



**North Australian Aboriginal Justice Agency**

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The appropriateness and effectiveness of the objectives, design, implementation and evaluation of the Community Development Program (CDP)

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**Senate Finance and Public Administration Committees**

**Dated June 2017**

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Submission via email [fpa.sen@aph.gov.au](mailto:fpa.sen@aph.gov.au)

Thank you for the opportunity to provide a submission to the Committee.

## **Introduction**

The issue of Aboriginal poverty is of national importance as reflected in the ninth Closing the Gap Report – statistics reveal for the Northern Territory that employment rates have significantly decreased from 2008 – 2014-15 with the cessation of CDEP and changes to the way employment is recorded<sup>1</sup>. Employment programs such as Community Development Program (CDP) and its operations have meaningful consequences in the daily lives and opportunities for Aboriginal people of the Northern Territory.

The North Australian Aboriginal Justice Agency (NAAJA) acknowledges there are positives of the CDP with benefits likely flowing not only to the CDP participants but also their families and community. The increase in training and work-like activities reported in the CDP reflect growing enterprise and initiative and the involvement of local people in activities.

These positives must be tempered by an examination and scrutiny of the challenges posed by CDP and as communicated in community consultations, client matters and other relevant feedback.

Some of the challenges can be observed from the outset: that CDP places significant and more onerous obligations on the predominately Aboriginal communities it applies to, the program clearly faces challenges of being discriminatory in its application. It is further clearly apparent that CDP participants are presently being penalised at a disproportionately higher rate than those on other employment programs, raising questions of effectiveness. Other challenges can only be observed through an appreciation of the daily, lived experience of individuals and communities including their specific and complex needs in attempting to comply with CDP.

In acknowledging the positives, it is also important to highlight the concerns and challenges of the current policy and to serve as a conduit for the local, remote and regional community-based feedback to the Senate Finance and Public Administration Committees.

This submission provides feedback by Aboriginal people directly affected by CDP. The responses of Aboriginal men and women in the main emphasise a strong and

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<sup>1</sup> Closing the Gap: Prime Minister Report 2017;54

compelling sense of unfairness. Words contained in these submissions cannot adequately convey the feelings and hurt expressed by those adversely effected.

NAAJA has an obligation, and authority from an Aboriginal led board, to convey this feedback in a constructive process and to assist in the ongoing development and improvement of the CDP.

This dual acknowledgement – of the positive aspects and challenges of CPD – was observed in a community consultation:

‘There are good things and bad things about [CPD] activities. It’s good to try and get a job. But a lot of the good jobs out here, they go to white people, the young girls can’t get those jobs.’

### **About NAAJA**

NAAJA provides high quality, culturally appropriate legal aid services to Aboriginal people in the Top End of the Northern Territory. NAAJA was formed in February 2006, bringing together the Aboriginal Legal Services in Darwin (North Australian Aboriginal Legal Aid Service), Katherine (Katherine Regional Aboriginal Legal Aid Service) and Nhulunbuy (Miwatj Aboriginal Legal Service). NAAJA and its earlier bodies have been advocating for the rights of Aboriginal people in the Northern Territory since 1974.

Our core legal services cover the areas of criminal and civil law. NAAJA also has a law and justice section that pursues the rights of Aboriginal people through law and policy reform and community legal education. NAAJA has a prison support and an Indigenous Throughcare program, prison support and through-care service.

NAAJA serves a positive role contributing to policy and law reform in areas impacting on Aboriginal peoples’ legal rights and access to justice. NAAJA travels to remote communities across the Top End to provide legal advice and consult with relevant groups in the formation of submissions.

### **Sources of information**

Our submission draws upon:

- Consultations with men’s and women’s groups across several communities. These consultations were in the course of dealing with the more systemic issues of client matters and in the context of delivering legal education related to CDP and welfare matters. Interpreters were used as many individuals in the groups spoke English as a second, third or fourth language.
- Feedback received by persons working in the CDP system and who are familiar with the CDP arrangements and previous practices.
- Case studies of clients engaged by NAAJA’s civil lawyers.
- The Aboriginal Peak Organisation Northern Territory ‘Developing Strong and Resilient Remote Communities: Proposal for Establishment of a Remote Development and Employment Scheme’, May 2017 (APONT paper).

- Online news reports.

### **Guiding reform**

We recommend the APONT paper ‘Developing Strong and Resilient Remote Communities: Proposal for Establishment of a Remote Development and Employment Scheme, May 2017’ serves as the guiding foundation for reforming CDP and that reforms are consistent with the suggestions and directions set out in the paper.

Further comments in relation to this are set out in the sub-heading: *Alternative approaches to addressing joblessness and community development in remote Indigenous communities* (page 49).

