

The Senate

---

Community Affairs  
Legislation Committee

---

Social Security Legislation Amendment  
(Community Development Program) Bill 2018

October 2018

© Commonwealth of Australia 2018

ISBN 978-1-76010-846-5

## Secretariat

Ms Jeanette Radcliffe (Committee Secretary)

Ms Hannah Dibley (Senior Research Officer)

Ms Sarah Batts (Research Officer)

Ms Carol Stewart (Administrative Officer)

Ms Kate Morris (Administrative Officer)

PO Box 6100  
Parliament House  
Canberra ACT 2600

Phone: 02 6277 3515

Fax: 02 6277 5829

E-mail: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

Internet: [www.aph.gov.au/senate\\_ca](http://www.aph.gov.au/senate_ca)

This document was produced by the Senate Community Affairs Committee Secretariat and printed by the Senate Printing Unit, Parliament House, Canberra.

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website: <http://creativecommons.org/licenses/by-nc-nd/3.0/au/>

# MEMBERSHIP OF THE COMMITTEE

## 45<sup>th</sup> Parliament

### Members

Senator Lucy Gichuhi (from 10 September 2018) Chair (from 13 September 2018)	South Australia, LP
Senator Slade Brockman, Chair (to 10 September 2018)	Western Australia, LP
Senator Rachel Siewert, Deputy Chair	Western Australia, AG
Senator Steve Martin	Tasmania, NATS
Senator the Hon Lisa Singh	Tasmania, ALP
Senator Dean Smith (Acting Chair—21 September 2018)	Western Australia, LP
Senator Murray Watt	Queensland, ALP

### Participating members for this inquiry

Senator Patrick Dodson	Western Australia, ALP
Senator Sue Lines	Western Australia, ALP
Senator Malarndirri McCarthy	Northern Territory, ALP



# TABLE OF CONTENTS

<b>Membership of the Committee .....</b>	<b>iii</b>
<b>Abbreviations .....</b>	<b>vii</b>
<b>List of Recommendations .....</b>	<b>ix</b>
<b>Chapter 1</b>	
<b>Introduction .....</b>	<b>1</b>
Purpose of the bill.....	1
Background.....	1
Key provisions of the bill .....	4
Financial implications .....	6
Legislative scrutiny .....	6
Conduct of the inquiry.....	8
Acknowledgement.....	8
Note on references .....	8
<b>Chapter 2</b>	
<b>Key issues.....</b>	<b>9</b>
Introduction .....	9
Application of the TCF to CDP participants .....	9
Reduction of mutual obligation hours .....	16
Increased role for local health providers .....	18
Subsidised employment.....	19
Other matters raised.....	21
Committee view.....	22
<b>Additional Comments by Labor Senators .....</b>	<b>25</b>
<b>Dissenting Report by the Australian Greens.....</b>	<b>29</b>

**APPENDIX 1**

**Submissions and additional information received by the Committee .....49**

**APPENDIX 2**

**Public hearings.....51**

## ABBREVIATIONS

ACOSS	Australian Council of Social Service
ALPA	Arnhem Lands Progress Aboriginal Corporation
ANAO	Australian National Audit Office
APO NT	Aboriginal Peak Organisations Northern Territory
APY Lands	Anangu Pitjantjatjara Yankunytjatjara Lands
Bill	Social Security Legislation Amendment (Community Development Program) Bill 2018
CDP	Community Development Program
CDP Reform bill 2015	Social Security Legislation Amendment (Community Development Program) Bill 2015
CDEP	Community Development and Employment Projects
Committee	Senate Community Affairs Legislation Committee
DHS	Department of Human Services
DPM&C	Department of Prime Minister and Cabinet
FPA committee	Senate Finance and Public Administration References Committee
Human Rights committee	Parliamentary Joint Committee on Human Rights
Minister	Senator the Hon. Nigel Scullion, Minister for Indigenous Affairs
National Congress	National Congress of Australia's First Peoples
NESA	National Employment Services Association
NSSRN	National Social Security Rights Network
NSWALC	NSW Aboriginal Land Council
RASAC	Regional Anangu Services Aboriginal Corporation
RJCP	Remote Jobs and Communities Program

Scrutiny of Bills committee	Senate Standing Committee for the Scrutiny of Bills
TCF	Targeted Compliance Framework
Welfare Reform Act	Social Security Legislation Amendment (Welfare Reform) Act 2018



# **LIST OF RECOMMENDATIONS**

## **Recommendation 1**

**2.72 The committee recommends that the bill be passed.**



# Chapter 1

## Introduction

### Purpose of the bill

1.1 The purpose of the Social Security Legislation Amendment (Community Development Program) Bill 2018 (bill) is to introduce the Targeted Compliance Framework (TCF) in those remote regions of Australia which are currently part of the Community Development Program (CDP).

1.2 Alongside the introduction of the TCF in CDP regions, the bill will also:

- reduce CDP participants' mutual obligation hours from up to 25 hours per week, to up to 20 hours per week, depending on a job seeker's assessed work capacity;
- introduce a greater role for local CDP providers to work with participants in the application of the TCF;
- increase the role of local health service providers, including a provision for local health workers to supply evidence for the Department of Human Services to use when deciding whether to reduce a participant's mutual obligation hours; and
- support the creation of 6000 subsidised employment positions in remote Australia.<sup>1</sup>

### Background

1.3 Introduced on 1 July 2015, the CDP is the remote employment service that supports jobseekers in remote Australia to build skills, address employment barriers and contribute to their communities through a range of flexible activities. It is designed around the unique social and labour market conditions found in remote Australia.<sup>2</sup>

1.4 Previous iterations of the CDP include the Community Development Employment Projects (CDEP) established in 1977 and the Remote Jobs and Communities Program (RJCP) which operated from 1 July 2013 to 30 June 2015.

1.5 Following the re-branding of the CDP in 2015, the government undertook public consultation on the CDP. In particular, the government sought feedback<sup>3</sup> on the development of the supportive legislative instruments which related to the Social

---

1 Explanatory Memorandum, pp. 3–5.

2 Explanatory Memorandum, p. 3.

3 Australian Government, Department of Prime Minister and Cabinet, Consultation on changes to the Community Development Program, <https://www.pmc.gov.au/indigenous-affairs/employment/consultation-changes-community-development-program> (accessed 17 September 2018).

Security Legislation Amendment (Community Development Program) Bill 2015 (CDP Reform bill 2015).<sup>4</sup>

1.6 This consultation noted that the compliance framework for CDP participants was complex and could be simplified:

The current Framework is complex as it provides for a wide range of financial penalties and suspensions with back pay of varying lengths, mandatory re-engagement appointments with providers and additional activities.

It is proposed that the Job Seeker Compliance Framework be replaced by a more simplified Framework setting out rules that are more immediate and easier for the job seeker and provider to understand.<sup>5</sup>

1.7 Since this consultation, the CDP has been reviewed as outlined below.

#### ***Australian National Audit Office report***

1.8 On 31 October 2017, the Australian National Audit Office (ANAO) presented a report on its review of the 'Design and Implementation of the Community Development Programme'.<sup>6</sup> The objective of the audit was to assess the effectiveness of the transition of the RJCP to the CDP, including whether the CDP was well designed and administered effectively and efficiently.

1.9 The review found that the transition was largely effective and made one recommendation to which the government agreed:

The ANAO recommends the Department of the Prime Minister and Cabinet review the Community Development Programme provider payment structure, particularly the incentives it creates and its alignment with the underlying policy objectives of the program changes.<sup>7</sup>

1.10 The Department of Prime Minister and Cabinet's response to the ANAO's report noted that it was taking steps to consider and address the areas of potential improvement raised by the ANAO:

...in particular strengthening guidance on ancillary payments and ensuring the provider payment model aligns with the program's core objectives of assisting job seekers into long-term employment. This includes through the department's ongoing programme implementation and design work,

---

4 The CDP Reform bill 2015 lapsed when the Parliament was dissolved on 9 May 2016.

5 Australian Government, Department of Prime Minister and Cabinet, Consultation on changes to the Community Development Program, <https://www.pmc.gov.au/indigenous-affairs/employment/consultation-changes-community-development-program>, (accessed 2 October 2018).

6 Australian National Audit Office, The Design and Implementation of the Community Development Programme, <https://www.anao.gov.au/work/performance-audit/design-and-implementationcommunity-development-programme> (accessed 17 September 2018).

7 Australian National Audit Office, The Design and Implementation of the Community Development Programme, <https://www.anao.gov.au/work/performance-audit/design-and-implementationcommunity-development-programme> (accessed 17 September 2018).

---

supported by a continual focus on provider performance, which is lifting job seeker outcomes. The Department is also committed to improving evaluation efforts and building the evidence base for Indigenous policies and programmes.<sup>8</sup>

### *Senate inquiry into the CDP*

1.11 On 14 December 2017, the Senate Finance and Public Administration References Committee (FPA committee) tabled its report on the inquiry into the appropriateness and effectiveness of the objectives, design, implementation and evaluation of the CDP. The final report made 22 recommendations in relation to the CDP.<sup>9</sup>

### *Discussion Paper*

1.12 The Department of Prime Minister and Cabinet released a Discussion Paper on possible new employment and participation models for remote Australia on 14 December 2017.<sup>10</sup>

1.13 The paper outlined three potential remote employment and participation model options: a new wage-based model, the model set out in the CDP Reform bill 2015 and an improved version of the current CDP. The Discussion Paper noted that:

The Minister seeks a new model that lifts the best parts from the CDP, past models such as the CDEP, and new thinking to ensure we not only maintain momentum, but also further improve outcomes for remote job seekers and communities.<sup>11</sup>

1.14 A number of participants in this inquiry made submissions in response to the Discussion Paper.<sup>12</sup>

---

8 Australian National Audit Office, The Design and Implementation of the Community Development Programme, <https://www.anao.gov.au/work/performance-audit/design-and-implementation-community-development-programme> (accessed 2 October 2018).

9 Finance and Public Administration References Committee, Appropriateness and effectiveness of the objectives, design, implementation and evaluation of the Community Development Program (CDP), December 2017.

10 Australian Government, Department of the Prime Minister and Cabinet, *Discussion Paper: Remote Employment and Participation*, December 2017, <https://www.pmc.gov.au/sites/default/files/publications/discussion-paper-remote-employment-participation.pdf> (accessed 27 September 2018).

11 Australian Government, Department of the Prime Minister and Cabinet, *Discussion Paper: Remote Employment and Participation*, December 2017, <https://www.pmc.gov.au/sites/default/files/publications/discussion-paper-remote-employment-participation.pdf> (accessed 27 September 2018).

12 Australian Government, Department of the Prime Minister and Cabinet, Remote Employment and Participation—discussion paper submissions, <https://pmc.gov.au/indigenous-affairs/employment/community-development-programme-cdp/remote-employment-and-participation-discussion-paper-submissions> (accessed 27 September 2018).

### ***Reforms announced***

1.15 On 8 May 2018, the Minister for Indigenous Affairs, Senator the Hon. Nigel Scullion (Minister), announced reforms to the CDP as part of the 2018–19 Budget. In a media release, the Minister noted:

The Community Development Programme (CDP) reforms... ensure remote job seekers are further supported on their pathway to employment. It will now be a simpler, more streamlined program, with less interactions with the national welfare system for remote job seekers. This is being complemented by a government-funded employment program for 6,000 jobs in remote Australia.<sup>13</sup>

1.16 As part of these reforms, it was announced that CDP participants would be subject to the TCF which commenced for regional and urban Australia from 1 July 2018.<sup>14</sup> At that time, the TCF commenced across jobactive, Parents Next, and Disability Employment Services. The bill proposes that CDP participants will be subject to the same compliance framework as other job seekers.

1.17 The Minister also noted that from July 2018, there would be Indigenous providers running CDP, commenting that 'the Government is working in partnership to ensure we have more Indigenous and more local control in the design and delivery of CDP'.<sup>15</sup>

### **Key provisions of the bill**

#### ***Application of the TCF to CDP participants***

1.18 The bill seeks to amend the *Social Security Act 1991* and the *Social Security (Administration) Act 1999* to support reforms to the CDP and introduce the TCF to CDP regions, consistent with arrangements in the rest of Australia.

1.19 The TCF is a government initiative for job seekers which commenced for regional and urban Australia on 1 July 2018. This compliance system relies on participants meeting their mutual obligation requirements, and introduces a framework of demerits and financial penalties for failure to meet obligations. A jobseeker will receive a demerit if they do not meet a mutual obligation requirement, for example if

---

13 Senator the Hon Nigel Scullion, Minister for Indigenous Affairs, '2018-19 Budget to strengthen economic, employment and health opportunities for First Australians', *Media Release*, 9 May 2018, <https://ministers.pmc.gov.au/scullion/2018/2018-19-budget-strengthen-economic-employment-and-health-opportunities-first> (accessed 17 September 2018).

14 Explanatory Memorandum, p. 3.

15 Senator the Hon Nigel Scullion, Minister for Indigenous Affairs, 'Community Development Programme Service Providers meet to talk ongoing success', *Media Release*, 14 June 2018 <https://ministers.pmc.gov.au/scullion/2018/community-development-programme-service-providers-meet-talk-ongoing-success> (accessed 17 September 2018).

