup>50</sup> Ibid.

## PART 4 - EXCLUSION PROCESS ISSUES

### Background

4.1 Subsection 123UGA(5) of the Administration Act provides that the Secretary may vary or revoke a determination that a person is a vulnerable welfare payment recipient, and that they can do this on their own initiative, or at a person’s request.

4.2 Subsection 123UGA(8) of the Administration Act provides that when a VWPR IM determination is in force in relation to a person, that person may ask DHS to reconsider their circumstances and vary or revoke the determination.<sup>51</sup>

4.3 Subsection 123UGA(10) of the Administration Act provides that if a person makes a request under subsection (8), DHS must reconsider the person’s circumstances.<sup>52</sup>

4.4 Subsection 123UGA(6) provides that when deciding whether to vary or revoke a VWPR IM determination, DHS must comply with any decision-making principles set out in a legislative instrument.

4.5 The Principles provide a number of bases upon which the secretary may decide to revoke a vulnerable youth VWPR determination at subsection 9(1).<sup>53</sup>

4.6 As noted above, DHS has developed its own terminology and processes to give effect to the revocation and variation powers in the legislation. Rather than referring to revocations and variations, DHS refers to *exits* and *exclusions*. If a person asks to come off IM, DHS will initiate the *exclusion* process.

4.7 According to DSS’s policy, an *exclusion* means that even though the person retains trigger eligibility, VWPR IM will not apply to them for a period of time. Exclusions generally apply for 12 months, although DHS can choose to end them earlier at its discretion,<sup>54</sup> and people identified for the measure may continue to be closely monitored by a DHS social worker throughout the exclusion period.<sup>55</sup> Under DHS’s procedures, only social workers are permitted to make exclusion decisions.

### Process for referral of exclusion requests to DHS social workers

4.8 Our investigation of Mr G’s complaint raised concerns that DHS’s processes were not adequate to ensure it would make a decision in response to receiving a request from a person to come off IM.

4.9 As outlined in Part 2 above, our office identified a number of occasions when Mr G had asked DHS if he could come off IM and DHS turned him away without

---

<sup>51</sup> Provided the person has not made a similar request in relation to the same determination at any time during the preceding 90 day period – see subsection 123UGA(9) of the Administration Act.

<sup>52</sup> Unless the request was made in contravention of subsection (9).

<sup>53</sup> See paragraph 1.29 above.

<sup>54</sup> Guide 11.4.2.40 at <http://guides.dss.gov.au/guide-social-security-law/11/4/2/40>

<sup>55</sup> For example, in Mr G’s case, during his exclusion period from income management, DHS social workers continued to undertake 3-monthly wellbeing reviews, as well as providing him with intensive ongoing social work support.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

referring him to a DHS social worker authorised to assess his request and make a decision.

4.10 As noted above, the legislation provides that a person subject to a VWPR determination may ask DHS to reconsider their circumstances and vary or revoke the determination<sup>56</sup> and, if a person makes such a request, DHS must reconsider that person’s circumstances.

4.11 DHS’s written instructions to its CSOs about when they should refer people’s exclusion requests to social workers are set out in its Operational Blueprint file *Exclusions for automatically triggered Vulnerable Welfare Payment Recipients (VWPR) Youth Measure for Customer Service Officers*.

4.12 The Blueprint allows for CSOs to turn people away in some circumstances without exiting or excluding them from IM or referring them to a social worker to assess their circumstances when they had asked to come off IM.

4.13 We noted that CSOs were directed to exit people from the vulnerable youth measure in situations where they had lost eligibility to the automatic trigger payment (for example customer turns 22 and transfers to Newstart Allowance; customer no longer meets UTLAH criteria; prison release customer turns 25), but, according to the operational blueprint, only social workers were allowed to consider whether people were eligible for exclusion under the ‘youth exclusion categories’ (which we understand equate with the decision-making principles outlined in subsection 9(1) of the Principles, as outlined in paragraph 1.29 above).

4.14 Specific criteria outlined in DHS’s written procedures as warranting referral to a social worker included where the person:

- was presenting as suicidal or at immediate risk
- was requesting to exit IM due to having sufficient participation and earnings for IM not to be practicable
- was raising concerns about the impact of IM on them
- had vulnerabilities
- had been on IM for 12 months and was requesting to exit VWPR IM due to being in a successful mentoring relationship or demonstrating skills and ability to manage their money and live independently.

4.15 The process also instructed CSOs to refer the person to an ARO for review if they did not meet the above criteria, but disagreed with the decision to apply IM.

4.16 However, step 10 of the process provided that if the person did not wish to appeal the original decision to apply VWPR and did not require a social worker referral (based on the specific criteria outlined above), then no exclusion or social worker referral was required. The CSO was directed to remind the person about the benefits of IM and document the discussion, and the process ended there (with the person continuing on IM).

4.17 Accordingly, while the legislation requires DHS to make a decision in response to an exclusion request, and that decision can only be validly made by a DHS social worker, DHS’s process effectively allowed CSOs to make their own determination about whether the person met the eligibility criteria for an exclusion. In

---

<sup>56</sup> See ss123UGA(8) of the Administration Act.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

practice, this meant that people on the vulnerable youth measure of IM could approach DHS to ask to come off IM, and a CSO could decline their request without referring them to a decision maker authorised to make a decision about their request, as occurred several times in Mr G’s case.

4.18 In November 2014, our office approached DHS to raise our concerns about its processes. We suggested that DHS consider amending its Operational Blueprint instructions to ensure that in every case where people subject to the vulnerable youth IM measure asked to come off IM, they be referred to an appropriate decision maker who would make a decision about whether to vary or revoke the VWPR IM determination.

4.19 DHS responded to our office on 12 December 2014 and advised that customers who asked to come off Income management were being referred to departmental social workers. It agreed to update its Operational Blueprint and said it would make service officers aware of the update once published. DHS subsequently published an updated Operational Blueprint file on 12 January 2015, and provided our office with a copy of the file on 20 January 2015.

4.20 On reviewing the updated instructions, we noted that DHS had made some positive improvements, including inserting specific advice in the *background* page advising CSOs that:

Where a customer does not meet the exclusion criteria, and the Service Officer has explained the benefits of IM and how funds can be accessed, if the customer still requests an exclusion, they must be referred to a social worker who will assess the request...

...Only IM Social Workers can assess exclusion requests, therefore if a customer requests an exclusion they must be referred accordingly.

4.21 DHS also added an extra step into the *process* page, entitled *Step 8 - Customer does not meet exclusion criteria*. This step instructs that if the person is not presenting with any vulnerability, does not meet the exclusion criteria, but is still requesting an exclusion from IM, then the CSO should refer them to a social worker.

4.22 However, as with the previous version of the Operational Blueprint file, an option still remains, at step 11 of the revised process, for CSOs to decline a person’s request without exiting them from IM or referring them to either an ARO or a social worker. *Step 11* of the revised process provides:

### **No exclusion or social worker referral required –**

Customers who do not wish to lodge an appeal to apply VWPR Youth IM and who do not require a social worker referral should be reminded about:

- the benefits of IM
- how they can access their income managed money
- flexible allocation options for IM funds...
- ability to change expenses, and frequency of expenses, to meet their ongoing needs

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

- Financial wellbeing and Capability Activities which can assist in developing financial skills.

Record details on a **DOC**.

4.23 This means that upon completing the process for determining if a person should be referred to a social worker for an exclusion assessment from automatically triggered VWPR Youth IM, there is still an option for CSOs not to refer the person to a social worker.

4.24 This step in the process is inconsistent with the new *Step 8*, which instructs CSOs to refer people to a social worker if they request an exclusion, even if the CSO determines that they do not meet the exclusion criteria. This runs the risk that DHS may continue to fail in meeting its legislative duty to make a decision in response to exclusion requests.

### Recommendation 3

DHS should delete *Step 11* from the process page of the revised Operational Blueprint file 103-01180050 to ensure that in all cases where persons subject to the vulnerable youth measure ask to come off IM, they are either exited from the measure or referred to a social worker.

## Requirement for DHS Social Workers to make a decision in response to exclusion requests

4.25 As noted in Part 2 above, when Mr G was eventually referred to a DHS social worker after making several requests to come off IM, the social worker decided not to assess him for an exclusion.

4.26 DHS indicated that Mr G had withdrawn his request after the social worker initiated other interventions to assist him with his financial issues and agreed to monitor the effect of the interventions and reassess Mr G’s need for an exclusion at a later date. The social worker believed that Mr G was satisfied with this approach.

4.27 Mr G’s account to our office was that he had attended the meeting with the social worker in the expectation that the social worker would assess his request for an exclusion. He indicated to us that he was told at the meeting that it was government policy for him to be on IM and he didn’t really have a choice. He advised us that he still wanted to get off the BasicsCard and manage his own affairs.

4.28 We think the circumstances as described by both DHS and Mr G, indicate that the social worker did indeed make a decision not to exclude Mr G, even though it may not have been documented as such.

4.29 Subsection 123UGA (10) of the Administration Act provides that if a person asks DHS to reconsider their circumstances with a view to varying or revoking the VWPR IM determination, DHS must reconsider the person’s circumstances.<sup>57</sup>

---

<sup>57</sup> Unless the request was made in contravention of subsection (9). This position is also supported by policy guidance provided in section 11.4.2.40 of the Guide to Social Security Law which states that where the person has requested a consideration of their



## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

4.30 The reading of subsection 123UGA (9) of the Administration Act lends support to this interpretation as this section prevents a person from asking DHS to vary or revoke their VWPR IM determination if they have already made such a request in the last 90 days.<sup>58</sup> This subsection assumes that DHS will make a decision in relation to every valid request. It would not make sense to prevent people from making further requests if their original request was considered to be withdrawn with no decision being made.