---

he or she fails to attend an appointment. If a jobseeker receives five demerits in a six-month period, they will be subject to financial penalties.<sup>16</sup>

1.20 In transitioning CDP participants to the TCF, the TCF will remove penalties that CDP participants currently receive for one-off breaches of mutual obligation requirements and financial penalties will focus on participants who are persistently and wilfully non-compliant.<sup>17</sup>

1.21 Under the TCF, the most significant penalty that a CDP participant can receive is a four week non-payment period. The participant's payment is cancelled and he or she will not receive any payment during this time. At the end of the period, the participant will need to re-apply to receive payment in the future.<sup>18</sup>

1.22 The TCF will also include additional protections for CDP participants and build in more check points to ensure they are capable of meeting their requirements.<sup>19</sup> These include a capability interview and capability assessment of a CPD participant's ability to undertake activities.<sup>20</sup> Further, no financial penalties will be incurred from the first three demerits a participant receives.<sup>21</sup>

### ***Reduction in mutual obligation hours***

1.23 The bill introduces a reduction to CDP participants' mutual obligation hours, from up to 25 hours, to up to 20 hours, depending on a jobseeker's assessed work capacity.<sup>22</sup>

### ***Increased role for local health providers***

1.24 The bill will introduce a number of changes to increase the role of local health service providers. In particular, local health workers will be able to supply evidence to the Department of Human Services, which can be used when deciding whether to reduce a participant's mutual obligation hours.<sup>23</sup>

---

16 Australian Government, Department of Jobs and Small Business, 'Explainer: Targeted job seeker compliance framework', <https://www.jobs.gov.au/newsroom/explainer-targeted-job-seeker-compliance-framework> (accessed 28 September 2018).

17 Explanatory Memorandum, p. 3.

18 Australian Government, *jobactive*, 'New compliance system', <https://jobsearch.gov.au/compliance> (accessed 3 October 2018).

19 Explanatory Memorandum, p. 3.

20 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 58.

21 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 58.

22 Explanatory Memorandum, p. 3.

23 Explanatory Memorandum, pp. 3–4.

### ***Subsidised employment***

1.25 The bill will support the creation of 6000 subsidised jobs in remote Australia. The explanatory memorandum notes that these jobs will only be available to CDP participants, and that they are 'designed to grow the size and capacity of the remote labour market and support the development of more local business'.<sup>24</sup>

1.26 Subsidised employment positions will include the same pay and conditions that would otherwise be attached to that position, and CDP participants will continue to qualify for a reduced rate of their income support payments, after the applicable income test is applied.<sup>25</sup>

1.27 CDP participants who hold a subsidised employment position will be exempt from activity test requirements and will therefore not incur mutual obligation failures under the TCF. This will also minimise the participant's engagements with the income support system.<sup>26</sup>

### **Financial implications**

1.28 The explanatory memorandum to the bill notes that 'there is no net financial impact arising from the legislation'.<sup>27</sup>

### **Legislative scrutiny**

#### ***Parliamentary Joint Committee on Human Rights***

1.29 The explanatory memorandum to the bill notes that the schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.<sup>28</sup>

1.30 The Parliamentary Joint Committee on Human Rights (Human Rights committee) reported that it had previously considered the TCF in its human rights assessments of the bill that became the *Social Security Legislation Amendment (Welfare Reform) Act 2018* (Welfare Reform Act). This assessment raised concerns about a number of aspects of the TCF, particularly in relation to the four week non-payment penalty. The Human Rights committee considered that:

...the financial penalty is likely to be incompatible with the right to social security insofar as there may be circumstances where a person is unable to meet basic necessities during the four week non-payment period. As such,

---

24 Explanatory Memorandum, p. 4.

25 Explanatory Memorandum, p. 4.

26 Explanatory Memorandum, p. 4.

27 Explanatory Memorandum, p. 6.

28 Explanatory Memorandum, p. 18.



---

the extension of the TCF to a new class of vulnerable persons [CDP participants] raises similar concerns.<sup>29</sup>

1.31 The Human Rights committee also noted that the statement of compatibility of the bill for the Welfare Reform Act explained that the rationale for not applying the TCF to CDP participants was 'to reflect the unique labour market conditions that job seekers face in remote Australia'.<sup>30</sup>

1.32 The Human Rights committee considered that the bill engages the following rights:

- Right to social security;
- Right to an adequate standard of living;
- Right to work; and
- Right to equality and non-discrimination.

1.33 The Human Rights committee expressed concerns about whether the limitations on these rights, imposed by the bill, were permissible, and whether the measures in the bill are rationally connected, effective and proportionate to the stated objective of the bill. The Human Rights committee sought advice on these matters from the Minister.<sup>31</sup>

1.34 The Minister's response was not published prior to the tabling of this report.

### ***Senate Standing Committee for the Scrutiny of Bills***

1.35 The Senate Standing Committee for Scrutiny of Bills (Scrutiny of Bills committee) noted that the bill would exempt CDP participants from requirements of the TCF if they were undertaking 'subsidised employment'.<sup>32</sup> The committee further noted that what constitutes 'subsidised employment' is not defined in primary legislation, but rather that 'the secretary may, by legislative instrument, determine a kind of subsidy for the purposes of subsection 42AEA(1)'.<sup>33</sup>

1.36 The Scrutiny of Bills committee considered that such significant matters should be included in primary legislation, 'unless a sound justification for the use of delegated legislation is provided'.<sup>34</sup>

---

29 Parliamentary Joint Committee on Human Rights (human rights committee), *Report 10 of 2018*, 18 September 2018, p. 7.

30 Parliamentary Joint Committee on Human Rights (human rights committee), *Report 10 of 2018*, 18 September 2018, p. 8.

31 Parliamentary Joint Committee on Human Rights (human rights committee), *Report 10 of 2018*, 18 September 2018, pp. 4–19.

32 Senate Standing Committee for Scrutiny of Bills, *Scrutiny Digest 10 of 2018*, 12 September 2018, p. 6.

33 Senate Standing Committee for Scrutiny of Bills, *Scrutiny Digest 10 of 2018*, 12 September 2018, p. 6.

34 Senate Standing Committee for Scrutiny of Bills, *Scrutiny Digest 10 of 2018*, 12 September 2018, p. 6.

1.37 The explanatory memorandum suggested this approach would 'provide the government with flexibility to specify the subsidy arrangement at a later date'.<sup>35</sup> However, the Scrutiny of Bills committee noted that it:

...does not generally consider administrative flexibility to be sufficient justification for including significant matters in delegated legislation rather than in primary legislation.<sup>36</sup>

1.38 The Scrutiny of Bills committee drew its concerns to the attention of senators to determine the appropriateness of allowing delegated legislation to prescribe what constitutes 'subsidised employment'.<sup>37</sup>

### **Conduct of the inquiry**

1.39 The bill was introduced into the Senate on 23 August 2018.<sup>38</sup> Pursuant to the adoption of the Senate Standing Committee for Selection of Bills report on that same day, the bill was referred to the committee for inquiry and report by 12 October 2018.<sup>39</sup>

#### ***Submissions***

1.40 The committee wrote to relevant organisations and individuals and invited them to make a submission to the inquiry by 21 September 2018. Submissions continued to be accepted after this date.

1.41 The committee received 21 public submissions which were published on the committee's website. A list of submissions received is included at Appendix 1.

#### ***Witnesses***

1.42 A public hearing for the inquiry was held in Canberra on 21 September 2018.

1.43 The committee heard evidence from organisations involved in different aspects of the CDP, as well as from the Department of Prime Minister and Cabinet and the Department of Human Services. A list of witnesses is included at Appendix 2.

### **Acknowledgement**

1.44 The committee would like to thank those individuals and organisations that made submissions and gave evidence at the public hearing.

### **Note on references**

1.45 References to the *Committee Hansard* are to the proof *Hansard*. Page numbers may vary between the proof and official *Hansard* transcripts.

---

35 Explanatory Memorandum, p. 5.

36 Senate Standing Committee for Scrutiny of Bills, *Scrutiny Digest 10 of 2018*, 12 September 2018, p. 6.

37 Senate Standing Committee for Scrutiny of Bills, *Scrutiny Digest 10 of 2018*, 12 September 2018, p. 7.

38 *Journals of the Senate*, No. 113, 23 August 2018, p. 3610.

39 *Journals of the Senate*, No. 113, 23 August 2018, pp. 3606–3607.

# Chapter 2

## Key issues

### Introduction

2.1 This chapter outlines some of the key issues raised by submitters and witnesses in relation to the Social Security Legislation Amendment (Community Development Program) Bill 2018 (bill).

2.2 The majority of submitters and witnesses to the inquiry agreed that reforms to the Community Development Program (CDP) were required. However, they also raised concerns that the measures proposed in the bill did not constitute appropriate reform to the CDP.<sup>1</sup>

2.3 Participants in the inquiry particularly commented on the following aspects of the bill:

- appropriateness of applying the TCF to CDP participants;
- effectiveness of the demerits and penalties system;
- reduction in work hours from up to 25 hours to up to 20 hours per week;
- increased role of local health providers; and
- subsidised employment positions.

### Application of the TCF to CDP participants

#### *General comments*

2.4 As noted in Chapter 1, the bill extends the TCF to apply to job seekers in remote Australia. The TCF commenced for urban and regional Australia on 1 July 2018, and introduced a new system of demerits and financial penalties that were designed to focus on participants who are persistently and wilfully non-compliant.<sup>2</sup>

2.5 A majority of participants in the inquiry considered that it was not appropriate to extend the application of the TCF to CDP participants.<sup>3</sup>

2.6 Submitters noted that when the TCF was announced as part of the 2017–18 Budget, it was made clear that the program was designed specifically for urban and

---

1 See for example: National Social Security Rights Network, *Submission 2*; Aboriginal Peak Organisations Northern Territory, *Submission 4*; Australian Council of Social Service, *Submission 6*, p. 2; Ngaanyatjarra Council and the Shire of Ngaanyatjarraku, *Submission 19*, p. 3; National Aboriginal Community Controlled Health Organisation, *Submission 20*, p. 2.

2 Explanatory Memorandum, p. 3.

3 See for example: National Social Security Rights Network, *Submission 2*; Aboriginal Peak Organisations Northern Territory, *Submission 4*; Australian Council of Social Service, *Submission 6*, p. 2; Ngaanyatjarra Council and the Shire of Ngaanyatjarraku, *Submission 19*, p. 3; National Aboriginal Community Controlled Health Organisation, *Submission 20*, p. 2.

regional Australia, and did not take into account the particular circumstances of job seekers in remote Australia.<sup>4</sup> In particular, Miwatj Employment and Participation highlighted that 'the TCF was never designed or intended to apply to remote areas, and that TCF consultations never included remote stakeholders'.<sup>5</sup>

2.7 The National Employment Services Association (NESA) also considered that the introduction of the TCF did not specifically respond to 'feedback provided as part of consultations or iterative policy discussions on compliance held in previous years'.<sup>6</sup>

2.8 The National Congress of Australia's First Peoples (National Congress) commented that the TCF was not 'designed in collaboration with Aboriginal and Torres Strait Islander peoples, communities and organisations'.<sup>7</sup> Similarly, Jobs Australia considered that the decision to apply the TCF to CDP did not involve adequate consultation with providers and it does not reflect their views.<sup>8</sup>

2.9 NESA submitted that the TCF was designed to operate within non-remote locations across Australia, and considered that more work needed to be done before the TCF could be effectively implemented in remote Australia:

As such, there is a need to consider [the TCF's] relevance and application in remote Australia, the conditions of remote Australia are significantly different to those in non-remote Australia. Given these high levels of variation, it is critical that time is taken to understand how the TCF would operate in remote locations, and what modifications are required to both the TCF itself, and to other programme elements to ensure that the TCF contributes positively to engagement.<sup>9</sup>

2.10 The Arnhem Land Progress Aboriginal Corporation (ALPA) submitted that their Board 'categorically rejects the notion that a one size fits all approach will deliver equity for participants in the Community Development Program', commenting that:

A failure to recognise factors that are not present in most urban settings such as overcrowded housing, the lack of specialist services and supports to address barriers to participation, cultural obligations and the collectivist

---

4 See for example: Miwatj Employment and Participation, *Submission 1*, p. 1; Arnhem Land Progress Aboriginal Corporation, *Submission 5*, p. 3; National Congress of Australia's First Peoples, *Submission 7*, p. 3; Jobs Australia, *Submission 8*, p. 6; National Employment Services Association, *Submission 15*, p. 7; Human Rights Law Centre, *Submission 17*, p. 8.

5 Miwatj Employment and Participation, *Submission 1*, p. 1.

6 National Employment Services Association, *Submission 15*, p. 7.

7 National Congress of Australia's First Peoples, *Submission 7*, p. 3. See also: Miwatj Employment and Participation, *Submission 1*, p. 1.

8 Jobs Australia, *Submission 8*, p. 3.

9 National Employment Services Association, *Submission 15*, p. 7. See also: Jobs Australia, *Submission 8*, p. 3; Human Rights Law Centre, *Submission 17*, p. 8.

---

nature of many Indigenous communities demonstrated that this framework is unlikely to be fit for purpose.<sup>10</sup>

2.11 However, officials from the Department of Prime Minister and Cabinet (DPM&C) clarified that the purpose of introducing the TCF nation-wide was to 'ensure that all jobseekers across Australia are subject to a nationally consistent compliance framework'.<sup>11</sup> Further, officials explained:

The aim of the TCF is to support vulnerable participants through increased support and reduced interactions with Centrelink and to provide more checking points with service providers, so that all jobseekers have every opportunity to meet their mutual obligations. Local CDP providers, almost all of whom are now Indigenous organisations, will work with CDP participants and their communities in the application of the TCF.<sup>12</sup>

### ***Penalties***

2.12 As explained in Chapter 1, the TCF introduces a new system of demerits and penalties for CDP participants. Officials from DPM&C outlined the impact the bill would have in relation to penalties:

As a package, the reforms will reduce the number of penalties applied to CDP jobseekers, and the introduction of the TCF will remove penalties for one-off breaches of mutual obligation requirements, and financial penalties will focus on people who were persistently and wilfully non-compliant.<sup>13</sup>

2.13 A number of submitters to the inquiry considered that the introduction of the TCF may not reduce the high levels of penalties currently applied to CDP participants.<sup>14</sup>

2.14 The National Social Security Rights Network (NSSRN) noted that the government has provided modelling on the possible application of penalties to CDP participants under the new compliance framework. This modelling suggests that 'during the first year of the TCF being applied to the new CDP model that over 4000 people will have their payments cancelled for 4 weeks, and in the second year this number will rise to over 6500 people'.<sup>15</sup> NSSRN considered that:

---

10 Arnhem Land Progress Aboriginal Corporation, *Submission 5*, p. 2.

11 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 47.

12 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 47.

13 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 47.

14 See for example: National Social Security Rights Network, *Submission 2*, p. 5; Ms Lisa Fowkes, *Submission 3*, p. 3. Jobs Australia, *Submission 8*, p. 7.

15 National Social Security Rights Network, *Submission 2*, p. [6].

...this represents significant numbers of people who will be penalised under the TCF. We understand that this data is based on old CDP penalty data from 2015–16, rather than the current penalty figures which are higher. We are concerned that TCF will actually result in higher penalties than anticipated.<sup>16</sup>

2.15 In answers to questions on notice, DPM&C noted that the TCF provides more protections to job seekers who turn up and participate, to ensure only job seekers who are deliberately non-compliant progress to financial penalties.<sup>17</sup>

#### *One-off breaches*

2.16 Under the current compliance framework, 'no-show no-pay' penalties are applied. However, under the proposed TCF model, a one-off breach will not incur a financial penalty.<sup>18</sup> This system places the responsibility for determining when to apply a demerit with a CDP provider. Ms Chloe Bird, Assistant Secretary from DPM&C explained:

They're actually going to get a chance to discuss with their provider the circumstances that might have led to them not, for instance, attending their activity. The provider will then have an opportunity to talk to that person, understand the circumstances that led to them not being able to attend that activity and consider whether there was a reasonable excuse with reference to a number of different things which are similar to what are in place at the moment. Only if the provider assesses that the individual didn't actually have a reason for not being able to comply with that requirement—should have and couldn't have—do they apply demerit, and the demerit doesn't result in a financial penalty.<sup>19</sup>

2.17 Regional Anangu Services Aboriginal Corporation (RASAC) supported the relaxation of penalties for one-off breaches:

As we understand the new arrangements, a non-compliance event would trigger a suspension of payments, prompting CDP participants to re-engage with their provider. Providers would then have the opportunity to discuss the circumstances of the non-compliance with the CDP participants before determining if demerits would be applied. We support this approach.<sup>20</sup>

2.18 In contrast, the Australian Council of Social Service (ACOSS) noted that, under the previous system, the recommendations of providers to apply a breach were

---

16 National Social Security Rights Network, *Submission 2*, p. [6].

17 Department of Prime Minister and Cabinet, answer to question on notice, 21 September 2018 (received 5 October 2018).

18 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 48.

19 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 49.

20 Regional Anangu Services Aboriginal Corporation (RASAC), *Submission 11*, p. 2.

often overturned by DHS and that the proposal to give providers the responsibility for determining when to apply demerits was inflexible.<sup>21</sup> Similarly, Jobs Australia noted that:

Under the current compliance framework, DHS rejects at least 60% of provider recommendations for penalties on a case by case basis due to provider mistakes, or because its own backlog in assessing breaches means that a penalty cannot be applied. Reducing the level of scrutiny applied by DHS while job seekers are in the Warning Zone is likely to lead a more rapid accumulation of demerits than would otherwise occur with DHS involvement each time a failure occurs.<sup>22</sup>

2.19 Ms Rosemary Deininger, Acting Deputy Secretary, DHS noted that DHS would have the opportunity to review the application of demerits by providers.<sup>23</sup> This review would happen when a CDP participant received three demerits, as part of the capability interview. DHS also has the ability to overturn demerits previously applied by a provider.<sup>24</sup>

2.20 DPM&C also noted that 'no-show no-pay' penalties currently make up 83 per cent of all penalties for CDP participants, removing these penalties would therefore allow the TCF to focus on stronger penalties for persistent non-compliance.<sup>25</sup>

#### *Four week non-payment period*

2.21 The most severe penalty that can be applied as part of the TCF is a four week non-payment period. This means that a person's income support payment is cancelled and they will not be eligible to re-apply for payments until the preclusion period has passed. This penalty is applied to people considered to be persistently non-compliant.<sup>26</sup>

2.22 RASAC supported the proposed reduction of the payment cancellation period from eight weeks to four weeks, contending that the eight week period was too long and had 'devastating effects for the livelihoods of families in the APY Lands'.<sup>27</sup>

2.23 Some submitters raised concerns about the four week non-payment period, in particular, the need for a participant to re-apply for payment.<sup>28</sup> Ms Lisa Fowkes, a

---

21 Ms Charmaine Crowe, Senior Policy and Advocacy Officer, Australian Council of Social Service, *Committee Hansard*, 21 September 2018, p. 4.

22 Jobs Australia, *Submission 8*, p. 7.

23 Ms Rosemary Deininger, Acting Deputy Secretary, Programme Design, Department of Human Services, *Committee Hansard*, 21 September 2018, p. 52.

24 Ms Rosemary Deininger, Acting Deputy Secretary, Programme Design, Department of Human Services, *Committee Hansard*, 21 September 2018, p. 52.

25 Department of Prime Minister and Cabinet, answer to question on notice, 21 September 2018 (received 5 October 2018).

26 National Social Security Rights Network, *Submission 2*, p. 5.

27 Regional Anangu Services Aboriginal Corporation (RASAC), *Submission 11*, p. 2.

---

Researcher for the Centre for Aboriginal Economic Policy Research considered that the re-application process was a barrier to participants re-engaging with CDP:

In addition, those who receive 4 week penalties will have their payments cancelled altogether, so that they will have to re-apply for payments. Again, this is much more difficult for people in remote areas who may have language barriers, lack access to a phone or, in some cases, have underlying cognitive or health impairments.<sup>29</sup>

2.24 Jobs Australia pointed out that although the TCF penalties system would reduce the maximum non-payment period, it would also remove the ability to have outstanding penalties waived following re-engagement, which is possible under the current arrangements. Jobs Australia considered that there is a risk that people will become 'trapped in the Penalty Zone indefinitely, or otherwise disengage because it is too difficult to comply'.<sup>30</sup>

2.25 NSSRN noted that the four week non-payment period is also applied to people who refuse to accept work, voluntarily leave a job, or are dismissed from work due to misconduct (with some limited exceptions). NSSRN particularly expressed concern that individuals experiencing crises, such as the onset of psychiatric mental illness or exposure to family violence, 'may struggle to remain engaged with their required job activities and lose access to income despite their vulnerabilities'.<sup>31</sup>

2.26 RASAC noted however, that the proposed new system of demerits and penalties as applied through the TCF includes a series of steps before progressive penalties are applied. RASAC considered this would likely be an improvement over the current arrangement.<sup>32</sup>

2.27 Ms Bird from DPM&C confirmed that the proposed reforms to penalties would mean that CDP participants would be subject to fewer financial penalties:

...under the current framework an individual can receive three financial penalties before a comprehensive compliance assessment is undertaken. Under the new framework an individual won't receive any financial penalties before a similar opportunity for a capability interview with the provider. There's also an opportunity for a capability assessment, and there are no financial penalties in that early stage. They're some of the additional protections we see as existing within the TCF to encourage that ongoing

---

28 See for example: Miwatj Employment and Participation, *Submission 1*, p. 2; National Employment Services Association, *Submission 15*, p. 9; CatholicCare NT and Atyenhenge-Atherre Aboriginal Corporation, *Submission 10*, p. [2].

29 Ms Lisa Fowkes, *Submission 3*, p. 3.

30 Jobs Australia, *Submission 8*, p. 7. See also: CatholicCare NT and Atyenhenge-Atherre Aboriginal Corporation, *Submission 10*, p. [1].

31 National Social Security Rights Network, *Submission 2*, p. 5.

32 Regional Anangu Services Aboriginal Corporation (RASAC), *Submission 11*, p. 2.



---

continuous engagement with the individual to understand their personal needs.<sup>33</sup>

### ***Additional protections***

2.28 The explanatory memorandum notes that the introduction of the TCF will 'ensure additional protections for all CDP participants, and build in more check points to ensure they are fully capable of meeting their requirements'.<sup>34</sup> These check points include a capability interview and capability assessment of a CDP participant's ability to undertake activities.<sup>35</sup>

2.29 Ms Lisa Fowkes noted that under the existing compliance framework, the Department of Human Services (DHS) must conduct a 'Comprehensive Compliance Assessment' after a job seeker incurs three penalties. This assessment is designed to determine whether a participant is 'persistently non-compliant' or whether there is an underlying capability issue that has led to breaches of obligations. Ms Fowkes considered that this assessment appears similar in intent to the 'capability assessment' that would be conducted by DHS under the TCF.<sup>36</sup>

2.30 The introduction of the TCF would add a 'capability interview' to be conducted by providers before job seekers enter the 'penalty zone'. Ms Fowkes explained that capability interviews 'will be structured by an on-line system that prompts provider staff to test the participant's understanding of their obligations and seek disclosure of any circumstances that may limit their capacity to comply'.<sup>37</sup>

2.31 Mr Liam Flanagan, General Manager of Community Services at ALPA noted that:

Conversations that we've had with the department and with the minister's office have certainly implied that we'll be in a position to take into account a broad range of social and economic impacts on people, such as overcrowding and cultural obligations<sup>38</sup>

2.32 In answers to questions on notice, DPM&C confirmed that under the TCF, a job seeker will have greater direct interaction with their local provider:

---

33 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 58.

34 Explanatory Memorandum, p. 3.

35 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 58.

36 Ms Lisa Fowkes, *Submission 3*, p. 4.

37 Ms Lisa Fowkes, *Submission 3*, p. 5.

38 Mr Liam Flanagan, General Manager Community Services, Arnhem Land Progress Aboriginal Corporation, *Committee Hansard*, 21 September 2018, p. 30.

The provider can take a job seeker and community's local circumstances into account when considering whether it was reasonable for a job seeker not to attend an activity, or meet a requirement.<sup>39</sup>

2.33 Submitters noted that the bill retains the option for CDP participants to access the 'reasonable excuse provisions' available for drug or alcohol abuse, and commented that these provisions were removed for jobseekers in non-remote areas as result of the *Social Services Legislation Amendment (Welfare Reform) Act 2018*. NSSRN and ACOSS strongly supported the continuation of reasonable excuse provisions relating to drug or alcohol use for CDP participants.<sup>40</sup>

### **Reduction of mutual obligation hours**

2.34 The bill proposes to reduce the number of mutual obligation hours from up to 25 hours per week to up to 20 hours per week, depending on a job seeker's assessed work capacity.<sup>41</sup>

2.35 Participants in the inquiry supported this measure, but also considered that CDP participants would benefit from more flexibility regarding the time available for the completion of mutual obligation hours.<sup>42</sup> In particular, Miwatj Employment and Participation commented:

...the inability to allow these hours to be fulfilled over a flexible week—in and around an individual's family and cultural obligations—remains an ongoing barrier to CDP engagement.<sup>43</sup>

2.36 Ms Madonna Tomes from RASAC shared this view and proposed:

...consideration be given to enabling CDP participants to complete their hours over a period of time—for example, over a fortnight rather than in a strictly daily commitment. This would enable some flexibility about the nature of activities that can be provided. For example, some worthwhile activities in remote areas don't fit neatly into a four- or five-hour framework. It also enables participants to have flexibility around their personal commitments.<sup>44</sup>

---

39 Department of Prime Minister and Cabinet, answer to question on notice, 21 September 2018 (received 5 October 2018).

40 National Social Security Rights Network, *Submission 2*, p. [6]; Australian Council of Social Service, *Submission 6*, p. 2.