4.31 From a practical point of view, if DHS makes a decision in response to each exclusion request, then it will avoid the problem of having to determine whether the person is eligible to make another request within 90 days.

4.32 Further, in Mr G’s case, the social worker could have arrived at the same conclusions had they proceeded to make an exclusion decision. It would have remained open to the social worker, when considering Mr G’s circumstances in July 2014, to decide not to exclude Mr G from the vulnerable youth measure, and instead pursue other options. The only difference is that, in making their decision, the social worker would have been required to consider the mandatory decision-making criteria in the Principles and document their decision and reasons as an aspect of this process.

4.33 The applicable policy supports this approach, as does DHS’s quality decision-making (QDM) questionnaire, which it uses to check the procedural correctness of VWPR IM exclusion decisions made by its social workers. The Guide to Social Security Law notes at 11.4.2.40:

Prior to granting an exclusion under these criteria, the delegate (a Centrelink social worker) may consider whether there are any options that would enable the application of IM without placing the person’s wellbeing at risk. For example, if a restricted direct payment from income managed funds will allow a person to meet their housing costs and remove the risk to the person’s wellbeing, the delegate may determine that an exclusion is not required.<sup>59</sup>

DHS’s QDM Questionnaire asks:

Did the social worker document if there are options that would enable the application of IM without placing the person’s wellbeing at risk (e.g. direct payments, restricted cash payments).

4.34 The making of a decision by DHS, in response to exclusion requests, also ensures the person has access to review rights, so that if they disagree with the course of action the social worker decides to implement, then they can request a review of the decision. In Mr G’s case, had the social worker made a documented exclusion decision in July 2014, Mr G would have been able to request a review of the decision not to exclude him from VWPR IM at that time.

4.35 Overall, having DHS undertake a more rigorous consideration of a person’s circumstances based on legislative principles, leading to a well-documented and reasoned decision is a better outcome, and one which we consider should occur in every case where a person asks to come off IM. This approach also ensures that the

---

circumstances... the delegate must assess whether the person is granted an exclusion unless there has been a request for reconsideration within the previous 90 days.

<http://guides.dss.gov.au/guide-social-security-law/11/4/2/40>

<sup>58</sup> In relation to the same VWPR determination

<sup>59</sup> See the Guide at <http://guides.dss.gov.au/guide-social-security-law/11/4/2/40>

person will receive written reasons for the decision, and will have access to review and appeal rights if they disagree with the decision.

#### **Recommendation 4**

DHS should ensure that in every case where a person asks to come off IM, and is referred to a social worker to consider their request, that the social worker considers their request in accordance with the relevant legislative principles and makes a documented and reviewable decision.

### **Lawfulness of exclusion decisions**

4.36 As outlined above, the legislation provides DHS with the power to vary or revoke VWPR determinations. There is no specific power in the legislation to ‘suspend’ a determination per se.<sup>60</sup>

4.37 A person is entitled to ask DHS to revoke a VWPR determination which applies to them and, in response, DHS must consider the person’s request and make a decision whether or not to revoke the determination.<sup>61</sup>

4.38 However, according to DHS’s internal procedures and DSS’s policies, people subject to the vulnerable youth measure of IM may only be permanently *exited* from the measure if they lose eligibility for the trigger payment which initially caused IM to apply to them; if their income support payment is cancelled; if they become subject to the Cape York, Child Protection or SPAR measures of IM; or if they appoint an excluded payment nominee.<sup>62</sup>

4.39 The Explanatory Statement to the decision-making principles states that in addition to the ways in which a person may cease to be subject to the IM regime under the Act, it is the Principles’ intent that the Secretary *a/so* have the power to revoke a VWPR determination in circumstances:

where it is appropriate that the person not remain subject to IM, such as where IM is harmful to the person’s mental, physical or emotional wellbeing, or it is not practicable to continue to income manage the person because they are managing well on their own.<sup>63</sup>

4.40 The subsection 9(1) criteria in the decision-making principles were designed to meet this purpose. Subsection 9(1) sets out the circumstances under which DHS may decide to revoke a VWPR determination in accordance with the revocation power provided under section 123UGA(5) of the Administration Act.<sup>64</sup> Importantly, subsection 9(1) states that the Secretary may *revoke the current determination* if certain criteria are met. The use of the terms ‘revoke’ and ‘current determination’ suggest that the legislation intended for revocations to be permanent, and that any reinstatement of IM would require the making of a *new* determination.

4.41 However, DHS’s processes do not allow it to give effect to the revocation reasons set out in subsection 9(1) of the Principles. Rather than revoking IM

---

<sup>60</sup> See paragraph 4.1 - 4.5 above.

<sup>61</sup> Ibid.

<sup>62</sup> See Operational Blueprint file 103-01180050 and Social Security Guide 11.4.5.10 at <http://guides.dss.gov.au/guide-social-security-law/11/4/5/10>

<sup>63</sup> <http://www.comlaw.gov.au/Details/F2013L01078/Explanatory%20Statement/Text>

<sup>64</sup> See paragraph 4.1 for a summary of s123UGA(5) and paragraph 1.29 for a summary of subsection 9(1) of the Principles.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

determinations for the reasons provided in subsection 9(1) of the Principles as the legislation intended, DHS is only temporarily suspending IM for these people, and then reviving the determinations by recommencing people on IM at the end of the 12-month exclusion period, or earlier at its discretion.

4.42 At the end of 12 months, or an earlier period, IM will be reinstated unless the person loses eligibility for the reasons outlined in paragraph 4.38 above.

4.43 While in some cases, the practical difference between DHS’s current process and that outlined in the legislation may not be immediately apparent, the problem with DHS’s approach is that it leaves open room for jurisdictional error to occur, which is demonstrated by the below scenario:

Under the legislation, a person could request a revocation of their VWPR order, which Centrelink could grant having regard to section 9 of the principles – for example, on the basis that the person was experiencing serious housing instability, which was exacerbated by IM. Centrelink could subsequently make a new IM determination and validly determine, having regard to subsections 8(1) and 8(2) of the principles that the person should again be subject to the vulnerable youth measure of IM – for example, if the person had secured more stable accommodation such that IM was not likely to place their wellbeing at risk, and they continued to meet the relevant trigger and other eligibility criteria.

In this scenario, in order to reinstate IM, Centrelink would need to make a new determination, having regard to all of the relevant legislative principles and eligibility criteria. If the person’s circumstances had changed following the revocation, such that they no longer met the relevant legislative criteria – for example, if the person had moved address to a non-IM declared area – then Centrelink would not be able to reinstate IM.

Under Centrelink’s current process, considering the same scenario, Centrelink could exclude a customer from IM on the basis that IM was exacerbating the person’s housing instability. A Centrelink social worker could monitor that person and subsequently identify that they had obtained secure accommodation, and that IM should be reinstated. The Social Worker could then reinstate the original VWPR IM determination, without conducting a full assessment of the person’s eligibility under the legislation. In this scenario, it is possible that IM could be reinstated in circumstances where a new and valid VWPR IM determination could not be made, including if the person had moved address to a non-IM declared area.

4.44 The absence of any process which would allow DHS to give effect to the permanent revocation powers available to it in subsection 9(1) of the Principles, means that numerous people, who, like Mr G, have successfully applied for exclusions to date, are likely to continue being income managed when the legislation intended that IM cease. Not only does this situation have unintended consequences for the people affected, but it also means that DHS is likely to be bearing significantly greater administrative costs in continuing to income manage people who have been excluded from IM, beyond the scope of what was intended by the legislation.

### **Recommendation 5**

DSS and DHS should amend their existing exclusion processes and policies to ensure they give effect to the permanent revocation power in section 123UGA(5) of the Administration Act, having regard to the mandatory considerations outlined in subsection 9(1) of the Principles.

This includes:

- ensuring that any reinstatement of IM following an exclusion decision is preceded by the making of a new VWPR determination by DHS, having regard to all relevant legislative criteria, including the person’s place of residence
- ending the ability of social workers to cease the exclusion period before 12 months, without making a new VWPR determination, which considers all relevant legislative criteria.

### **Recommendation 6**

**a)** DHS should review all exclusion decisions made to date, having regard to the applicable legislation.

**b)** DHS should review all cases in which IM has been reinstated following an exclusion decision, without DHS having made a new VWPR determination by considering all relevant legislative criteria. In these cases, DHS should assess the person against all relevant legislative criteria to ensure they remain eligible for the vulnerable youth measure of IM, and exit any customers who are no longer eligible under the legislation.

## **PART 5—OTHER ISSUES**

### **Review decisions**

5.1 In investigating Mr G’s complaint, we identified some issues with DHS’s review of its initial decision to place Mr G on the vulnerable youth measure of VWPR IM. Our investigation also led to further concerns about the level of information and support provided to authorised review officers when reviewing vulnerable youth VWPR IM decisions.

5.2 As outlined in Part 2 above, an authorised review officer (ARO) reviewed the original decision to place Mr G on the vulnerable youth measure of IM in late July 2014. The ARO decided to uphold the original decision and informed Mr G of their decision by letter dated 30 July 2014.

5.3 Although the ARO’s decision letter outlined the reasons for the decision and evidence considered, the letter did not demonstrate that the ARO had considered each of the mandatory decision-making principles that DHS is required to consider when making a determination that a person is a VWPR.