41 Explanatory Memorandum, p. 3.

42 See for example: National Congress of Australia's First Peoples, *Submission 7*, p. 4; Ironbark Aboriginal Corporation, *Submission 9*, p. [1]; Regional Anangu Services Aboriginal Corporation (RASAC), *Submission 11*, p. 2; Synod of Victoria and Tasmania, Uniting Church in Australia, *Submission 12*, p. 1; Australian Human Rights Commission, *Submission 16*, p. 6.

43 Miwatj Employment and Participation, *Submission 1*, p. 2.

44 Ms Madonna Tomes, Workforce Development Coordinator, Regional Anangu Services Aboriginal Corporation, *Committee Hansard*, 21 September 2018, p. 26.

2.37 Ms Lisa Fowkes also considered that more flexibility around the completion of mutual obligation hours had the potential to reduce the number of demerits and penalties applied to CDP participants:

Regardless of whether participants might have the physical capacity to meet their obligations, and understand them, there is an underlying problem of the level of obligation (5 days per week, indefinitely) being unfair, disproportionate to local opportunities, and irrelevant to their needs. It is simple maths that someone asked to attend more often, will slip up more often. Until this is addressed, CDP participants will be subject to more penalties.<sup>45</sup>

2.38 The Ngaanyatjarra Council and the Shire of Ngaanyatjarraku expressed concern that 'the impact of this reduction in hours will have limited, if any, real effect on the ability of the Aboriginal job seeker to meet their mutual obligation requirements under CDP'.<sup>46</sup>

2.39 A number of submitters pointed out that, although the bill proposes to reduce CDP participants' mutual obligation hours, these individuals will still be required to complete more hours than other job seekers in Australia.<sup>47</sup> For example, NSSRN pointed to the 'more onerous requirements of the CDP' as a factor in what they considered to be the 'disproportionate application of penalties to CDP participants':

Despite some relaxation of the CDP requirements, the program remains onerous and we are very concerned that many people on the CDP will quickly accumulate demerit points, putting them at risk of non-waivable financial penalties. This is especially concerning given the ongoing lack of discretion available to employment service providers and the limited options to challenge the issuing of a demerit point.<sup>48</sup>

2.40 Ms Lisa Fowkes also contended that CDP participants have more 'opportunities to fail' due to the higher number of activity hours expected of them, compared with other job seekers.<sup>49</sup>

2.41 The NSW Aboriginal Land Council (NSWALC) noted that the bill proposes to standardise the compliance framework, but not the mutual obligation requirements. NSWALC commented:

In the explanatory memorandum to the draft Bill, the Government states 'some of these mutual obligation requirements will be different to participants in non-remote areas as these obligations have been designed to take into account the unique nature of remote labour markets'. NSWALC

---

45 Ms Lisa Fowkes, *Submission 3*, p. 6.

46 Ngaanyatjarra Council and the Shire of Ngaanyatjarraku, *Submission 19*, p. 3.

47 See for example: National Social Security Rights Network, *Submission 2*, p. [4]; Aboriginal Peak Organisations Northern Territory, *Submission 4*, p. 2; Jobs Australia, *Submission 8*, p. 3; North Australian Aboriginal Justice Agency, *Submission 14*, p. 7.

48 National Social Security Rights Network, *Submission 2*, p. 5.

49 Ms Lisa Fowkes, *Submission 3*, p. 3.

strongly submits, however, that remote conditions are no justification for imposing more onerous requirements.<sup>50</sup>

2.42 The explanatory memorandum noted that the reduction in mutual obligation hours for CDP participants would assist them in meeting their requirements.<sup>51</sup> Officials from DPM&C also advised the committee that the reduction of mutual obligation hours was only one aspect of the broader reforms which would 'increase engagement and compliance with the program overall'.<sup>52</sup>

### **Increased role for local health providers**

2.43 As noted in Chapter 1, the bill will introduce a number of changes to increase the role of local health service providers. In particular, local health workers will be able to supply evidence to the Department of Human Services, which can be used when deciding whether to reduce a participant's mutual obligation hours.<sup>53</sup>

2.44 While submitters to the inquiry supported the intent of this measure, they also noted that there may be some practical difficulties in implementing this change.<sup>54</sup>

2.45 In particular, the Aboriginal Peak Organisations Northern Territory (APO NT) noted that health services operating in remote communities are struggling with their current workload:

Health services [...] are already working at or over capacity and are facing additional demands associated with assessments required under the NDIS as well as through increased referrals for FASD [fetal alcohol syndrome disorder] and other developmental impairment assessments.<sup>55</sup>

2.46 APO NT said that 'given the complexity of undertaking assessments in remote communities and the high level of disability and illness that is currently not being identified through existing mechanisms, careful consideration needs to be given to an effective process in relation to assessments for CDP'.<sup>56</sup>

2.47 RASAC agreed with the intent of the measure to enable local health service providers to have an increased role, but noted that this proposal held significant challenges for locations such as the APY lands where there is only one health provider

---

50 NSW Aboriginal Land Council, *Submission 21*, p. 5.

51 Explanatory Memorandum, p. 3.

52 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 50.

53 Explanatory Memorandum, pp. 3–4.

54 See for example: Miwatj Employment and Participation, *Submission 1*, p. 2; Arnhem Land Progress Aboriginal Corporation, *Submission 5*, pp. 4–5; National Congress of Australia's First Peoples, *Submission 7*, p. 4; North Australian Aboriginal Justice Agency, *Submission 14*, p. 9.

55 Aboriginal Peak Organisations Northern Territory, *Submission 4*, pp. 3–4.

56 Aboriginal Peak Organisations Northern Territory, *Submission 4*, pp. 3–4.

across the lands, which operates with fly-in fly-out medical practitioners on a roster basis only.<sup>57</sup>

2.48 Ms Jaala Hinchcliffe, from the Office of the Commonwealth Ombudsman welcomed the increased role of local health providers, commenting:

We've raised some barriers to obtaining employment service assessments and medical evidence to be able to then have those assessments. We're pleased to see the changes that come in the government's proposal to enable local health workers—that is, community nurses—to be able to provide some of that evidence.<sup>58</sup>

2.49 Ms Deb Lewis, First Assistant Secretary with DPM&C advised the committee that this measure of the bill would improve capacity assessment processes.<sup>59</sup>

### **Subsidised employment**

2.50 The proposed legislation will support the creation of 6 000 subsidised jobs in remote Australia. The explanatory memorandum notes that these jobs will only be available to CDP participants, and that they are 'designed to grow the size and capacity of the remote labour market and support the development of more local business'.<sup>60</sup>

2.51 Officials from DPM&C explained that this measure included a safety net for those participants in subsidised employment positions, in the event that they should leave that position:

If you commence a subsidised job, you may well be in a situation where you don't continue to receive income support. In those circumstances, they will potentially come off the case load, but they'll retain a connection with the CDP provider, if that makes sense, so they won't have a formal reporting requirement, but in the first month in particular the CDP provider would have an ongoing role with support to help the person settle into the job and provide that ongoing support. Should they, for instance, leave that job for some reason, they'll maintain a connection with the CDP program so that they can immediately reconnect with it.<sup>61</sup>

2.52 The majority of participants in the inquiry supported this measure, welcoming the government's commitment to addressing the lack of jobs in remote communities.

---

57 Regional Anangu Services Aboriginal Corporation (RASAC), *Submission 11*, p. 3. See also: North Australian Aboriginal Justice Agency, *Submission 14*, p. 9.

58 Ms Jaala Hinchcliffe, Acting Ombudsman, Office of the Commonwealth Ombudsman, *Committee Hansard*, 21 September 2018, p. 51.

59 Ms Deb Lewis, First Assistant Secretary, Community and Economic Development Division, Department of the Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, pp. 47–48.

60 Explanatory Memorandum, p. 4.

61 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 51.

Participants also noted that some of the details are yet to be released by government.<sup>62</sup> In particular, NSSRN supported investment in new wage subsidy positions, noting these 'will provide real wages (minimum wage or above), as well as superannuation and other entitlements that flow from regular work arrangements'.<sup>63</sup>

2.53 Miwatj Employment and Participation noted its support for these provisions 'with the caveat that far more consultation and scenario-testing is required before a suite of guidelines can be developed that brings tangible positive change without creating an artificial labour economy'.<sup>64</sup>

2.54 Submitters noted that some of the details yet to be provided included whether the subsidised employment positions would be full time or part time positions.<sup>65</sup> As well as projections of how the scheme will operate:

...including how many employers may be in a financial position to support the subsidised positions, whether certain CDP participants will be targeted to enter into subsidised employment and what the projected outcomes of this scheme will be for CDP communities over time. There are also very few subsidised roles available.<sup>66</sup>

2.55 Ironbark Aboriginal Corporation expressed concerns about the relationship between providers and people in subsidised employment, noting that:

The Explanatory Memorandum indicates there will be no CDP requirement or mutual obligation for those who enter a subsidised job and yet indicates participants will still be accessing a level of support from CDP providers.<sup>67</sup>

### ***Exemptions***

2.56 The explanatory memorandum to the bill sets out that those CDP participants who hold a subsidised employment position will be exempt from activity test requirements and will therefore not incur mutual obligation failures under the TCF. This will also minimise the participant's engagements with the income support system.<sup>68</sup>

2.57 NESAs welcomed the measure which would allow job seekers in the job creation program to leave employment without incurring onerous penalties and proposed that the exemption be extended to all CDP participants.<sup>69</sup>

---

62 See for example: National Social Security Rights Network, *Submission 2*, p. [2]; Arnhem Land Progress Aboriginal Corporation, *Submission 5*, p. 5; Australian Council of Social Service, *Submission 6*, p. 2; National Congress of Australia's First Peoples, *Submission 7*, p. 4.

63 National Social Security Rights Network, *Submission 2*, p. [2].

64 Miwatj Employment and Participation, *Submission 1*, p. 2.

65 North Australian Aboriginal Justice Agency, *Submission 14*, p. 18.

66 National Social Security Rights Network, *Submission 2*, p. [2].

67 Ironbark Aboriginal Corporation, *Submission 9*, p. [2].

68 Explanatory Memorandum, p. 4.

69 National Employment Services Association, *Submission 15*, p. 10.

2.58 Several submitters considered that the creation of subsidised employment positions had the potential to create a number of issues, including the incentive for employers to give preference to paid CDP workers over paid employees.<sup>70</sup> The Australian Human Rights Commission contended that:

A contributing factor to this trend is that providers and other employers in remote locations often have limited resources and the cost of living and labour in these locations is much higher. This means that CDP participants, as a cheap form of labour, are an attractive alternative to hiring employees working at least on the minimum wage with employment benefits such as superannuation.<sup>71</sup>

2.59 Ngaanyatjarra Council and the Shire of Ngaanyatjarraku pointed out that individuals employed under the scheme are likely to be the most 'job ready' and best placed to access secure casual or seasonal work when available.<sup>72</sup>

2.60 Ms Bird, Assistant Secretary from DPM&C noted that the exemptions for CDP participants in subsidised jobs, would allow them to focus on their new roles and on staying in these positions.<sup>73</sup>

2.61 Ms Bird also noted that CDP participants who enter into a subsidised employment position will still be registered in the CDP as a safety net. This means that in the event that a CDP participant needs to leave a subsidised employment position, they would be able to reconnect with the CDP quickly.<sup>74</sup>

### **Other matters raised**

2.62 Over the course of this inquiry the committee received a wide range of evidence from submitters and witnesses that, although not specific to the measures outlined in the bill, related to the CDP in a more broad sense. For example, some submitters noted that participation rates in CDP have fallen since 2015<sup>75</sup> and others expressed support for APO NT's alternative to the CDP outlined in its *Fair Work and Strong Communities: Remote Development and Employment Scheme (RDES)*.<sup>7677</sup>

---

70 See for example: Aboriginal Peak Organisations Northern Territory, *Submission 4*, p. 5.

71 Australian Human Rights Commission, *Submission 16*, p. 6.

72 Ngaanyatjarra Council and the Shire of Ngaanyatjarraku, *Submission 19*, p. 5.

73 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 47.

74 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 51.

75 See for example: Ms Lisa Fowkes, *Submission 3*, p. 4; National Employment Services Association, *Submission 15*, pp. 8–9.

76 See for example: Australian Council of Social Service, *Submission 6*, p. 2; Jobs Australia, *Submission 8*, p. 7; Australian Council of Trade Unions, *Submission 13*, p. 2; North Australian Aboriginal Justice Agency, *Submission 14*, pp. 15–17; Australian Human Rights Commission, *Submission 16*, pp. 5–6.

2.63 The committee notes that several submitters and witnesses expressed an opinion that any ongoing concerns with the CDP should be addressed before the measures proposed in the bill are implemented.<sup>78</sup>

2.64 In order to address these issues, officials from DPM&C advised that they are looking at ways of increasing engagement and compliance with the CDP program. In particular, DPM&C is:

...looking at moving to a lot more local Indigenous providers as well as looking to increase community participation in CDP in the way that activities are designed through starting to work and looking at community boards. There's a range of other programs, the improvements to the ESAt process and opening up more opportunities to provide different types of evidence.<sup>79</sup>

### **Committee view**

2.65 The committee considers that CDP is an important program for remote Australia, and that it has been successful because it ensures job seekers have real mutual obligation requirements and because communities are increasingly at the heart of CDP delivery. The committee believes that the reforms introduced in the bill will increase engagement and compliance with the CDP.

2.66 The reforms in this bill will see the TCF introduced nation-wide, ensuring that all jobseekers across Australia are subject to a nationally consistent compliance framework.

2.67 The committee acknowledges the concerns expressed by some submitters that the TCF was not specifically designed for remote communities. The committee also notes that the bill includes a number of measures which will assist in the transition of CDP participants to the TCF. In particular, the new demerits and penalties system will see the removal of 'no-show no-pay' penalties, and an increased focus on participants who are persistently and wilfully non-compliant. The reduction in mutual obligations hours, as well as the proposed increased role for local providers will further assist CDP participants in meeting their requirements.

---

77 Aboriginal Peak Organisations Northern Territory, *Fair Work and Strong Communities: Remote Development and Employment Scheme (RDES)*, May 2017, [http://www.amsant.org.au/apont/wp-content/uploads/2017/07/RDES-Report\\_Online.pdf](http://www.amsant.org.au/apont/wp-content/uploads/2017/07/RDES-Report_Online.pdf) (accessed 8 October 2018).

78 See for example: Australian Council of Social Service, *Submission 6*, p. 2; Jobs Australia, *Submission 8*, p. 7; Australian Council of Trade Unions, *Submission 13*, p. 2; North Australian Aboriginal Justice Agency, *Submission 14*, pp. 15–17; Australian Human Rights Commission, *Submission 16*, pp. 5–6.

79 Ms Chloe Bird, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of Prime Minister and Cabinet, *Committee Hansard*, 21 September 2018, p. 50.



2.68 The committee considers that the additional protections contained in the bill will assist CDP participants to transition to the new framework and ensure they are fully capable of meeting their requirements.

2.69 The committee notes the creation of 6 000 subsidised employment positions, which will grow the size and capacity of the remote labour market and support the development of more local business. CDP participants who hold a subsidised employment position will be exempt from activity test requirements and will therefore not incur mutual obligation failures under the TCF, minimising the participant's engagements with the income support system.

2.70 The committee notes the broad support for the reduction in mutual obligation hours, the increased role for local health providers and the creation of 6 000 subsidised employment positions.

2.71 The committee considers that the reforms proposed in the bill are a step in the right direction, and notes that this package of reforms are in direct response to feedback from communities.

### **Recommendation 1**

**2.72 The committee recommends that the bill be passed.**

**Senator Lucy Gichuhi**

**Chair**



## Additional Comments by Labor Senators

1.1 Labor Senators note the serious concerns with this Bill identified by a wide range of stakeholders in the course of this Inquiry, many of which are reflected in the Chair's report.

1.2 This includes the inadequacy of consultation, and the lack of genuine engagement or co-design with Aboriginal and Torres Strait Islander communities and representative organisations. Aboriginal Peak Organisations Northern Territory (APO NT) expressed these concerns in strong terms:

Despite this we find ourselves, once again, responding to a Bill and a set of reforms that have not been the subject of prior consultation. Again, there is very little detail about key aspects of the overall reform package and it is proposed that much be left to delegated legislation. Again, we have very little time to respond to the submission deadline.

The Government repeatedly says that it wishes to do things with, not to First Nations people. Yet the story of the CDP has been one of top down decision making – from the decision to impose daily Work for the Dole on participants, to the failed 2015 CDP2 Bill, to this current proposal.<sup>1</sup>

1.3 Labor Senators agree with the concerns raised by the Senate Standing Committee for the Scrutiny of Bills in relation to key elements of the proposed changes being consigned to delegated legislation, rather than contained in this Bill.<sup>2</sup> The concerns of Labor Senators also extend to the Government's failure to provide the Committee with all the relevant delegated legislation, rules and guidelines in relation to these reforms.

1.4 It was made clear in the course of this Inquiry, that extending the Targeted Compliance Framework (TCF) to remote parts of the country would harm Aboriginal and Torres Strait Islander Australians. Those with practical experience of program delivery and an understanding of community impacts raised serious concerns about the expansion of the TCF.

1.5 The National Congress of Australia's First Peoples explained:

National Congress asserts that the introduction of the Targeted Compliance Framework (“TCF”) in remote communities is inappropriate, and will not achieve the desired outcome of reducing the number of penalties applied to CDP participants...

Indeed, National Congress notes that the TCF was never designed for use in remote areas, and that it would be inappropriate to apply it to CDP

---

1 Aboriginal Peak Organisations Northern Territory, *Submission 4*, p. 2.

2 Senate Standing Committee for Scrutiny of Bills, *Scrutiny Digest 10 of 2018*, 12 September 2018, p. 6.

participants. The TCF was designed for use in urban and regional contexts, where the vast majority employment program participants regularly comply with obligations, and those who refuse to often do so deliberately due to dissatisfaction with the system. This is not the case in remote communities: many CDP participants breach obligations on a more regular (i.e. weekly or fortnightly) basis due to social, cultural and community obligations, and persistent non-compliance is more likely to be the result of structural barriers such as geographical challenges.

As such, National Congress believes that, although the introduction of the TCF may remove some penalties for one-off breaches, its overall effect will be equal to, or even worse, than the current system.

1.6 Jobs Australia indicated that the impact of the TCF on people's ability to access even the most basic income would be severe:

The Government's own modelling tabled in the Senate on the 20th August suggests that, in the first year alone, 4,687 people will receive 4-week penalties and be forced to re-apply for income support. In year two, this rises to 7941. From a caseload that currently stands at close to 30,000, 25% of participants getting a 4-week penalty and having their payments cancelled would be disastrous for them, their families and their communities.<sup>3</sup>

1.7 Labor Senators note the much higher participation requirements of the Community Development Program (CDP), compared to Job Active, and acknowledge that this would make it significantly more difficult for a person to maintain compliance over time. Jobs Australia has explained how expanding the TCF in this context would consign many people to a penalties-and-compliance cycle which will increase the risk of disengagement:

CDP is causing unnecessary financial hardship, exacerbating poverty, creating disengagement and doing more harm than good in remote Australia. After CDP commenced in 2015, the number of financial penalties applied to CDP participants increased at an alarming rate. Despite having only 30,000 job seekers compared to around 660,000 in Job Active, more financial penalties are applied to CDP participants than to job active participants...

The very high rates of penalties in CDP are primarily due to the onerous and inflexible participation requirements in CDP compared to non-remote areas...

The application of the TCF will accelerate penalties and increase the number of CDP job seekers subject to penalties for persistent and wilful non-compliance and would make a bad situation even worse.<sup>4</sup>

---

3 Jobs Australia, *Submission 8*, p. 6.

4 Jobs Australia, *Submission 8*, p. 4.

1.8 Labor Senators are troubled by the Government's failure to adequately address the very serious concerns identified by stakeholders in relation to the TCF, or respond to calls for increased flexibility. The TCF has simply not been designed for use in remote Australia or as a part of the CDP program and is not appropriate in its current form.

1.9 While the proposal to allow allied health professionals to provide information in relation to work capacity assessment has been supported by several organisations, there are concerns this will divert resources from already under-resourced health services. National Aboriginal Community Controlled Health Organisations explained:

NACCHO also notes that the inclusion of evidence from allied health professionals has also been added with no consideration of health services' current workloads and capacity, no additional resourcing and no consultation. If these provisions proceed, NACCHO recommends that the Government work with Aboriginal health organisations and their peaks to ensure the changes and requirements are properly understood and any financial impact is addressed.<sup>5</sup>

## **Conclusion**

1.10 Labor Senators call on the Government to urgently address the issues raised in the course of this inquiry through a process of genuine consultation and co-design with Aboriginal and Torres Strait Islander Australians, their representative organisations and other stakeholders.

**Senator Patrick Dodson**  
**Senator for Western Australia**

**Senator Sue Lines**  
**Senator for Western Australia**

**Senator Malarndirri McCarthy**  
**Senator for the Northern Territory**

**Senator Murray Watt**  
**Senator for Queensland**

**Senator Lisa Singh**  
**Senator for Tasmania**

---

5 National Aboriginal Community Controlled Health Organisations, *Submission 20*, p. 4.



# **Dissenting Report by the Australian Greens**

1.1 The Australian Greens oppose the Social Security Legislation Amendment (Community Development Program) Bill 2018 (Bill).

1.2 The Australian Greens strongly believe that the Community Development Program (CDP) needs urgent reform and have been calling for reform for a long time. The tragedy here is that the Government is wasting the opportunity to develop a program that could make a meaningful difference to First Nations communities. The Government's proposed changes to CDP will not improve the program and are going to make life even harder for CDP participants.

1.3 The Bill supports the reforms announced in the 2018–19 Budget to CDP, a remote employment program. The suite of reforms includes:

- Expanding the Targeted Compliance Framework (TCF) to CDP regions;
- 6,000 subsidised jobs in remote Australia for CDP participants;
- A reduction in the maximum mutual obligation hours from up to 25 hours a week to up to 20 hours a week depending on a job seeker's assessed work capacity;
- A reduction in income reporting requirements to Centrelink for job seekers who have less than 15 hours a week of mutual obligation requirements; and
- An increased role for local health service providers, including the provision of evidence to the Department of Human Services when they are deciding whether or not to reduce a participant's mutual obligation hours.

1.4 The Bill, however, focuses on the expansion of the TCF, which came into effect on 1 July this year for urban and regional Australia, to CDP regions. It does this by repealing the provisions that currently exclude CDP participants from the TCF and by repealing the current compliance framework for CDP participants.

1.5 The Australian Greens opposed the TCF being established through the Social Services Legislation Amendment (Welfare Reform) Bill 2017 and we cannot support its rollout to CDP regions.

1.6 We are concerned with the Government's lack of acknowledgement of the differences between the mainstream programs (jobactive, Disability Employment Services and ParentsNext) and the CDP, and we do not consider the TCF as an appropriate approach for CDP.

1.7 In this regard, Mr Defteros, Policy Analyst, Jobs Australia, said at the hearing for this inquiry:

We think that the TCF is not tailored to the needs of remote communities...<sup>1</sup>

1.8 Mr Hobday, Chief Executive Officer, RISE Ventures, said:

I don't think you can bring CDP into alignment with the other programs. We see it every single day, where you have to have the flexibility locally to deliver services. It's not the same as jobactive and it's not the same as disability employment.<sup>2</sup>

1.9 Mr Flanagan, General Manager Community Services, Arnhem Land Progress Aboriginal Corporation, said:

I think the board were also surprised that in the explanatory memorandum it seems like some of the motivation for the TCF being brought across is to bring equity or parity. They feel that a one-size-fits-all approach doesn't really do that when you take into context how unique the circumstances are in many of the regions in which CDP operates.<sup>3</sup>

1.10 It is difficult to see the validity of the parity argument given the significant difference between the Work for the Dole requirements for CDP participants and jobactive participants. The requirements for CDP participants are much harsher (see below).

1.11 We are also concerned that the TCF was not designed with CDP participants in mind as it was never supposed to apply to CDP regions; hence the current exemptions for CDP participants.

1.12 As Mr Paterson, Chief Executive Officer, Aboriginal Peak Organisations Northern Territory, said:

... the TCF is designed to make things easier for people who miss the occasional appointment or day or Work for the Dole, and to increase the level of punishment of those who do this more often. CDP participants are the only people in the income support system who have to attend Work for the Dole every day. They have to do more, so they miss more. Already they get more penalties than anyone else. The TCF is designed to increase penalties for people like them.<sup>4</sup>

1.13 The Bill does not fix the underlying issues with CDP that the Australian Greens have been consistently raising for the last few years; this was also highlighted by witnesses. Adrienne Walters, Senior Lawyer, Human Rights Law Centre, said:

This bill forms part of the government's CDP reforms, but it fails to address the key drivers of this over penalisation of Aboriginal people, who make up over 80 per cent of those covered by CDP. In particular, it retains

---

1 *Proof Committee Hansard*, p. 39.

2 *Proof Committee Hansard*, p. 10.

3 *Proof Committee Hansard*, p. 23.

4 *Proof Committee Hansard*, p. 13.



---

discriminatory and inflexible requirements that are not imposed on people under the jobactive program, most of whom are non-Indigenous. CDP and jobactive participants receive the same basic social security payment, but CDP participants have to work more hours and comply with more rigid program rules. This not only is racially discriminatory but also places them at greater risk of being penalised because they can't keep up with the rules. Even with the government's commitment to reduce work requirements from February 2019, CDP workers would still have to work 270 hours more per year and will still have inflexible daily participation requirements.<sup>5</sup>

1.14 Similarly, Ms Stobart, Solicitor, North Australian Aboriginal Justice Agency, said:

We don't see the causes for noncompliance being addressed. We see the current issues to be significantly a result of the barriers that our clients face to engaging with Centrelink along with the actual model of Centrelink, and we don't see those two areas being addressed within these reforms. All we're seeing is a new penalty framework that is only harsher than the current framework.<sup>6</sup>

1.15 The Government has commissioned an evaluation of the current CDP and the Department of the Prime Minister and Cabinet confirmed in their response to questions on notice taken at the hearing that it has been finalised.<sup>7</sup> The Government should release the finalised evaluation of the current CDP program as a matter of urgency and allow time between its release and debate on this Bill. The fact that we are being asked to assess the Bill and the reforms more broadly when we have not yet seen the evaluation of the current CDP is unacceptable. The evaluation should be informing the next steps; we need to get the next iteration of CDP right.