5.4 In particular, the ARO failed to consider whether, in accordance with subsection 8(2) of the Principles, being subject to IM under section 123UCA of the Act would place Mr G’s mental, physical or emotional wellbeing at risk. This increases our concerns outlined above about the risk that IM will be applied to people in circumstances where it is not appropriate, or has ceased to be appropriate.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

5.5 In our 2012 report concerning IM decision-making, and in follow up correspondence with DHS, our office recommended that DHS make its IM decision-making training and tools, such as the workflows and decision templates used by social workers, available to AROs in order to ensure they were supported to address all mandatory considerations and follow policy instructions.

5.6 However, although we understand that DHS now provides its social workers with report templates and quality decision-making questionnaires as well as access to standard policies and procedures to guide their decision-making, DHS does not make these same tools available to AROs who are required to review VWPR decisions.

5.7 In responding to our investigation of Mr G’s complaint, DHS advised that its AROs do not use any assessment tools when reviewing vulnerable youth VWPR IM exclusion decisions.

5.8 We are concerned that DHS’s support to AROs in relation to IM decision-making may be inadequate and that this is likely to be contributing to incorrect and/or unfair decisions with significant repercussions for the people affected.

### **Recommendation 7**

DHS should provide training and guidance to all of its staff who are involved in VWPR decision-making, including AROs, to support them to address all mandatory considerations when making VWPR decisions.

This includes:

- providing instructions and guidance for decision makers to consider subsection 8(2) criteria when making decisions and review decisions about applying VWPR determinations, including new determinations made after the initial determination expires
- providing instructions and guidance for decision makers to consider subsection 9(1)(e) criteria when making decisions and review decisions about extending VWPR determinations beyond 12 months, and revoking determinations for a persons who have been subject to the vulnerable youth measure of IM for at least 12 months.

## **Levels of Social Worker Involvement**

5.9 In investigating a separate individual complaint from a person identified for the vulnerable youth measure, Mr V, our office identified that the triggers which prompt social workers to contact vulnerable welfare payment recipients while they are on IM, differ between the two measures of VWPR IM. Under the social worker initiated VWPR measure, if a person moves address to an area outside of an IM declared area, DHS’s computer system will automatically notify a DHS social worker who will make contact with the person. However, under the vulnerable youth measure, the same process does not apply.

5.10 In complaining to our office, Mr V told us he had moved to a small country town that was not in a BasicsCard area shortly after being placed on IM. He indicated that he was having problems accessing his income managed funds because in the town he had moved to, no businesses accepted the BasicsCard,<sup>65</sup> and the closest

---

<sup>65</sup> DHS later clarified that there was one business in Mr V’s town that accepted BasicsCard – the local post office.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

town which did accept the BasicsCard, was an hour and a half away. Mr V did not have a car or a license.

5.11 Like Mr G, Mr V contacted DHS to request an exclusion from income management and had difficulty securing a referral to a DHS Social worker.<sup>66</sup> Had the same process applied for persons subject to the vulnerable youth measure, as applies for persons subject to the social worker initiated measure of vulnerable IM, Mr V would have been referred to a social worker automatically following his change of address.

5.12 At the time of publishing our 2012 report about IM decision making, this office noted that social worker reviews for the VWPR measure of IM occurred 28 days before the VWPR end date, and in response to requests for reconsideration. Our office suggested that there should be an additional trigger for reviews of existing VWPR determinations, such that social worker reviews should also be conducted:

when Centrelink becomes aware of changes to a customer’s circumstances that are likely to have an impact on the VWPR determination, such as moving to another location or housing arrangement or becoming homeless.<sup>67</sup>

5.13 While this suggestion was not made as a formal recommendation in our report, DHS nevertheless amended its systems and procedures to this effect after our report was published. The updated process is explained in DHS’s Operational Blueprint as follows:

When a [VWPR] customer moves out of a declared Income Management area, a review will be generated to alert the social worker so a review can be completed to determine if the customer is still vulnerable. If necessary, a referral to a social worker in the customer’s new location will be arranged.<sup>68</sup>

5.14 This aspect of the VWPR process was not carried over to the vulnerable youth measure of IM. Accordingly, if a vulnerable youth VWPR customer moves out of an IM declared area, they will not be automatically connected with a DHS social worker, and DHS will not be prompted to make contact with the person.

5.15 The reason for the different process between the two measures is not entirely clear to our office. When we asked DHS about the reason for the different processes, it explained that for the social worker initiated measure of VWPR IM, the review generated considers how moving location will affect the original assessment by the social worker. It indicated that for both measures of VWPR IM, location is only one of a number of factors which are relevant for determining whether a person will remain on VWPR IM.

5.16 In our view, particularly where vulnerable people are concerned, it is conceivable that a change in address may have ramifications for a person’s wellbeing, which is one factor that DHS is required to consider under subsection 8(2) of the Principles, when making a vulnerable youth VWPR determination.

---

<sup>66</sup> In its response to our investigation dated 15 May 2014, DHS acknowledged there was an unreasonable delay in social worker contact following Mr V’s exclusion request.

<sup>67</sup> See paragraph 3.56 at page 36 of the report *Review of Centrelink Income Management Decisions in the Northern Territory: Financial Vulnerability Exemption and Vulnerable Welfare Payment Recipient Decisions*, Report No. 04/2012.

<sup>68</sup> See Operational Blueprint topic 103-01180010-01: *Eligibility for Income Management under the Vulnerable Welfare Payment Recipient (VWPR) measure*. Last accessed 23/6/15

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

5.17 Additionally, when a person changes address, particularly if they move to a different town or city, they may lose contact with local support networks and may need to be reconnected with support services in their new area. If the person moves to an area that is not an IM declared area, they are also likely to need timely assistance with managing their finances and IM allocations. Social worker assistance at this time would therefore help to ensure that the person’s wellbeing is not put at risk.

5.18 Accordingly, in our view, it is appropriate that persons subject to the vulnerable youth measure of IM receive contact from DHS when DHS becomes aware of changes to their circumstances which could affect their wellbeing, such as a change of address. If the person indicates any possible risks to their wellbeing during the contact, they should be referred to a DHS social worker for further assessment and support.

5.19 While we acknowledge that DHS already has general processes in place for making referrals to social workers and other support services where a need is identified, we consider that DHS’s identification of particular people as *vulnerable welfare payment recipients*, and its income management of them on this basis, imposes a higher level of responsibility on DHS to ensure it is providing adequate support to this customer group. This is because the first object of income management is to reduce immediate hardship and deprivation by ensuring a person’s welfare payments are directed towards meeting their priority needs.<sup>69</sup>

5.20 Prompting a customer service officer to make a specific phone call to a person to assess their wellbeing following a change in their circumstances will also ensure that the contact elicits specific information about the person’s wellbeing. This is preferable to waiting for the person to call to seek assistance, in which case they are less likely to disclose information about their wellbeing and the customer service officer may not seek it.

### **Recommendation 8**

DHS should amend its processes to trigger a DHS service officer to contact a person when DHS becomes aware of changes to a person’s circumstances that may impact the person’s wellbeing, such as moving to another location or housing arrangement or becoming homeless.

Where appropriate, including in situations where the person’s circumstances indicate a possibility that IM could adversely affect the person’s wellbeing, the service officer should refer the customer to a DHS social worker, both for assistance with their immediate situation, and for consideration of exclusion from IM under s9 of the Principles.

DHS should provide a mechanism for customer service officers to make referrals to IM social workers in these situations, and incorporate appropriate support, encouragement and guidance in its procedures, for customer service officers to make these referrals.

---

<sup>69</sup> See s123TB(a) of the *Social Security (Administration) Act 1999*.

## Failure to inform people of their right to request an exclusion from IM

5.21 Following receipt of our first vulnerable youth VWPR IM complaint, our office wrote to DHS seeking information about its processes and procedures to assist us to better understand how DHS administers this measure of IM. In this context, we sought copies of the standard letters which DHS sends to people when they commence on the vulnerable youth measure of VWPR IM. In response, DHS provided our office with copies of the template letters it sends to people both when they are identified for the vulnerable youth measure of IM, and when IM commences.

5.22 DHS explained that when people are initially identified for the vulnerable youth measure, and DHS’s system makes an automatic decision to place them on VWPR IM, a letter is sent to the person asking them to contact DHS within a certain period of time.<sup>70</sup> DHS refers to this timeframe as the *engagement period*. Following the engagement period, unless the person has had a successful review or exclusion decision applied, VWPR IM will commence and the person will receive a second letter informing them of this.

5.23 DHS advised our office that during the engagement period, people are able to appeal the decision that they be income managed or request to be assessed for an exclusion. People can also request an appeal or exclusion once IM has commenced.

5.24 However, upon reviewing the template letters, we noted that they did not provide people with any information about their right to request an exclusion.<sup>71</sup> We found it difficult to understand how people could seek an exclusion from IM if they had not been informed of their right to request one.

5.25 On 12 November 2014, we wrote to DHS pointing out that its letters did not contain information about people’s rights to request an exclusion or revocation of the VWPR IM determination, or the grounds on which people may be eligible. We asked DHS to consider updating its letters to include this information.

5.26 By email 12 December 2014, DHS declined our suggestion on the bases that:

- Such advice may be confusing for people (given that they are vulnerable, and given the complex range of variables that would need to apply for an exclusion to be granted), and
- the advice may give them a false expectation that they would be granted an exclusion.

5.27 In its response, DHS indicated that people subject to the vulnerable youth measure have the opportunity during their initial IM interview to raise any specific personal circumstances that might make their participation in IM untenable (or otherwise qualify them for an exclusion), and that if a service officer thinks the person’s circumstances might qualify them for an exclusion, or if they request one, they will be referred to a social worker for assessment.

---

<sup>70</sup> 28 days for people in urban locations and 56 days for people in remote areas.