1.16 The Bill also inserts a number of exemptions from the TCF for CDP participants who take up one of the 6,000 subsidised jobs the Government will partly fund.

1.17 Specifically, it:

- Exempts those in a subsidised job, who continue to receive an income support payment, from mutual obligation requirements;
- Introduces provisions to ensure those in a subsidised job do not incur mutual obligation failures, work refusal failures or unemployment failures; and
- Introduces provisions to ensure those who refuse a subsidised job do not incur a work refusal failure.

---

5 *Proof Committee Hansard*, p. 33.

6 *Proof Committee Hansard*, p. 37.

7 Department of the Prime Minister and Cabinet, answers to questions on notice, 21 September 2018 (received 5 October 2018).

1.18 The Australian Greens have serious concerns regarding the Government's attempt to connect the provision of subsidised jobs to the passage of this Bill through the Parliament. This is evidenced in the Minister's Second Reading Speech, which says:

Without this legislation, the Government will not be able to fully deliver the subsidised employment program as participants will still be subject to compliance under Social Security laws.<sup>8</sup>

1.19 This is a nonsense argument as the Government could introduce other amendments to exempt CDP participants who have taken up a subsidised job from the current compliance framework for CDP, without simultaneously subjecting CDP participants to the harsh TCF.

1.20 Our other concerns include the lack of consultation and detail available, the lack of discretion in the TCF and particularly for CDP participants, the higher number of penalties anticipated and the harshness of these penalties, the lack of jobs in CDP regions and the barriers CDP participants face. There is also a need for great consideration to be given to cultural and social factors.

1.21 These are each addressed in more detail below.

### **Lack of consultation and details about the reforms**

1.22 This Government has consistently reiterated the need to consult with First Nations peoples about matters that affect them. Yet again, however, this Government has failed to follow through and properly consult on the reforms to the CDP and, more specifically, this Bill, which will disproportionately affect them.

1.23 Mr Little, Co-Chair, National Congress of Australia's First Peoples, said at the hearing:

... it is apparent that the First Peoples have not been duly involved in the crafting of bills or policy that affect them. Simple interpretation of consultation is insufficient from our perspective.<sup>9</sup>

1.24 Mrs Harvey, Chief Executive Officer, Tiwi Islands Training and Employment, Jobs Australia, said:

There's always an emphasis on people 'doing things with, not to', except it seems to be more of a cliché than something that gets lived out.<sup>10</sup>

1.25 Throughout the hearing a number of witnesses expressed their dismay at the lack of consultation that had taken place prior to the Government's Budget

---

8 Senator the Hon. Anne Ruston, Assistant Minister for Agriculture and Water Resources, *Senate Hansard*, 23 August 2018, p. 29.

9 *Proof Committee Hansard*, p. 23.

10 *Proof Committee Hansard*, p. 41.

---

announcement and the lack of consultation since the Budget announcement on the reforms and the Bill.

1.26 Specifically, Mr Paterson, Chief Executive Officer, Aboriginal Peak Organisations Northern Territory, said:

Since December 2016, we have been working with a national alliance of organisations trying to speak up for communities and trying to come up with positive alternatives to this broken, dysfunctional and punitive scheme. We put forward our proposals to government last year. We made a submission to the government CDP review and heard the government promise to consult about the program reform. We also heard them say that they would be leaving remote communities out of the new targeted compliance framework, or TCF, 'so that the government can work out, with communities, what will work best for remote Australia'. ... Well, we've been waiting in vain to have these discussions. Now we are here, having rushed down to Canberra, because of a government bill that was developed without our input and that we think will make things worse.<sup>11</sup>

1.27 Mr Defteros, Policy Analyst, Jobs Australia, said:

The minister at the time described [TCF] in a speech at one of the provider forums as extremely draconian. There was a consultation workshop that was held with providers. There was very strong consensus in the room between government and providers that the TCF would be sort of catastrophic and that people would very rapidly progress towards the intensive compliance zone, as I think it was called at the time; it's now the penalty zone. There was a discussion paper on the future of remote employment and participation which was released last year in December, and there was no reference at all to that. So, when it came about in May, it was a total surprise to everybody. After that, yes, we had a number of questions, because there was a lack of detail, and we organised a teleconference with the department. They gave us answers that they could provide. Since then, there hasn't been a lot of engagement regarding the development of the TCF and its application to remote areas that's involved Jobs Australia. There hasn't been much involvement at all.<sup>12</sup>

1.28 Ms Fowkes, Centre for Aboriginal and Economic Policy Research, said:

Clearly, there was a budget announcement, and that said there would be consultation. And then we knew, when it appeared on the *Notice Paper* for the Senate, that there was going to be a bill. It was literally out of the blue that there was going to be a bill.<sup>13</sup>

1.29 Dr Douglas, Policy Officer, Central Land Council, said:

---

11 *Proof Committee Hansard*, p. 13.

12 *Proof Committee Hansard*, p. 42.

13 *Proof Committee Hansard*, p. 18.

I'm not aware of any consultation that's happened in Central Australia. I've been at two meetings with the minister, very brief meetings. That's not consultation. There's been little or no consultation. Who the minister and the departments have been consulting with is not clear. We've been calling for transparency and time frames around consultations. From a land council point of view—we caucus with the three other NT land councils—there's been very little consultation, if at all. There was one meeting with Minister Scullion before the Barunga meeting this year—... just in June—where there was a discussion about CDP, but it was extremely brief. That's not consultation.<sup>14</sup>

1.30 Following the hearing, it is difficult to understand how the Minister came to include the following sentence in his Budget media release:

Following an extensive consultation period of co-design with communities, the Coalition Government is announcing significant reforms to the Community Development Programme (CDP).<sup>15</sup>

1.31 The Australian Greens are of the view that consultation on the Bill and the broader reforms has been severely lacking and that the Government cannot claim that the reforms were co-designed in the true sense of this term. There is an urgent need for the Government to consult with First Nations peoples, peak bodies and CDP providers so that the reforms truly reflect their views. As Mr Paterson, Chief Executive Officer, Aboriginal Peak Organisations Northern Territory, said:

What is lacking with this new program is the inclusion of the Aboriginal leadership in this sector. Until we get to the stage where government genuinely engages with the Aboriginal leadership who have the expertise in this space, we're going to have a failed program.

The Aboriginal leadership is looking for engagement, active participation and genuine involvement in the co-design, co-development, implementation, monitoring and review of this whole program. I must say that it has been very disappointing under this current government that we've been left outside that whole process. This is evidenced by the top-down program and policy. This has all been designed somewhere here in Canberra and then forced down. It's one size fits all. There's no flexibility for local communities to design and develop the program.<sup>16</sup>

1.32 There were also numerous occasions during the hearing where witnesses mentioned the lack of available details or found it difficult to provide specific answers to questions asked by Committee members as the Department of the Prime Minister

---

14 *Proof Committee Hansard*, p. 18.

15 Senator the Hon. Nigel Scullion, Minister for Indigenous Affairs, '2018-19 Budget: Backing the economic aspirations of First Australians', *Media Release*, 8 May 2018, <https://ministers.pmc.gov.au/scullion/2018/2018-19-budget-backing-economic-aspirations-first-australians> (accessed 8 October 2018).

16 *Proof Committee Hansard*, pp. 16–17.

---

and Cabinet had not yet made a decision on the particular issue or had not yet communicated to the particular witness how an aspect of the reforms/Bill would operate. This made it difficult for some of the witnesses to provide an informed response to the Committee on the Bill and what it contains and the reforms more broadly.

1.33 During his opening statement, Mr Flanagan, General Manager Community Services, Arnhem Land Progress Aboriginal Corporation, said:

Without more information on exactly how the legislative amendment, if it came in, would be implemented at a policy level, the board feel like it's really difficult to make a decision on whether this would be a step forward or a step backwards.<sup>17</sup>

1.34 Mrs Harvey, Chief Executive Officer, Tiwi Islands Training and Employment, Jobs Australia, said:

There's not enough detail in anything that we've received to date to help us work out what the whole thing looks like. Every little action, whether it's compliance, a job placement or an exemption, causes a reaction for that person and also for your case load. Without the devil in the detail—without any of that—we can't give a committee like yourselves an informed response.<sup>18</sup>

1.35 Senator Siewert asked Mr Hobday, the Chief Executive Officer of RISE Ventures, whether he had been given any details of how the subsidised jobs would work and he responded:

No, not at a lot of detail. There was a conference, a get-together of CDP providers, in June this year, which the minister attended. There was a presentation on the targeted compliance framework. The department presented on their initial thoughts around how the subsidies would operate, and we are awaiting further detail now.<sup>19</sup>

1.36 Ms Fowkes, Centre for Aboriginal and Economic Policy Research, said:

One of the things that's really clear is how confusing this policy area is. I've been listening and everyone here is stumbling around trying to figure out what the TCF will mean. I think that is something the committee should consider when it considers the timing of this bill, because it feels like it is being rushed through, and its consequences are quite significant.<sup>20</sup>

---

17 *Proof Committee Hansard*, p. 23.

18 *Proof Committee Hansard*, p. 45.

19 *Proof Committee Hansard*, p. 7.

20 *Proof Committee Hansard*, p. 14.

## **Lack of discretion in the TCF**

1.37 The lack of discretion in the TCF takes two forms: the application of demerit points to individuals and the inability for penalties, once accrued, to be waived.

1.38 At the hearing witnesses expressed their understanding of the TCF in terms of how it currently applies to the mainstream programs in non-remote locations.

1.39 Regarding the application of demerit points to individuals, Mr Defteros, Policy Analyst, Jobs Australia, said:

I just want to make it clear that under the TCF the ability for providers to exercise discretion is removed. They're not able to make a determination not to use the compliance framework as the best way to engage someone. That is removed by the TCF. Under the TCF there's a list of valid reasons and a list of invalid reasons and you either fall on one side or the other. It's kind of like a drop-down system. So, there's not a lot of local input or discretion into the decisions that are being taken. If the person doesn't attend and they don't have a valid reason, according to this very prescriptive list the demerit is applied and they continue to accumulate in that way. So, I'm not sure that there is much more community or local input or discretion. There's actually less in the new model.<sup>21</sup>

1.40 Similarly, Ms Crowe, Senior Policy and Advocacy Officer, Australian Council of Social Service, said:

...there is less flexibility in [the TCF's] application. The key reason for that is discretion has been removed from the application of breaches or demerit points. Employment service providers have responsibility for applying the first four demerit points. They do not have discretion, so they cannot decide, 'Look, even though this person, on paper, does not have a reasonable excuse, I know that they're trying hard and I'm not going to apply this demerit point.' They must apply the demerit points where they believe that the person does not have a reasonable excuse. Our concern is that under the old program, where employment service providers did not have responsibility for applying breaches and, rather, would make recommendations to the Department of Human Services whether or not to apply a breach, they got those recommendations wrong 40 per cent to 50 per cent of the time.<sup>22</sup>

1.41 Regarding the inability for penalties to be waived, Ms Crowe, Senior Policy and Advocacy Office, Australian Council of Social Service, said:

Even when someone is at risk of homelessness or is already in severe financial hardship, no waiver can be applied, unlike the current model operating under CDP where, if an eight-week penalty is applied, either it most often is waived or the person is able to effectively work off that

---

21 *Proof Committee Hansard*, p. 46.

22 *Proof Committee Hansard*, p. 4.

---

penalty by re-engaging with their employment service provider. The TCF model won't allow that. Our clear concern is that this could actually see people lose more income than under the current model and we could actually see people fall outside the system altogether because of the four-week cancellation penalty that will apply if you lose eight demerit points. That will obviously require someone to reapply for their income support payment, and we're deeply concerned that people won't do that or will do that some time after the four weeks has expired.<sup>23</sup>

1.42 Adrienne Walters, Senior Lawyer, Human Rights Law Centre, said:

While there are considerable problems with the current compliance framework and the high rate of penalties, the TCF threatens to make things worse because of a lack of safeguards to protect people from administrative errors, because of one-, two- and four-week payment penalties that cannot be waived for serious financial hardship and because people will be cut off Centrelink altogether. The Parliamentary Joint Committee on Human Rights just yesterday expressed concern that the TCF is inconsistent with human rights, in particular because vulnerable people won't have the option of having a penalty waived for serious financial hardship. They could be left without money for food, rent, medicines and other basic life necessities for up to four weeks.<sup>24</sup>

1.43 Mr Defteros, Policy Analyst, Jobs Australia, said:

We think that the TCF is going to remove the ability for people to have their penalties waived if they re-engage. We think there is a real risk there that people will be trapped indefinitely in a cycle of penalties, because they're going to have to be compliant for three months, once they hit the penalty zone, in order to get out of that cycle. We think that people should be able to have their penalties waived when they re-engage, as they are now. In fact, that is used by the minister at the moment as a defence of the current arrangements—that penalties can be waived.<sup>25</sup>

1.44 Ms Hatami, Supervising Solicitor, Dhurrawang Aboriginal Human Rights, Canberra Community Law, National Social Security Rights Network, outlined the consequences of the lack of discretion when applying a penalty, saying:

When that waiver provision is removed, it means that the issues that inform people's lives and the hardships that people endure are overlooked, and, instead, people fall further and further into debt. When payments are cut off, that means your rent's not paid, your electricity's not paid and you can't pay for your children's uniforms or books. Those costs don't go away with time; they just add up. It's creating a situation where people are not just living in poverty but have significant debts which they can't afford, and these debts are being deducted from their Centrelink payments every

---

23 *Proof Committee Hansard*, p. 3.

24 *Proof Committee Hansard*, p. 33.

25 *Proof Committee Hansard*, p. 39.

fortnight. It's putting them further and further back where these provisions are not available.<sup>26</sup>

1.45 Many witnesses expressed to the Committee their desire to know exactly how the TCF would be applied in CDP regions, acknowledging—as discussed above—that there are differences between mainstream programs and CDP.

1.46 Mr Hobday, Chief Executive Officer, RISE Ventures, a CDP provider, said:

One of the questions we've asked is: what flexibility or discretion will we be given in determining how we might apply the TCF?<sup>27</sup>

1.47 He then said:

We haven't received that [information] yet.<sup>28</sup>

1.48 Mr Flanagan, General Manager Community Services, Arnhem Land Progress Aboriginal Corporation, said:

...but, again, at this point they're not sure about the detail in what level of discretion is there, what flexibility and how the provider can work to support them through that process.<sup>29</sup>

1.49 Mr Flanagan also said:

Conversations that we've had with the department and with the minister's office have certainly implied that we'll be in a position to take into account a broad range of social and economic impacts on people, such as overcrowding and cultural obligations, and that'll give us the ability to waive those three penalties, and they basically go back to the start in the green zone. I think it's going to be down to what breadth there is in the guidelines, what are recognised as reasonable excuses and how we're empowered to make those determinations case by case in our communities.<sup>30</sup>

1.50 Senator McCarthy asked whether he had received information as to what the guidelines might allow for and he responded:

No. We're in an ongoing dialogue, but there's not solid advice on that currently.<sup>31</sup>

1.51 A real concern of some of the witnesses was the possibility of the TCF being applied in the same way it is to the mainstream programs.

---

26 *Proof Committee Hansard*, p. 4.

27 *Proof Committee Hansard*, p. 10.

28 *Proof Committee Hansard*, p. 11.

29 *Proof Committee Hansard*, p. 24.

30 *Proof Committee Hansard*, p. 30.

31 *Proof Committee Hansard*, p. 30.



---

1.52 Ms Weideman, Adviser, National Employment Services Association, said:

We agree that if that is the way it will be applied we would have concerns around that. We would hope through this process that there would be an opportunity to really influence what that does look like in remote Australia.<sup>32</sup>

1.53 Since the hearing, the Department of the Prime Minister and Cabinet has provided answers to a number of questions taken on notice on the day. One of these answers indicates that the TCF removes the 'Did Not Attend Discretionary' option as one of the options for providers to record attendance in the IT system. That same answer says:

Providers will maintain the ability to exercise discretion in determining whether a job seeker has a valid reason for not meeting their requirements, and whether or not they had a reasonable excuse for not notifying their provider in advance if they could not attend.

If providers believe the job seeker legitimately could not attend, no demerit or failure will apply.<sup>33</sup>

1.54 It is clear from another answer though that there are a limited number of reasons that can be accepted as valid with regards to why a job seeker did not attend their activity, appointment or job interview and 'that in all instances, the job seeker must not have been able to advise prior to the event that they could not attend'.<sup>34</sup> The exhaustive dot point list of valid reasons in the answer had 15 points. That same answer then goes on to say that:

Under the Guide to Social Security Law, there is also guidance about acceptable reasons for failure to give prior notice of an absence.<sup>35</sup>

1.55 Again, there is a list provided, this time to demonstrate matters that could be considered acceptable reasons for failure to give prior notice of absence. The list only has four dot points.

1.56 The answer concludes:

In addition, the decision maker can apply discretion to interpret any factor included in the above list more broadly if the circumstances of the case warrant it.

---

32 *Proof Committee Hansard*, p. 46.

33 Department of the Prime Minister and Cabinet, answers to questions on notice, 21 September 2018 (received 5 October 2018).

34 Department of the Prime Minister and Cabinet, answers to questions on notice, 21 September 2018 (received 5 October 2018).

35 Department of the Prime Minister and Cabinet, answers to questions on notice, 21 September 2018 (received 5 October 2018).

1.57 While demerit decisions are not made under social security law, providers are expected to assess whether a demerit should apply using the same principles as those that underpin reasonable excuse decisions.<sup>36</sup>

1.58 While the Department of the Prime Minister and Cabinet is suggesting providers will have discretion when applying demerits, it appears that discretion will be limited to determining whether the CDP participant has an acceptable reason for failure to give prior notice of an absence. There appears to be no discretion available for determining whether or not the job seeker had a valid reason for not attending.

1.59 The guidelines mentioned by at least one witness (see above) and the Department of the Prime Minister and Cabinet at the hearing<sup>37</sup> have not been provided.

1.60 There is also no mention of the penalties being waivable. The conclusion we are left to draw is that CDP participants will not be able to avoid any of the three possible penalties by reengaging with Work for the Dole activities. This means there is no way for participants to have their payments reinstated early if they have been penalised, and no way for participants to have the three penalties (one and two week payments suspensions and four week payment cancellation) waived.

### **Higher number of penalties anticipated and penalties harsher**

1.61 It is anticipated that CDP participants will enter the penalty zone of the TCF much quicker than jobactive, ParentsNext and Disability Employment Services participants. This is because CDP participants are required to engage in Work for the Dole activities every week day from the moment they enter the program, unlike jobactive participants who have 12 months before they are subjected to Work for the Dole. CDP participants must also engage in these activities for 46 weeks of the year, whereas jobactive participants must only do so for six months of the year.

1.62 The penalties under the TCF are harsher as they are not waivable (see above) and because participants will be subjected to a four week payment cancellation if they reach eight demerit points, or they refuse to accept suitable work, choose to leave a job without a valid reason or are dismissed from their job due to misconduct. Following the four week payment cancellation, participants will have to reapply for a payment.

1.63 As Ms Crowe, Senior Policy and Advocacy Office, Australian Council of Social Service, said:

---

36 Department of the Prime Minister and Cabinet, answers to questions on notice, 21 September 2018 (received 5 October 2018).

37 Ms Bird, Assistant Secretary, Department of the Prime Minister and Cabinet, *Proof Committee Hansard*, p. 49.

---

In short, the more onerous conditions applied on people who are under the CDP mean that it's far more likely that they will fail to meet those obligations and that they will end up in the penalty zone much more rapidly than someone under jobactive.<sup>38</sup>

1.64 Ms Fowkes, Centre for Aboriginal and Economic Policy Research, said:

The TCF is aimed at punishing people who miss obligations more often. Only CDP participants have an obligation every day. If you're in the mainstream system, your obligation for the first year is to look for work and to attend monthly appointments. So your ability to rack up penalties is much, much less and it will be a lot slower... The objective of the TCF is to make things harder for those people—that is, the people in the CDP—and, in fact, to eventually cancel their payments. The cancellation of payments, in the context of a program where people are walking away and the caseload is already declining is potentially devastating.<sup>39</sup>

1.65 In her submission to the inquiry, Ms Fowkes says:

The Government's modelling suggests that, on a per capita basis, the TCF would have around four times the impact on CDP participants as on other job seekers<sup>40</sup>

1.66 Ms Stobart, Solicitor, North Australian Aboriginal Justice Agency, said:

We have grave concerns about the targeted compliance framework, which is harsher than the current system. We expect that it will exacerbate harms experienced by those subject to CDP. For the reasons we have discussed, people in remote communities are likely to enter the penalty zone very quickly. Senators, this is what the TCF is likely to mean for our clients, who make up a significant portion of CDP participants: our clients are going to experience even greater financial hardship and live in deeper poverty. This is because they will face greater and harsher penalties. They may also disengage from income support altogether because reconnecting with payments or dealing with Centrelink may be difficult. We already see this happening in the current system. This means they will struggle to purchase essential items. Communities have already recorded a decrease in food sales under the current system. We may see spikes in family violence, criminal offending and children being removed because of protection concerns relating to failure to thrive and neglect. Aboriginal Territorians will continue to be discriminated against by virtue of their more oppressive obligations and the system's failure to take into account their circumstances, despite Aboriginal Territorians being the main stakeholder in this reform.<sup>41</sup>

---

38 *Proof Committee Hansard*, p. 5.

39 *Proof Committee Hansard*, p. 14.

40 Ms Lisa Fowkes, *Submission 3*, p. 11.

41 *Proof Committee Hansard*, pp. 34–35.

1.67 Mrs Murphy, Chief Executive Officer, Winun Ngari Aboriginal Corporation, said:

Some of our participants have already gone underground, so they have actually gone off the system and are not back on the system and have chosen not to come back on the system. We have already participants, Aboriginal people, that are not on the dole, at all, or on any benefits and that actually live off their family, which is creating hardship for them.<sup>42</sup>

1.68 Reapplying for payments will be harder for individuals in remote areas. The National Aboriginal Community Controlled Health Organisation says in its submission:

This will be much more difficult for people in remote areas who may have language barriers, lack access to a phone or have underlying cognitive or health impairments and will likely mean that Aboriginal people in CDP regions will have less access to income support payments than other Australians.<sup>43</sup>

1.69 Applying the TCF to CDP participants will worsen the current situation and see CDP participants facing penalties much quicker than mainstream program participants. The penalties under the TCF are harsher and it is likely that more participants will disengage from the income support system than is already occurring, placing further pressure on families.

### **Lack of jobs in CDP regions**

1.70 When considering the Bill and the reforms to CDP, it is important to bear in mind that jobs are limited in many of the CDP regions.

1.71 As Ms Tomes, Workforce Development Coordinator, Regional Anangu Services Aboriginal Corporation, said:

...when talking about the labour market conditions in remote Australia, it's important to remember that in the remote areas like the APY Lands there are very few economic drivers in the economy or employment drivers in the economy. On the APY Lands, the only real private employers are the art centres and community stores, and a small amount of short-term project based employment around maintenance and roads. Unlike Top End remote communities, for example, there's no seasonal employment related to primary industries. There are no mining or wealth creation industries. In the main, economies on the lands are supported by government service delivery and welfare payments. The usual first employers found in non-remote communities, such as the large retail and grocery chains, cafes and hospitality outlets, don't exist. The types of jobs that most of us would have

---

42 *Proof Committee Hansard*, p. 28.

43 National Aboriginal Community Controlled Health Organisation, *Submission 20*, p. 3.

---

had at school or after school as entry points to the labour market don't exist.<sup>44</sup>

1.72 The lack of jobs available was also raised in relation to the 6,000 subsidised jobs to be supported by the Government. There was concern that the subsidised jobs will not lead to local job creation. Specifically, Ms Crowe, Senior Policy and Advocacy Office, Australian Council of Social Service, said:

...to date, there is no specific requirement that would allow local organisations to take up those job subsidies and for the subsidies to be made available to all employers. The concern that ACOSS and others have is that local smaller organisations won't be able to take advantage of those subsidies, largely because they won't have sufficient income to supplement those subsidies over the two-year time frame.<sup>45</sup>

1.73 There is a risk that the subsidies will go to employers that can already afford to hire individuals, as the subsidy for each position is a maximum of \$21,000 over the two years.

## **Barriers**

1.74 Many witnesses raised the barriers CDP participants face. Some of the barriers include English being a participant's third or fourth language, the difficulty of accessing the Centrelink system, the lack of services in these regions, caring responsibilities, and cultural obligations. These barriers increase the difficulty CDP participants face engaging with CDP and complying with their mutual obligation hours and other requirements.

1.75 Ms Stobart, Solicitor, North Australian Aboriginal Justice Agency, said:

On our first point that our clients face barriers to engaging with the Centrelink system, we can list many examples that show access to Centrelink is difficult. For example, many remote communities in the NT do not have a Centrelink agent. Some remote communities do not even have mobile phone reception or internet access. Waiting times to speak to Centrelink on the phone can be hours. There are also communication difficulties. A large number of diverse, Aboriginal languages are spoken in the NT. Many people speak English as a second, third or fourth language. There are low rates of English literacy and numeracy. There have also been frequent changes to the remote Work for the Dole system. We see very limited understanding of how CDP operates. For example, we have clients who do not know that their payments could be reduced or suspended if they do not attend activities, clients who do not know what their obligations are and others who do not know what reasons for missing activities are considered valid. There are high rates of illness and disability in remote communities. Many clients have significant caring responsibilities. Our

---

44 *Proof Committee Hansard*, p. 25.