<sup>71</sup> As noted at part 4 above, DHS does not have a process for people to seek to exit IM. This will only happen if they lose eligibility for the measure (for one of the reasons outlined in paragraph 4.39 above) The letters also did not allude to the exception criteria outlined in subsection 8(2) of the Principles as discussed in part 3 above.



## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

5.28 In light of this, we reviewed DHS’s operational blueprint canvassing key items its staff are required to discuss with people in the initial assessment interview for the vulnerable youth measure of VWPR IM.<sup>72</sup> While the process prompts CSOs to advise people of their review rights, it does not prompt CSOs to ask people if they have any specific personal circumstances which might make their participation in IM untenable. Nor are there any instructions to CSOs to inform people of their right to request an exclusion from the measure, or explain on what bases they may be eligible to be excluded or exited from the measure. Accordingly, we are not satisfied that DHS staff would be likely to identify, during the initial interview, if a person’s circumstances warranted referral to a social worker for exclusion assessment, or that people would understand from the information discussed during the initial interview, that they have a right to ask for an exclusion.

5.29 A person’s right to request an exclusion or revocation of a VWPR order is distinct from their right to request a review of a decision to apply VWPR IM. In our view, simply informing people of their review rights is not enough for DHS to discharge its obligation to inform people of their rights when placed on this measure of IM.

5.30 Further, given the specific, objective criteria on which vulnerable youth VWPR determinations are based, when compared to the broad range of reasons for which a determination may be revoked, people subject to the measure would presumably be more likely to be successful when applying for an exclusion, than a review of the original decision.

5.31 DHS’s arguments that providing people identified as vulnerable youth with information about their exclusion rights would be confusing for them or might give them false hope are not valid reasons to withhold information from people about their rights. The omission of information about people’s rights compounds the disadvantage and vulnerability already experienced by persons subject to the vulnerable youth measure.

5.32 Our office has previously been critical of DHS’s failure to inform people of their rights in relation to IM. In our 2012 IM report, we noted that DHS had failed to inform vulnerable welfare payment recipients of their review rights in its letters. DHS responded positively to our recommendations and updated its letters to include review rights information.

5.33 As discussed in that report, vulnerable welfare payment recipients - whether they be those who are placed on IM as a result of a social worker decision, or automatically, under the vulnerable youth measure - are entitled to know that there are two separate processes available to them to challenge a VWPR determination. They can ask DHS to reconsider their circumstances and revoke or vary the determination,<sup>73</sup> or they can seek the standard review pathway for internal and then external review by the SSAT and AAT. The differences between these two processes, as well as the option to pursue them concurrently, should be made clear to people and it is important that this information is reiterated in each letter about a decision to apply the VWPR measure, after a VWPR decision has been reviewed or reconsidered by a social worker and when an ARO issues a review decision.

---

<sup>72</sup> Operational Blueprint file – *Initial Assessment Interview for Vulnerable Welfare Payment Recipients*, 103-01180060-03, last accessed on 24 July 2015.

<sup>73</sup> In accordance with subsection 123UGA(8) of the Administration Act

### Recommendation 9

a) DHS should review its letters and staff instructions to ensure that people subject to the vulnerable youth measure of IM are informed, both verbally and in writing, of their right to ask DHS to reconsider their circumstances with a view to revoking the VWPR IM determination that applies to them.

b) DHS should ensure that people are informed of the differences between the review and revocation processes as well as their right to pursue the processes concurrently.

c) DHS should inform all persons currently subject to the vulnerable youth measure of IM of their right to request a revocation of the VWPR IM determination that applies to them during its next contact with these people.

### Lack of reasons and other relevant information

5.34 After making a decision to grant Mr G a temporary exclusion from the vulnerable youth measure of VWPR IM, DHS sent Mr G a decision letter which failed to explain the reasons for its decision.

5.35 As noted in Part 2 above, a DHS Social Worker decided to grant Mr G a 12-month exclusion from IM from 1 October 2014 to 30 September 2015. DHS wrote to Mr G confirming this decision on 2 October 2014. The letter advised:

We spoke to you recently about IM and what this means for you. Your request for an exclusion from IM has been granted from 1 October 2014 to 1 October 2015...Your payments will not be income managed from 01 October 2014 to 01 October 2015.

5.36 The letter went on to provide standard information about review rights and asked Mr G to contact DHS to discuss what will happen to any income managed money remaining in his account, as well as available options for paying his regular expenses.

5.37 In reviewing the social worker’s notes, we identified that the social worker had completed a decision-making template and considered the mandatory decision-making principles in making their decision. They had identified and considered relevant evidence and documented this in their notes. However, none of this information was included in the decision letter that was subsequently sent to Mr G. The decision letter did not provide any reasons for the decision or refer to the evidence or information the social worker relied on in arriving at their decision. The letter also did not explain that DHS could reinstate IM at any time during the exclusion period if it considered this was appropriate.

5.38 Decision letters should provide sufficient information for the recipient to understand the decision that has been made, the program under which it has been made, why it has been made, what it means for the person and what they can do if they disagree.

5.39 DHS’s failure to provide Mr G with adequate reasons for its decision to grant his exclusion in this case, or to adequately explain what the decision meant for him, is unsatisfactory and raises concerns that other people subject to the vulnerable youth measure, including those refused exclusions, may be similarly affected. It is also a reflection of similar findings in our 2012 IM decision report, which identified that DHS was routinely failing to provide people with adequate reasons for IM decisions.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

5.40 In response to our recommendations in that report, DHS agreed to take steps to ensure that vulnerable welfare payment recipients received reasons for decisions made in relation to them. DHS advised us it had re-written its IM decision letters to include reasons for decisions and incorporate information about the consequences of the decisions those affected. Based on Mr G’s experience, it does not appear that these changes have been carried through to letters prepared for people subject to the vulnerable youth measure.

### **Recommendation 10**

- a)** DHS should undertake a review of decision letters sent to people on the vulnerable youth measure of IM to ensure that proper reasons are provided.
- b)** DHS should consider improving its letters and training for staff to ensure that all IM decision letters are consistent with Recommendation 18 in our 2012 IM report – i.e. that letters advise people in clear and simple language:
- of the decision that has been made, including an explanation of the applicable program or measure
  - the reason(s) for that decision including relevant evidence
  - what the consequences of the decision are for the person
  - what the person can do about the decision if they disagree with it.

## PART 6 – RECOMMENDATIONS AND AGENCY RESPONSES

6.1 In late 2015, our office provided two draft versions of this report to DHS and DSS for comment. The second version was provided following meetings with the agencies about the report’s recommendations, and was intended to amend and/or clarify particular aspects of the report and recommendations.

6.2 The departments coordinated their responses, with DSS responding to recommendations 1, 2, 5 and 6 of the report, and DHS responding to recommendations 3, 4, 7, 8, 9 and 10. The departments’ final responses to each of our recommendations are outlined below, with the Departmental Secretaries’ letters to the Ombudsman reproduced at **Appendices A and B**.

6.3 Overall, the departments responded positively to around half of our office’s recommendations, and have taken steps towards improving some processes and policies.

6.4 This office will continue to work closely with the departments to monitor the implementation of the recommendations in this report.

### Recommendation 1

**a)** DHS should review its processes to ensure that it considers whether people meet any of the exception criteria outlined in subsection 8(2) of the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013* before commencing a person on the vulnerable youth measure of VWPR IM.

This should include:

- amending the initial IM letters to clearly outline the exception reasons in 8(2)
- amending the initial IM interview script to prompt customer service officers to ask questions to enable them to assess whether IM could possibly place the person’s mental, physical or emotional wellbeing at risk
- incorporating a mechanism and instructions for customer service officers to clearly record information gleaned through this line of questioning
- incorporating a mechanism for customer service officers to refer the person to a social worker during the initial IM interview if there is a possibility they could meet the s8(2) criteria
- ending the automatic quarantining and subsequent suspension of payments for people who do not contact DHS within the relevant time, and replacing these with prompts for DHS to contact the person to conduct the initial IM interview before commencing the person on IM.

**b)** DHS should review all vulnerable youth VWPR IM determinations made to date, having regard to subsection 8(2) of the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013*.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

### **Response: Partially Agreed**

DSS has agreed that DHS will review its processes to provide customer service officers with more specific direction to identify where a person is presenting with circumstances that suggest an exclusion from IM may be appropriate. If the customer service officer determines that the person could possibly meet the exclusion criteria, they will refer the customer to a social worker for a full assessment. This process will include adequately documenting customer information and decisions.

However, DSS has declined to end the automatic quarantining and suspension of payments for people who do not contact DHS within the relevant time. It advised that less than five per cent of customers fall within this category, and when these customers do make contact, DHS will assess if subsection 8(2) might apply.

In the meantime, DSS was of the view that the quarantining of 50% of the customer’s payment and subsequent payment suspension was consistent with the legislation. It argued that IM could not be said to have been practically applied under these mechanisms because DHS will not have expended any income managed funds to a BasicsCard or for priority needs until it has had a conversation with the customer.

DSS argued that if it removed the automatic quarantining and suspension mechanisms, this may serve as an incentive for individuals to avoid contact with DHS, which it asserted would be detrimental to vulnerable people.

While this office notes DSS’s arguments, we maintain the view that quarantining 50% of a customer’s income support payment, and thereby removing the customer’s access to these funds, has a real practical impact for the customer. In light of the ‘vulnerable’ status of customers identified under this measure, we consider that DHS should take steps to attempt to contact customers who do not contact it before quarantining or suspending these customers’ payments.