45 *Proof Committee Hansard*, p. 3.

clients often have cultural obligations that arise, such as attending ceremonies, attending funerals and participating in sorry business. Senators, these challenges must be considered in any legislation that impacts on Centrelink benefits.<sup>46</sup>

1.76 Ms Hatami, Supervising Solicitor, Dhurrawang Aboriginal Human Rights, Canberra Community Law, National Social Security Rights Network, said in her opening statement at the hearing that:

Participants from remote communities often have limited English literacy and don't have English as a first language. Our partner organisations working with clients who have had penalties imposed and payments suspended under this regime report that providers do not regularly use interpreters. Clients simply do not understand how the compliance and penalty framework operates.<sup>47</sup>

1.77 Ms Tomes, Workforce Development Coordinator, Regional Anangu Services Aboriginal Corporation, said:

Most of the basic assumptions about daily life and social conditions of CDP participants that unconsciously sit behind the compliance framework are challenged in remote areas. For example, basic assumptions around the availability of Centrelink offices and services, comprehensive health service, banks, household mail services, post offices, phones, internet, adequate housing and sleeping arrangements, and even shopping and transport, to name a few, don't stand up. Similarly, assumptions around English language literacy and the lack of understanding around the very complex social and cultural norms in remote areas mean that standard compliance requirements can become onerous for Indigenous welfare recipients in communities such as the APY Lands. These factors contribute to increased levels of noncompliance in remote communities. In our experience, the majority of noncompliance is not wilful, but rather often reflects the impacts of multiple challenges and barriers that individuals face.<sup>48</sup>

1.78 Further, she said:

In addition, we have concerns that the demerits system may be difficult for participants to understand and monitor. It appears that there's a need for participants to actively use the dashboard via jobactive, or maybe a CDP website or app. This presents a major barrier to participants in our area as English is a second, third or fourth language, and the use of mobile apps is limited, considering that mobile coverage has only been rolled out on the

---

46 *Proof Committee Hansard*, p. 34.

47 *Proof Committee Hansard*, p. 2.

48 *Proof Committee Hansard*, p. 25.

---

APY Lands this year, and there are still many areas and homelands without coverage.<sup>49</sup>

1.79 Ms Tomes, Workforce Development Coordinator, Regional Anangu Services Aboriginal Corporation, also said:

In addition, Centrelink remote assessment services operate on an infrequent visiting basis only on the lands, often with only a few weeks' notice and limited capacity to see all CDP participants who require assessment. The proper assessment of CDP participants' capacity therefore remains a significant challenge for CDP operations on the lands. The lack of appropriate and adequate capacity assessments can contribute to participants having more onerous mutual obligation requirements imposed on them than they should have and therefore a higher propensity to have a pattern of noncompliance, resulting in financial penalties.<sup>50</sup>

1.80 The Government needs to ensure it is doing all it can to address these barriers and ensure that they do not further disadvantage CDP participants and lead to greater non-compliance and penalties. The Government must also ensure that it is not creating additional barriers for CDP participants. It must ensure that interpreters are available to all CDP participants as and when they are needed, that participants are not limited to certain forms of communication with Centrelink and that sufficient Centrelink services are available within CDP regions.

### **Cultural and social factors**

1.81 Cultural and social factors need to be given proper consideration in any reforms to CDP. Particularly, cultural obligations many CDP participants have.

1.82 Mrs Harvey, Chief Executive Officer, Tiwi Islands Training and Employment, Jobs Australia, said:

I think that sometimes there isn't enough emphasis on the mortality rate in remote areas and the value system in which it has to be lived out. Whether it's in black and white or not, a lot of people do have an obligation to take time out, in particular for sorry business.<sup>51</sup>

1.83 Mr Flanagan, General Manager Community Services, Arnhem Land Progress Aboriginal Corporation, said:

... there should be increased respect and recognition of traditional values and cultures. [The Board] see that that's something that's been thought about in the policy and design, but they still think that, at times, there's some mystification around that and a lack of understanding. They think that, again, more flexibility and perhaps an opportunity to rely more on

---

49 *Proof Committee Hansard*, p. 26.

50 *Proof Committee Hansard*, p. 26.

51 *Proof Committee Hansard*, p. 41.

local traditional governance structures and for them to have a loud voice in implementation could address that.<sup>52</sup>

1.84 One suggestion proposed at the hearing was a modification to allow CDP participants flexibility as to when they complete their Work for the Dole activities within a period of time i.e. two weeks. This would provide CDP participants with more control and allow them to partake in cultural activities without necessarily incurring penalties.

### **Alternative**

1.85 An alternative approach to the Government's proposed reforms and this Bill is the Fair Work and Strong Communities: Remote Development and Employment Scheme model initially developed by Aboriginal Peak Organisations Northern Territory. This was raised by a few of the witnesses at the hearing and endorsed by some.

1.86 Mr Derrig, Senior Solicitor, North Australian Aboriginal Justice Agency, provided the Committee with a detailed explanation of the model in his opening statement after identifying the questions that need to be answered in relation to the subsidised jobs. He said:

The issues are, however, that due to the lack of detail there are some questions that need to be answered. Those are: With this program how will jobseekers maintain their employment after the two years? How will this bill ensure that positions go to communities that need it? How will jobs go to people suffering from disabilities and youth—that is, other jobseekers with greater barriers to employment—and not just people who are the most employable per se? How will the subsidised positions be set up so that the subsidies and the benefits of those subsidies aren't absorbed by larger, non-Indigenous organisations?

To be brief, the overall point is that there is a way this can be achieved. That's if the subsidised positions are rolled out in the way that APO NT has previously provided under its alternative model to CDP. The reason we believe this will work is APO NT proposes that an investment fund be created that would fund local Indigenous organisations to provide services to strengthen economic, social and cultural aspects of the community, similar to the way that the old CDEP was able to do, and to generate the night patrol industry as well as Indigenous rangers. These kinds of projects will create new opportunities for longer-term employment and not just for the life span of those two years currently forecast. They will also ensure that poorer and smaller communities can be appropriately prioritised for these subsidies. Further, by funding projects of local Indigenous corporations the benefits will stay entirely within the community.

The other major aspect of APO NT's model is that it proposes a reform to the CDP providers to become remote job centres, where there would be a

---

52 *Proof Committee Hansard*, p. 24.



major emphasis on case management. Currently, case management does not exist in the CDP; however, it is notably available for people under the Work for Dole program. Case management would be particularly helpful in ensuring that people in the subsidised jobs maintain their positions and would also help them transition out of subsidised positions into regular employment. It will also ensure that these jobseekers with additional barriers such as disabilities and youth are able to take advantage of these subsidised positions and eventually also get into regular employment, ensuring that the jobs do not just go to people who happen to be the most employable people.

Additionally, the beauty of the APO NT model is that it is a system designed by Aboriginal organisations which creates a framework to empower local Indigenous people to better develop their labour markets. APO NT consulted widely through communities and organisations to develop this model and, by adopting this model, this parliament has the opportunity to maximise the value of the 6,000 positions and empower remote Aboriginal people to exercise their right to self-determination. That's my point on that point.<sup>53</sup>

1.87 The Australian Greens support this type of model and want to see the Government engage in genuine discussions with First Nations peoples and organisations about this approach as an alternative to the Government's announced reforms and this Bill.

### **Recommendation 1**

**1.88 The Bill be opposed.**

### **Recommendation 2**

**1.89 The Government urgently release the finalised evaluation of the current CDP. If the Government intends to proceed with debate on this Bill it should not occur before the evaluation has been released.**

### **Recommendation 3**

**1.90 The Government urgently work with First Nations organisations and peoples, particularly those who are CDP participants to develop a suitable alternative to the current CDP. The Fair Work and Strong Communities: Remote Development and Employment Scheme model initially developed by Aboriginal Peak Organisations Northern Territory should be the starting point of this work.**

---

53 *Proof Committee Hansard*, pp. 35–36.

**Senator Rachel Siewert**  
**Deputy Chair**

# **APPENDIX 1**

## **Submissions and additional information received by the Committee**

### **Submissions**

- 1** Miwatj Employment and Participation
- 2** National Social Security Rights Network
- 3** Ms Lisa Fowkes
- 4** Aboriginal Peak Organisations of the Northern Territory
- 5** Arnhem Land Progress Aboriginal Corporation
- 6** Australian Council of Social Service
- 7** National Congress of Australia's First People's
- 8** Jobs Australia
- 9** Ironbark Aboriginal Corporation
- 10** CatholicCare NT and Atyenhenge-Atherre Aboriginal Corporation
- 11** Regional Anangu Services Aboriginal Corporation
- 12** Synod of Victoria and Tasmania, Uniting Church in Australia
- 13** Australian Council of Trade Unions
- 14** North Australian Aboriginal Justice Agency
- 15** National Employment Services Association
- 16** Australian Human Rights Commission
- 17** Human Rights Law Centre
- 18** Dr Shelley Bielefeld

- 19 Ngaanyatjarra Council and the Shire of Ngaanyatjarraku
- 20 National Aboriginal Community Controlled Health Organisation
- 21 NSW Aboriginal Land Council

### **Additional Information**

- 1 Fair Work and Strong Communities: Proposal for a Remote Development and Employment Scheme, May 2017, prepared by the Aboriginal Peak Organisations NT, from National Social Security Rights Network, received 21 September 2018
- 2 Submission in relation to the Remote Employment and Participation Discussion Paper released by the Department of Prime Minister and Cabinet, from Emeritus Professor Jon Altman, received 25 September 2018

### **Answers to Questions on Notice**

- 1 Answers to Questions taken on Notice during 21 September public hearing, received from Ms Lisa Fowkes, Centre for Aboriginal Economic Policy Research, ANU, 25 September 2018
- 2 Answers to Questions taken on Notice during 21 September public hearing, received from National Social Security Rights Network, 25 September 2018
- 3 Answers to Questions taken on notice during 21 September public hearing, received from North Australian Aboriginal Justice Agency, 1 October 2018
- 4 Answers to Questions taken on notice during 21 September public hearing, received from Winun Ngari Aboriginal Corporation, 5 October 2018
- 5 Answers to Questions taken on notice during 21 September public hearing, received from Department of Prime Minister and Cabinet, 5 October 2018
- 6 Answers to Questions taken on notice during 21 September public hearing, received from Rise Ventures, 9 October 2018
- 7 Answers to Questions taken on notice during 21 September public hearing, received from Aboriginal Peak Organisations of the Northern Territory, 9 October 2018

### **Tabled Documents**

- 1 Opening statement, tabled by National Social Security Rights Network, at Canberra public hearing, 21 September 2018
- 2 Correspondence between Minister Nigel Scullion and the Australian Council of Social Service (ACOSS), tabled by ACOSS, at Canberra public hearing, 21 September 2018

# **APPENDIX 2**

## **Public hearings**

*Friday, 21 September 2018*

*Parliament House, Canberra*

### **Witnesses**

#### **National Social Security Rights Network**

HATAMI, Ms Parastou, Supervising Solicitor, Dhurrawang Aboriginal Human Rights, Canberra Community Law

#### **Australian Council of Social Service**

CROWE, Ms Charmaine, Senior Policy and Advocacy Officer

#### **RISE Ventures**

HOBDAY, Mr Michael, Chief Executive Officer

#### **Aboriginal Peak Organisations Northern Territory**

PATERSON, Mr John, Member

COOPER, Dr David, Manager of Policy and Research

DOUGLAS, Dr Josie, Policy Officer, Central Land Council

FOWKES, Ms Lisa

#### **Winun Ngari Aboriginal Corporation**

MURPHY, Mrs Susan, Chief Executive Officer

#### **Regional Anangu Services Aboriginal Corporation**

JACKMAN, Mr Mark, General Manager

TOMES, Ms Madonna, Workforce Development Coordinator

LEONTIOS, Ms Victoria, Communications Coordinator

#### **Arnhem Land Progress Aboriginal Corporation**

FLANAGAN, Mr Liam, General Manager Community Services

#### **National Congress of Australia's First Peoples**

LITTLE, Mr Rod, Co-Chair

#### **Human Rights Law Centre**

WALTERS, Adrienne, Senior Lawyer

**North Australian Aboriginal Justice Agency**

RAWNSLEY, Mr John, Manager, Law and Justice

STOBART, Ms Nicole, Solicitor

DERRIG, Mr Matthew, Senior Solicitor

AHFAT, Mr Jamie

**Jobs Australia**

DEFTEROS, Mr Peter, Policy Analyst

HARVEY, Mrs Maria, Chief Executive Officer, Tiwi Islands Training and Employment, Jobs Australia

**National Employment Services Association**

CLARKE, Mr Matthew, Deputy Chief Executive Office

WEIDERMAN, Ms Alicia, Advisor

**Office of the Commonwealth Ombudsman**

HINCHCLIFFE, Ms Jaala, Acting Ombudsman

SAWYERS, Ms Fiona, Senior Assistant Ombudsman, Strategy Branch

**Department of the Prime Minister and Cabinet**

LEWIS, Ms Deb, First Assistant Secretary, Community and Economic Development Division

BIRD, Ms Chloe, Assistant Secretary, Community and Economic Development Division, CDP Strategy

DENNY, Mr Paul, Assistant Secretary, Community and Economic Development Division, CDP Operations

**Department of Human Services**

DEININGER, Ms Rosemary, Acting Deputy Secretary, Programme Design

STANION, Ms Joanna, National Manager, Job Seeker