### **Recommendation 2**

a) DHS should review its processes to ensure that VWPR determinations expire after 12 months unless a new determination is made which has regard to all of the relevant legislative eligibility criteria, including the legislative requirements in subsection 123UCA(1)(b) of the *Social Security (Administration) Act 1999*, and subsections 8(2) and 9(1)(e) of the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013*.

b) DHS should review all 12-month reconsideration decisions made to date, having regard to the applicable legislation.

### **Response: Agreed**

DSS has agreed with this recommendation and has undertaken to redesign the policy to ensure that a 12-month determination under the vulnerable youth measure of IM can only be automatically triggered and applied to a person once. The only exception will be in cases where customers are ‘triggered’ by qualifying for a crisis payment following prison release. In these cases, each new crisis payment will trigger a new determination under the Principles, which will ensure consistency with the legislation.

DSS advised that DHS will apply this change to all individuals who have been on the vulnerable youth measure of income management for more than 12 months, and will either exit them from IM or refer them to voluntary IM.

**Recommendation 3**

DHS should delete *Step 11* from the process page of the revised Operational Blueprint file 103-01180050 to ensure that in all cases where persons subject to the vulnerable youth measure ask to come off IM, they are either exited from the measure or referred to a social worker.

**Response: Agreed**

DHS advised that it has updated its Operational Blueprint to clarify that customers requesting an exclusion must be referred to an income management social worker for assessment of the request.

**Recommendation 4**

DHS should ensure that in every case where a person asks to come off IM, and is referred to a social worker to consider their request, that the social worker considers their request in accordance with the relevant legislative principles and makes a documented and reviewable decision.

**Response: Agreed**

DHS advised that it has implemented this recommendation. If a customer requests an exclusion, DHS’s processes now require an IM social worker to conduct a formal exclusion assessment, appropriately document the discussion and outcome, and advise the customer of the appeal process.

**Recommendation 5**

DSS and DHS should amend their existing exclusion processes and policies to ensure they give effect to the permanent revocation power in section 123UGA(5) of the Administration Act, having regard to the mandatory considerations outlined in subsection 9(1) of the Principles.

This includes:

- ensuring that any reinstatement of IM following an exclusion decision is preceded by the making of a new VWPR determination by DHS, having regard to all relevant legislative criteria, including the person’s place of residence
- ending the ability of social workers to cease the exclusion period before 12 months, without making a new VWPR determination, which considers all relevant legislative criteria.

**Recommendation 6**

**a)** DHS should review all exclusion decisions made to date, having regard to the applicable legislation.

**b)** DHS should review all cases in which IM has been reinstated following an exclusion decision, without DHS having made a new VWPR determination by considering all relevant legislative criteria. In these cases, DHS should assess the person against all relevant legislative criteria to ensure they remain eligible for the vulnerable youth measure of IM, and exit any customers who are no longer eligible under the legislation.

***Response: Disagreed***

DSS has taken the view that there is no practical difference between granting a temporary suspension (via the current exclusion process) and revoking an IM determination. Yet the department has acknowledged that there are instances where a DHS social worker may end an exclusion before the standard 12 month exclusion period if a customer’s circumstances change and income management is considered beneficial. DSS considers that this is appropriate and consistent with the intention of the principles.

DHS also indicated that this office’s statement that social workers are not required to conduct a full reassessment of a person’s circumstances to reinstate IM after an exclusion has been previously granted is not correct, suggesting that its social workers are already applying the legislative decision making criteria in subsections 8(1) and (2) of the Principles when reinstating IM following an exclusion.

While this may be the case, it is not clear from the existing processes or procedures that this office has reviewed, that social workers are required to consider the s8(1) and (2) criteria when reinstating IM within 12 months of an exclusion decision. In fact, this office was not able to identify any written policies or procedures outlining the process that social workers should follow in such circumstances and neither department has brought any such processes or policies to our attention in response to our draft report. We therefore maintain the view that unless such written procedures and policies currently exist, the departments need to review their written policies and procedures in relation to this matter.

DSS also advised that current system features mean that if DHS were to remove the income management referral on a person’s record from its system completely, the person would immediately be automatically retriggered, as all of the s8(1) criteria would still be present. DSS considers that making changes to the administrative process to address our recommendations would cause unnecessary complication and confusion.

In our view, it is not appropriate for the limitations of an online system to determine a department’s processes. In any case, we consider that the existing process could be adjusted to comply with the legislation by simply incorporating the requirement that an IM social worker make a new determination under section 8 in cases where DHS considers it appropriate to recommence a customer on the vulnerable youth measure of IM following an exclusion.

**Recommendation 7**

DHS should provide training and guidance to all of its staff who are involved in VWPR decision-making, including AROs, to support them to address all mandatory considerations when making VWPR decisions.

This includes:

- providing instructions and guidance for decision makers to consider subsection 8(2) criteria when making decisions and review decisions about applying VWPR determinations, including new determinations made after the initial determination expires
- providing instructions and guidance for decision makers to consider subsection 9(1)(e) criteria when making decisions and review decisions about extending VWPR determinations beyond 12 months, and revoking determinations for a persons who have been subject to the vulnerable youth measure of IM for at least 12 months.

**Response: Agreed**

DHS advised that it has implemented this recommendation by providing all relevant staff, including AROs, with the required IM training, including about making and reviewing decisions, facts and evidence and the circumstances of individual cases.

DHS agreed to review its processes to provide specific direction to support service officers to consider whether a customer may be presenting with circumstances suggesting that an exclusion from IM may be appropriate.

**Recommendation 8**

DHS should amend its processes to trigger a DHS service officer to contact a person when DHS becomes aware of changes to a person’s circumstances that may impact the person’s wellbeing, such as moving to another location or housing arrangement or becoming homeless.

Where appropriate, including in situations where the person’s circumstances indicate a possibility that IM could adversely affect the person’s wellbeing, the service officer should refer the customer to a DHS social worker, both for assistance with their immediate situation, and for consideration of exclusion from IM under s9 of the Principles.

DHS should provide a mechanism for customer service officers to make referrals to IM social workers in these situations, and incorporate appropriate support, encouragement and guidance in its procedures, for customer service officers to make these referrals.

**Response: Disagreed**

DHS declined to implement this recommendation.

In an earlier draft of our report, our office suggested that a DHS social worker make direct contact with a person when DHS becomes aware of a change in that person’s circumstances that might impact on their wellbeing. However, following discussions with DHS, our office acknowledged DHS’s concerns at the high resource implications that this approach would entail for its social workers, who were already in short supply. We therefore amended this recommendation to suggest that contact be made by a service officer instead, with later referral to a social worker if warranted.

Despite this amendment, DHS continues to disagree with this recommendation. It noted that many vulnerable youth are not negatively impacted by a change in circumstances or by relocating outside an IM location.

Our office maintains the view, as outlined in paragraph 5.19 above, that DHS’s identification of particular people as *vulnerable welfare payment recipients*, and its income management of them on this basis, imposes a higher level of responsibility on DHS to ensure it is providing adequate support to this customer group, which should include contact when a person’s circumstances change.

**Recommendation 9**

a) DHS should review its letters and staff instructions to ensure that people subject to the vulnerable youth measure of IM are informed, both verbally and in writing, of their right to ask DHS to reconsider their circumstances with a view to revoking the VWPR IM determination that applies to them.



- b)** DHS should ensure that people are informed of the differences between the review and revocation processes as well as their right to pursue the processes concurrently.
- c)** DHS should inform all persons currently subject to the vulnerable youth measure of IM of their right to request a revocation of the VWPR IM determination that applies to them during its next contact with these people.

***Response: Partially agreed***

DHS has undertaken to update its files to provide clearer direction to staff about discussing customers’ rights to request an exclusion or appeal a decision to apply IM. It has also agreed to review its procedures to provide more specific direction to help staff identify circumstances in which an exclusion may be appropriate.

However, DHS has declined to change its current IM or ARO letters which, it asserts, provide clear and detailed information about customers’ review and appeal rights.

DHS has not provided any further information to explain its decision not to inform people about their right to request an exclusion from IM in its letters. It is also unclear whether the proposed updates to DHS’s procedures will direct staff to inform people of their exclusion rights before they present with information suggesting their circumstances may warrant an exclusion.

This office maintains the view that DHS’s *review* and *exclusion* processes are two separate processes which people have a right to be made aware of up front, both in writing as well as verbally, so that they are fully informed of their rights and options.

If people are not made aware that they have a right to seek an exclusion from IM if it is adversely affecting their wellbeing, then there is no reason for them to think that DHS could assist them if they were experiencing problems, and they may not contact DHS to discuss their options in such circumstances.

We also understand that under other measures of IM, DHS informs customers in its letters about their right to request an exemption from IM, or at least what they can do if their circumstances have changed and/or they believe their payments should no longer be income managed.

**Recommendation 10**

- a)** DHS should undertake a review of decision letters sent to people on the vulnerable youth measure of IM to ensure that proper reasons are provided.
- b)** DHS should consider improving its letters and training for staff to ensure that all IM decision letters are consistent with Recommendation 18 in our 2012 IM report – i.e. that letters advise people in clear and simple language:
- of the decision that has been made, including an explanation of the applicable program or measure
  - the reason(s) for that decision including relevant evidence
  - what the consequences of the decision are for the person
  - what the person can do about the decision if they disagree with it.

***Response: Partially agreed***

DHS has advised that it supports recommendation 10(b) but does not support 10(a).

It advised that its decision letters currently confirm the outcome of decisions but its IM exclusion decision letters (where decisions have been made by income management social workers) do not include potentially sensitive and complex information that may be disclosed during IM exclusion assessments.

DHS advised further, that its systems limit the amount of detail that can be included in decision letters to customers.

We do not accept that these are appropriate reasons for not providing people with complete and adequate reasons for decisions. As noted in recommendation 10(b), decision letters should provide sufficient information to inform the affected person of the decision that has been made; the reason(s) for that decision, including relevant evidence; the consequences of the decision; and what the person can do if they disagree.

While we do not suggest that DHS should include all the details of a person’s discussions with the decision maker in its letters, there may be situations in which it is necessary to include potentially sensitive and complex information in decision letters where this information is relevant to explaining the reasons and evidence supporting a particular decision. Further, particularly in cases involving complex matters, it may take several pages to fully explain the reasons for a decision.

## **ABBREVIATIONS AND ACRONYMS**

AAT	Administrative Appeals Tribunal
Administration Act	<i>Social Security (Administration) Act 1999</i>
ARO	Authorised Review Officer
CSO	Customer Service Officer
DHS	Department of Human Services
DSS	Department of Social Services
FaHCSIA	Department of Families, Housing Community Services and Indigenous Affairs
IM	Income Management
NT	Northern Territory
SSAT	Social Security Appeals Tribunal
The Principles	<i>Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013</i>
UTLAH	Unreasonable to live at home
VIM	Voluntary Income Management

**Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’**

VWPR                      Vulnerable welfare payment recipient

## APPENDIX A – DHS'S RESPONSE



**Australian Government**  
**Department of Human Services**

**Kathryn Campbell CSC**  
**Secretary**

Ref: EC15/457

Mr Colin Neave AM  
Commonwealth Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

  
Dear Mr Neave

I refer to your letter dated 13 November 2015 inviting the Department of Human Services (the department) to provide comments on a further draft of your report titled *Centrelink's Administration of Income Management for 'Vulnerable Youth'* (draft report). Thank you for providing the department with an opportunity to comment on the draft report.

The draft report is concerned with issues arising from the department's administration of the vulnerable youth income management measure which commenced in July 2013, known as the Vulnerable Welfare Payment Recipient (VWPR) measure.

The 10 recommendations in the draft report are primarily focused on the absence of manual assessments for customers who are automatically triggered onto the VWPR measure.

As the draft report raises significant policy issues and questions regarding the application of relevant legislative provisions, the department has been working closely with the Department of Social Services (DSS) in formulating its response. It has been agreed that DSS will respond to recommendations 1, 2, 5 and 6, as these recommendations primarily raise issues of policy and legislative interpretation. The department's response is therefore limited to recommendations 3, 4, 7, 8, 9 and 10, which focus primarily on matters of administration.

The department supports or partially supports recommendations 3, 4, 7, 9 and 10b, and has already implemented recommendations 3, 4 and 7.

The department does not support recommendation 8, which proposes that social worker reviews should be mandatory where a VWPR customer experiences a significant change in their circumstances. The department considers that other departmental officers, such as service officers, possess appropriate skills, knowledge and experience to manage such customers, including making referrals to social workers where appropriate.

**Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’**

The department does not support recommendation 10a, which proposes that the department provide more detailed reasons for decisions in letters sent to VWPR customers. The department considers the current information provided is sufficient. At the time of the assessment, relevant information, which is often complex and sensitive in nature, is communicated to customers verbally, with the reasons for decisions documented in customer records. Further, systems limitations preclude the department from including detailed reasons in formal decision letters.

As you are aware, on 6 November 2015, I provided you with the department's formal comments on an earlier version of the draft report. The department's updated comments on the current draft report are at Attachment A. Those comments do not differ significantly from those provided by the department in relation to the earlier draft report, with the department's position on the recommendations remaining unchanged.

Thank you again for giving the department an opportunity to comment on the draft report.

Yours sincerely



Kathryn Campbell  
December 2015

14

**ATTACHMENT A**

**COMMENTS BY THE DEPARTMENT OF HUMAN SERVICES ON A FURTHER DRAFT OF THE OMBUDSMAN’S OWN MOTION REPORT ON CENTRELINK’S ADMINISTRATION OF INCOME MANAGEMENT FOR ‘VULNERABLE YOUTH’**

**INTRODUCTION**

1. The Department of Human Services (the department) provided a formal response to the Ombudsman on an earlier draft of the report on 6 November 2015.
2. The Ombudsman subsequently issued a further draft report on 13 November 2015, which includes amendments to recommendations 1, 5, 6, 7 and 8.
3. This document updates the response provided to the Ombudsman on 6 November 2015, and includes some amendments to the department’s previous responses to recommendations 1, 3, 7 and 8.
4. The department works closely with the Department of Social Services (DSS) to ensure the administration of Income Management aligns with governing policy and provides vulnerable customers with the appropriate support to manage their welfare payments to meet priority needs to improve their wellbeing and that of their families.
5. This includes advice from DSS regarding the framework for determinations, assessment processes, support services, customer correspondence in accordance with the relevant Income Management legislation and government intent. The department is committed to working closely with DSS to support the effective and beneficial administration of Income Management.

**GENERAL COMMENTS**

6. The department notes that the draft report is primarily concerned with perceived failures of decision-making and review of decisions around revocation and exit from Income Management for customers assessed as coming under the Vulnerable Welfare Payment Recipient (VWPR) status.
7. The department acknowledges that the Ombudsman has correctly identified that there is a request for revocation procedure, as well as a review of decision process, and that the two can be concurrent.
8. The department notes that this is the third report from the Ombudsman into Income Management since 2010.
9. In developing a response to the section 15 report, the department has reviewed the case studies of Mr V and Mr G, which have previously been the subject of previous section 8 investigations. The case of Mr V was addressed by the department following a section 8 request received on 28 March 2014.

10. The department has previously provided responses to the following requests regarding Mr G:
  - Original section 8 investigation received on 13 June 2014.
  - Further information request received on 27 August 2014.
  - Further information request received on 28 November 2014.
  - Further information request received on 13 February 2015.
11. The department is bound by the legislation, the Principles and DSS policy in the review of VWPR decisions, which are made by departmental social workers, and are reviewed by Income Management social workers in most circumstances, with few referrals to Authorised Review Officers (ARO).
12. The department notes that the draft report refers multiple times to the 'Statement of Compatibility with Human Rights' which is found in the explanatory statement.
13. This has led to some confusion in the draft report about the intended role of social workers in the Vulnerable Youth measure. The explanatory statement should have referred to the Secretary in all instances as some of the functions are not performed by social workers but are instead performed by automated systems.
14. The department advises that, in the scenario under paragraph 4.43 of the report, the statement that social workers are not required to do a full reassessment of a person's circumstances to reinstate Income Management after an exclusion has been previously granted, is not correct.
15. If an exclusion ceases prior to 12 months or is extended beyond 12 months, a social worker must do a full reassessment of the person's circumstances under the legislative instrument. If an exclusion expires at 12 months, generally, a social worker is not involved as eligibility for Income Management is checked by the system.

#### **RECOMMENDATIONS**

16. The department's responses to each of the recommendations in the draft report is set out below:

##### **Recommendation 1**

- a) **Centrelink should review its processes to ensure that it considers whether people meet any of the exception criteria outlined in subsection 8(2) of the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013* before commencing a person on the vulnerable youth measure of VWPR IM. This should include a process for suspending the commencement of IM until Centrelink has assessed a person's circumstances.**

**This should include:**

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

- amending the initial IM letters to clearly outline the exception reasons in 8(2)
- amending the initial IM interview script to prompt customer service officers to ask questions to enable them to assess whether IM could possibly place the person’s mental, physical or emotional wellbeing at risk
- incorporating a mechanism and instructions for customer service officers to clearly record information gleaned through this line of questioning
- incorporating a mechanism for customer service officers to refer the person to a social worker during the initial IM interview if there is a possibility they could meet the s8(2) criteria
- ending the automatic quarantining and subsequent suspension of payments for people who do not contact Centrelink within the relevant time, and replacing these with prompts for Centrelink to contact the person to conduct the initial IM interview before commencing the person on IM.

It has been agreed that DSS will respond to this recommendation as it raises issues of policy and legislative interpretation.

- b) **Centrelink should review all vulnerable youth VWPR IM determinations made to date, having regard to subsection 8(2) of the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013*.**

It has been agreed that DSS will respond to this recommendation as it raises issues of policy and legislative interpretation. The department has provided relevant input into this response.

### Recommendation 2

- a) **Centrelink should review its processes to ensure that VWPR determinations expire after 12 months unless a new determination is made which has regard to all of the relevant legislative eligibility criteria, including the legislative requirements in subsection 123UCA(1)(b) of the *Social Security (Administration) Act 1999*, and subsections 8(2) and 9(1)(e) of the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013*.**

It has been agreed that DSS will respond to this recommendation as it raises issues of policy and legislative interpretation.

- b) **Centrelink should review all 12-month reconsideration decisions made to date, having regard to the applicable legislation.**

It has been agreed that DSS will respond to this recommendation as it raises issues of policy and legislative interpretation.



### Recommendation 3

**Centrelink should delete *Step 11* from the process page of the revised Operational Blueprint file 103-01180050 to ensure that in all cases where persons subject to the vulnerable youth measure ask to come off IM, they are either exited from the measure or referred to a social worker.**

*The department supports this recommendation.*

The department has updated the Operational Blueprint file 103-01180050: ‘Exclusions for automatically triggered Vulnerable Welfare Payment Recipients (VWPR) Youth measure for Service Officers’ to clarify that customers requesting an exclusion must be referred to an Income Management Social Worker for assessment of the request.

### Recommendation 4

**Centrelink should ensure that in every case where a person asks to come off IM, and is referred to a social worker to consider their request, that the social worker considers their request in accordance with the relevant legislative principles and makes a documented and reviewable decision.**

*The department supports this recommendation.*

The department has implemented this recommendation. Following the section 8 investigation concerning Mr G in 2014, the department reviewed and amended the Operational Blueprint file 103-01180040: ‘Determining an exclusion from automatically triggered Vulnerable Welfare Payment Recipient (VWPR) Youth Income Management by social workers’. Income Management Social Workers are now required to conduct a formal exclusion assessment, when requested by a customer, appropriately document the discussion and outcome and to advise the customer of appeal processes.

### Recommendation 5

**DSS and Centrelink should amend their existing exclusion processes and policies to ensure they give effect to the permanent revocation power in section 123UGA(5) of the Administration Act, having regard to the mandatory considerations outlined in subsection 9(1) of the Principles.**

**This includes:**

- ensuring that any reinstatement of IM following an exclusion decision is preceded by the making of a new VWPR determination by Centrelink, having regard to all relevant legislative criteria, including the person’s place of residence.
- ending the ability of social workers to cease the exclusion period before 12 months, without making a new VWPR determination, which considers all relevant legislative criteria.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

It has been agreed that DSS will respond to this recommendation as it raises issues of policy and legislative interpretation.

### Recommendation 6

- a) **Centrelink should review all exclusion decision made to date, having regard to the applicable legislation.**

It has been agreed that DSS will respond to this recommendation as it raises issues of policy and legislative interpretation.

- b) **Centrelink should review all cases in which IM has been reinstated following an exclusion decision, without Centrelink having made a new VWPR determination by considering all relevant legislative criteria. In these cases, Centrelink should assessing the person against all relevant legislative criteria to ensure they remain eligible for the vulnerable youth measure of IM, and exit any customers who are no longer eligible under the legislation.**

It has been agreed that DSS will respond to this recommendation as it raises issues of policy and legislative interpretation.

### Recommendation 7

**Centrelink should provide training and guidance to all of its staff who are involved in VWPR decision-making, including AROs, to support them to address all mandatory considerations when making VWPR decisions.**

**This includes:**

- **providing instructions and guidance for decision makers to consider subsection 8(2) criteria when making decisions and review decisions about applying VWPR determinations, including new determinations made after the initial determination expires**
- **providing instructions and guidance for decision makers to consider subsection 9(1)(e) criteria when making decisions and review decisions about extending VWPR determinations beyond 12 months, and revoking determinations for persons who have been subject to the vulnerable youth measure of IM for at least 12 months.**

*The department supports this recommendation.*

The department has implemented this recommendation. All relevant departmental staff, including AROs, have been provided with the required Income Management training, which includes making and reviewing decisions, facts and evidence and the circumstances of individual cases. This includes training in reviewing decisions made by Income Management Social Workers. In reviewing decisions, AROs are required to consider the templates and decision-making tools used by the Income Management Social Workers who make the original decisions.

The department is satisfied that staff, including Income Management Social Workers and AROs, have all of the information and tools they require to review these cases and where there may be changes to the Principles or policy, those changes are transmitted to and quickly included in training and guidance information provided to all decision making and review staff.

The department has trained and experienced Service Officers who are able to identify a change in a customer’s circumstances that may indicate vulnerability and make referrals to appropriate support services.

The department will review its processes to provide specific direction to support Service Officers consider whether a customer is presenting with circumstances that suggest an exclusion from Income Management may also be appropriate.

**Recommendation 8**

**Centrelink should amend its processes to trigger a review by a Centrelink Social worker when Centrelink becomes aware of changes to a person’s circumstances that may impact the person’s wellbeing, such as moving to another location or housing arrangement or becoming homeless.**

**Where appropriate, including in situations where the person’s circumstances indicate a possibility that IM could adversely affect the person’s wellbeing, the service officer should refer the customer to a Centrelink social worker, both for assistance with their immediate situation, and for consideration of exclusion from IM under s9 of the Principles.**

**Centrelink should provide a mechanism for customer service officers to make referrals to IM social workers in these situations, and incorporate appropriate support, encouragement and guidance in its procedures, for customer service officers to make these referrals.**

*The department does not support this recommendation.*

Social workers are one of a number of departmental officers who have the ability to review the impacts of a customer’s change in circumstances.

The department has trained and experienced Service Officers who are able to identify a change in circumstances that may indicate vulnerability and make referrals to appropriate support services.

These services are in addition to referrals to Income Management Social Workers who are available to provide intensive servicing to customers who are experiencing indicators of vulnerability, including financial hardship, homelessness or risk of homelessness. Income Management Social Workers are also available to assess a customer’s unique circumstances to determine whether a customer may be eligible for an exclusion from Income Management, if this is in the best interests of the customer.

## Commonwealth Ombudsman—Administration of Income Management for ‘Vulnerable Youth’

The department notes that many vulnerable youth are not negatively impacted by a change in circumstances or by relocating outside an Income Management location.

### Recommendation 9

- a) **Centrelink should review its letters and staff instructions to ensure that people subject to the vulnerable youth measure of IM are informed, both verbally and in writing, of their right to ask Centrelink to reconsider their circumstances with a view to revoking the VWPR IM determination that applies to them.**

*The department partially supports this recommendation.*

The department does not agree to change its current Income Management letters. These provide advice to customers regarding the review and appeal rights available to them if they disagree with a decision by the department. In addition, the ARO decision letters provide customers with information regarding further rights of review available in the tribunals. These letters are written in clear and simple language to ensure customers understand their right to seek reviews of all departmental decisions.

Where a customer requests an exclusion, an Income Management Social Worker conducts an assessment with the customer to discuss their circumstances. At this assessment, the Income Management Social Worker will verbally discuss with the customer the outcome of the request assessment, the implications of the outcome, and available avenues of appeal and review. The subsequent letter confirms the verbal discussion, including the outcome decision of the exclusion assessment and information regarding seeking a review of the decision.

All staff, including Income Management Social Workers and specialists, are trained in identifying and supporting customers presenting with vulnerabilities or adverse changes in circumstances. To enhance this messaging for Income Management customers, the department will review relevant Operational Blueprint files to provide more specific direction for relevant staff to consider instances where a customer is presenting with circumstances that suggest an exclusion from Income Management would be most appropriate (such as at the initial interview). Additionally, files will be updated to provide clearer direction for staff to discuss with a customer their right to request an exclusion or appeal a decision to apply Income Management.

- b) **Centrelink should ensure that people are informed of the differences between the review and revocation processes as well as their right to pursue the processes concurrently.**

*The department partially supports this recommendation.*

With regard to the revocation process, the department will defer to the response by DSS to recommendations five and six in their response to the draft report.

With regard to informing customers, the department will review relevant Operational Blueprint files to provide staff with more specific direction where a customer is

presenting circumstances that suggest an exclusion from Income Management is appropriate, and to also discuss review and exclusion request rights with customers.

- c) Centrelink should inform all persons currently subject to the vulnerable youth measure of IM of their right to request a revocation of the VWPR IM determination that applies to them during its next contact with these people.**

*The department partially supports this recommendation.*

With regards to informing customers, as stated above, the department will review relevant Operational Blueprint files to provide more specific direction for staff to consider instances where a customer is presenting with circumstances that suggest an exclusion from Income Management would be most appropriate (such as at the initial interview). Additionally, files will be updated to provide clearer direction for staff to discuss with a customer their right to request an exclusion or appeal a decision to apply Income Management.

Current Income Management letters provide advice for customers who disagree with a decision to contact the department to check details and explain the decision to the customer. The letters also provide advice regarding reviews and appeal rights.

There are no practical differences between how exclusions and revocations are implemented, and changes to administration processes as outlined would cause unnecessary complication and potentially confuse customers.

#### **Recommendation 10**

- a) Centrelink should undertake a review of decision letters sent to people on the vulnerable youth measure of IM to ensure that proper reasons are provided.**

*The department does not support this recommendation.*

Where a customer requests an exclusion, an Income Management Social Worker conducts an assessment with the customer to discuss their circumstances. At this assessment, the Income Management Social Worker will verbally explain to the customer the assessment process, the outcome of the assessment, the impacts for the customer and appeal avenues available to the customer.

The letters confirm the outcome decision of the exclusion assessment but do not include the potentially sensitive and complex information that may be disclosed during the assessment with the Income Management Social Worker. Due to the complex nature of these discussions, there are system limitations to the detail that can be included in the decision letters to customers.

Social Workers are required to adequately document the discussion with the customer and the rationale for their decisions in the customer's record.

- b) Centrelink should consider improving its letters and training for staff to ensure that all IM decision letters are consistent with Recommendation 18 in our 2012 IM report – i.e. that letters advise people in clear and simple language:
- of the decision that has been made, including an explanation of the applicable program or measure
  - the reason(s) for that decision including relevant evidence
  - what the consequences of the decision are for the person
  - what the person can do about the decision if they disagree with it.

*The department supports this recommendation.*

As per the department’s response to recommendation 10a), due to the sensitivities and complexities involved with an exclusion assessment discussion between an Income Management Social Worker and customer, there are limitations to the detail that can be included in the subsequent decision letter to customers.

The department continues to review and update its suite of letters in conjunction with ICT updates to enhance and simplify programme correspondence for customers, particularly in light of the recommendations from the 2012 Ombudsman report

## APPENDIX B – DSS'S RESPONSE



**Australian Government**  
**Department of Social Services**

Barbara Bennett  
A/g Secretary

Mr Colin Neave  
Commonwealth Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Dear Mr Neave

DRAFT INVESTIGATION REPORT – CENTRELINK'S ADMINISTRATION OF INCOME MANAGEMENT FOR 'VULNERABLE YOUTH'

Thank you for your letter of 13 November 2015 advising of your intention to issue a redrafted report under section 15 of the Ombudsman Act 1976 regarding the vulnerable youth measure of income management, and the invitation to provide comments on the redrafted report.

Please find enclosed the Department of Social Services response to recommendations 1, 2, 5 and 6 of the report. This response was coordinated with the Department of Human Services, who is responding independently to the remaining recommendations.

Yours sincerely

*Barbara Bennett*  
Barbara Bennett

15 December 2015

**DSS responses – Ombudsman Section 15 report**

The Department of Social Services (DSS) has worked closely with the Department of Human Services (DHS) to support the policy intent and administration of income management.

**Recommendation 1**

- a) Centrelink should review its processes to ensure that it considers whether people meet any of the exception criteria outlined in subsection 8(2) of the Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013 before commencing a person on the vulnerable youth measure of VWPR IM.

This should include:

- amending the initial IM letters to clearly outline the exception reasons in 8(2)
- amending the initial IM interview script to prompt customer service officers to ask questions to enable them to assess whether IM could possibly place the person’s mental, physical or emotional wellbeing at risk
- incorporating a mechanism and instructions for customer service officers to clearly record information gleaned through this line of questioning
- incorporating a mechanism for customer service officers to refer the person to a social worker during the initial IM interview if there is a possibility they could meet the s8(2) criteria
- ending the automatic quarantining and subsequent suspension of payments for people who do not contact Centrelink within the relevant time, and replacing these with prompts for Centrelink to contact the person to conduct the initial IM interview before commencing the person on IM. This should include a process for suspending the commencement of IM until Centrelink has assessed a person’s circumstances.

- b) Centrelink should review all vulnerable youth VWPR IM determinations made to date, having regard to subsection 8(2) of the Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013.

*Agree in principle, adjustments required*

The Department of Social Services (DSS) considers that the current administrative processes for the vulnerable youth measure of income management are consistent with section 8 of the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013* (the Principles) and its original policy intent.

The Ombudsman’s draft report has raised a concern that the Department of Human Services (DHS) does not have a process in place which ensures that staff consider the exception criteria in subsection 8(2) of the Principles. DSS believes that these processes are in place.

As highlighted in the draft report, once a vulnerable welfare recipient is determined to be eligible for an automatic trigger (as set out in subsection 8(1) of the Principles), the customer is sent a letter advising them they have been triggered for income management, and requesting they attend DHS for an interview within 28 days. In practice, this interview allows DHS Customer Service Officers to review an individual’s circumstances and consider whether they fall within the exception criteria as set out in subsection 8(2) of the Principles. Assuming they attend the initial interview within 28 days, a customer will not commence income management until after DHS has had the opportunity to consider the exception criteria in section 8(2) of the principles. DHS Customer Service Officers are trained and experienced in identifying and referring people with vulnerabilities or experiencing hardship, such as homelessness, to appropriate support including social work services. This includes instances where income management may be impacting negatively on a young person’s wellbeing.



The draft report notes that this initial interview would be an appropriate opportunity for DHS to assess people against the exception criteria. However, it also notes that current procedures do not require staff to have a discussion with people that would allow for the Customer Service Officer to consider whether they meet the exception criteria.<sup>1</sup> While DSS considers the current procedures for the initial interview are sufficient, in order to strengthen this process, DHS will review its processes to provide Customer Service Officers with more specific direction to identify where a person is presenting with circumstances that suggest an exclusion from Income Management may be appropriate. If the Customer Service Officer determines that the person could possibly meet the criteria, they will refer the customer to a social worker for a full assessment. DHS has trained and experienced Customer Service Officers who are able to identify a change in circumstances that may indicate vulnerability and make referrals to appropriate support services. These processes include adequately documenting customer information and decisions.

DSS acknowledges that a minority of customers – less than five per cent – do not attend the initial allocation interview within the 28 day period, which activates income management without manual assessment. Usually, this prompts the customer to initiate contact, at which time an assessment interview will take place. Should a further 28 days pass without the customer making contact, the customer’s payments are suspended, and remain so until they contact DHS. While a proportion of the customer’s funds are placed onto their income management account, no disbursements from the account occurs until a discussion with the customer has taken place. When the customer does make contact, DHS is able to assess whether subsection 8(2) might apply, and if it is determined that the customer should not be placed on to income management, all income managed funds will be returned and the programme will not be applied. In these cases, DHS will not have expended income managed funds to a BasicsCard or for priority needs, and DSS believes income management cannot be said to have been practically applied.

The Vulnerable measure was designed to ensure that individuals on certain vulnerable payments are supported to stabilise their financial situation and ensure priority goods are purchased. The initial priority assessment ensures the application measure is overseen by experienced and qualified DHS employees, who are in a position to assess the needs of the individual and apply exemptions if appropriate. Existing processes serve as an opportunity for DHS to prompt contact with a person upon the commencement of a vulnerable payment. If DSS removed automatic quarantining and suspension mechanisms, this may serve as an incentive for individuals, who are considered vulnerable under the Principles, to avoid contact with DHS, and decrease their exposure to experienced and qualified Customer Service Officers and Social Workers. DSS believes the programme is administered consistently with the original policy intention and the most reasonable interpretation of the legislation, and that removing administrative mechanisms to assist and encourage DHS worker contact would be detrimental to vulnerable people.

---

<sup>1</sup> Draft report, page 13.

**Recommendation 2**

**a) Centrelink should review its processes to ensure that VWPR determinations expire after 12 months unless a new determination is made which has regard to all of the relevant legislative eligibility criteria, including the legislative requirements in subsection 123UCA(1)(b) of the *Social Security (Administration) Act 1999*, and subsections 8(2) and 9(1)(e) of the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013*.**

**b) Centrelink should review all 12-month reconsideration decisions made to date, having regard to the applicable legislation.**

*Agree in principle*

DSS will change the structure of the vulnerable youth measure of income management to guarantee consistency with the decision making principles set out in section 8 of the legislative instrument. The policy will be redesigned to conclude after the original 12 month determination has expired, so as to ensure that no determination is made without reference to subsection 8(2) of the Principles. That is, a 12 month determination under the vulnerable youth measure of income management can only be automatically triggered and applied once to a person.

At the expiration of the 12 month period the customer will exit the programme, unless they choose to transfer to Voluntary Income Management. Where DHS identifies that the person might continue to benefit from income management due to specific vulnerabilities, they would refer the person to a social worker for assessment under the criteria outlined in the Principles. Individuals who are particularly vulnerable, and do not wish to volunteer, will be identified through normal DHS contacts and be identified for assessment under the Principles by a DHS social worker.

The only instance where the vulnerable youth measure of income management may extend beyond 12 months is where an individual receives a crisis payment due to prison release. However, the crisis payment would trigger a new determination under the Principles, thus would not be an extension of the original vulnerable youth measure determination.

DSS has formed this policy position in response to evaluations of income management, which have shown that for automatically triggered customers under the vulnerable youth measure, the programme is an effective short term financial and housing stabiliser. It is therefore deemed appropriate to redesign this measure to ensure people are not subject to the programme beyond a timeframe it is proven to be most effective.

To clarify this change, the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013* instrument will be updated to reflect the changed policy interpretation. DHS will apply this change to all individuals who have been on income management for more than 12 months due to an automatic trigger, and either exit them from income management or refer them to voluntary income management.

**Recommendation 5**

**DSS and Centrelink should amend their existing exclusion processes and policies to ensure they give effect to the permanent revocation power in section 123UGA(5) of the Administration Act, having regard to the mandatory considerations outlined in subsection 9(1) of the Principles.**

**This includes:**

- **ensuring that any reinstatement of IM following an exclusion decision is preceded by the making of a new VWPR determination by Centrelink, having regard to all relevant legislative criteria, including the person’s place of residence**
- **ending the ability of social workers to cease the exclusion period before 12 months, without making a new VWPR determination, which considers all relevant legislative criteria.**

**Recommendation 6**

**a) Centrelink should review all exclusion decisions made to date, having regard to the applicable legislation.**

**b) Centrelink should review all cases in which IM has been reinstated following an exclusion decision, without Centrelink having made a new VWPR determination by considering all relevant legislative criteria. In these cases, Centrelink should assess the person against all relevant legislative criteria to ensure they remain eligible for the vulnerable youth measure of IM, and exit any customers who are no longer eligible under the legislation.**

*Disagree*

The Ombudsman has highlighted that in cases where customers request a revocation, DHS only considers granting a temporary suspension and does not consider exiting the customer from the income management programme. Administratively, there is no difference. If a person was exited from the programme and the record of income management referral was removed from the DHS online system completely, they would then be immediately automatically retriggered, as all of the circumstances in subsection 8(1) would still be present. There are no practical differences between how exclusions and revocations are implemented, and changes to administration processes as outlined in this recommendation would cause unnecessary complication and the potential to confuse customers.

This is an undesirable outcome and as such, current procedures should remain in place. It should be noted that where Income Management would place a customer’s mental, physical or emotional wellbeing at risk, departmental processes currently allow for an exclusion of the customer, which effectively no longer requires the customer to be income managed (for a set duration after which eligibility is fully reassessed).

An exclusion period for any customer under this measure is generally granted for duration of 12 months by a DHS Social Worker. In the majority of these cases, this will result in a permanent exclusion from the measure. There are instances where a DHS Social Worker may end exclusion before the 12 month period if the customer’s circumstances change and income management is considered beneficial. For example, if a customer was granted exclusion for an activity related to employment or study (under section 8(2) of the Principles) and subsequently ceases this activity, a DHS Social Worker may reassess if the exclusion is still appropriate. DSS believes this is the most appropriate way to implement the intention of the Principles.