### **Summary of key issues**

The following are the key issues or challenges of the CDP:

1. The overall premise is racially discriminatory – higher obligations apply in communities that are Aboriginal Communities.
2. Centrelink fails to effectively communicate with its Aboriginal customers (particularly in remote areas) and therefore they are given inappropriate obligations and the program is unable to deal with their complex needs.
3. The nature of mutual obligation requirements and penalties under CDP has not been effectively communicated – participants do not have an adequate understanding of the scheme and reliance is placed on already burdened services to do the work of educating participants and assisting them with problems.
4. Access to review and appeal of penalty decisions is limited, particularly for smaller ‘non-attendance’ penalties.
5. ‘Work like activity’ is vague and not regulated appropriately – people are doing activities which should be paid employment or perceive activities as being the same as work.
6. Training and work-like activities in regions where there are limited to no employment disrupts the incentive based structure of pathways to work.
7. There is an inadequate policy framework for assessing what constitutes a ‘reasonable excuse’ and this is not communicated to participants and the community.
8. Wait times to call Centrelink are too long and DHS staff taking telephone calls are not appropriate in dealing with the nuances of Aboriginal cultural and family obligations and the barriers to participation in remote communities.
9. The scheme is punitive in nature. The imposition of penalties such as the eight week non-payment period is harsh, unreasonable and causes poverty.

10. Comprehensive Compliance Assessments (CCAs) are perfunctory, staff conducting CCAs do not effectively communicate with Aboriginal clients and CCAs do not achieve what is intended.
11. CDP participants do not enjoy the conditions and rights of workers despite spending a significant amount of time per week participating in 'work-like' activities.
12. CDP stifles businesses and serves as a disincentive for employment (for example, some participants refer to previous, paid positions relating to CDP activities that are now replaced by CDP activities).
13. Payments received for participation (for example, Newstart) are iniquitous and well below the minimum wage and should be increased in line with real work.
14. Participants have difficulties obtaining appropriate supporting documentation to prove absences even when they have valid reasons for failing to attend.
15. Unreasonable mutual obligation requirements and difficulties in resolving problems with payments due to non-attendance can cause clients to disengage entirely from Centrelink services, causing financial hardship and placing burdens on people from that community/family who do earn income.
16. Failure to identify and address barriers to participation (particularly due to disability, health problems or caring responsibilities) is resulting in disabled, sick or carer clients being required to attend activities.

## **Case studies of NAAJA client matters**

### ***Case study A***

Our client is a 22 year old Aboriginal man from a remote community. He cares for 5 children, aged 13, 12, 9, 6 and two and a half months. He instructs that normally there are 10 people living in his house.

Our client instructs that he was on a Centrelink payment that required him to undertake CDP 'activities' until mid-2016. His payment stopped when he went to a remote outstation to undertake a ceremony for a period of roughly 6 months.

The ceremony that he attended was an important initiation men's ceremony and once you are in you are not able to leave. Our client instructs that in the culture of his community it breaks the law to leave the ceremony. You are not able to take a phone to ceremony, which meant that he could not report to Centrelink. It is also a secret ceremony and it is very hard for people to talk about in detail.

Our client told us that his payments got cut off because could not fill out paperwork while he was taking part in the ceremony and could not leave to do his activities. He instructs that he tried to tell Centrelink before going into the ceremony but he could not get on to them beforehand and found it hard to explain because ceremony is a secret business so hard to talk about with strangers.

When we first saw our client, he had been cut off from payments for one year. He told us that he had tried to get back onto payments but it has not worked. He told us that he *"tried to get my feet on the ground tried my best (to get back on payments) but I couldn't. So I just keep going like it is."* He currently has no money coming in.

In this context, our client had ended up in contact with the criminal justice system. Our client was first referred to NAAJA when he was in court on charges of stealing and trespass. He pleaded guilty to these charges and received a sentencing disposition that included a suspended sentence and required that he pay a substantial amount of money.

We are instructed that this fine must be paid within 14 days, otherwise there is a risk that further sanctions will be imposed. However, as our client has no income he instructs that he does not know how he will pay the fine. He also cannot set up a payment plan because he is currently not receiving a Centrelink payment.

### **Case study B**

Our client is a 48 year old Aboriginal man from a remote community.

In late 2016, our client's Newstart Allowance was suspended for failing to attend a provider appointment. His payment was subsequently cancelled for failing to re-engage.

Our client experienced a number of difficulties engaging with the CDP scheme (including the compliance scheme), outlined below.

#### *Language and communication difficulties / Lack of understanding*

Our client has only a primary school level of education. Accordingly, his literacy and numeracy is very low. Our client is unable to use a computer, and his understanding of English is very limited.

Importantly, our client appears to demonstrate some key linguistic and societal disadvantages including gratuitous concurrence (a common feature of Aboriginal English speakers). In particular, our client will commonly say "yes" or appear to agree with a proposition when he actually has little or no understanding of what has been said. This can be subtle, and would be extremely difficult for persons with little experience of dealing with Aboriginal people to detect over a telephone conversation.

Our client has always struggled to communicate with Centrelink over the telephone. For a period of time, Centrelink permitted him to use his wife as a nominee. However, for some time now, our client instructs that Centrelink have been insisting on speaking with him instead of his wife, or offering the use of a qualified interpreter.

Our client feels deep shame, powerlessness and becomes extremely frustrated engaging with processes that he does not understand. His method of coping with these difficulties is to withdraw entirely - which causes significant hardship for his family.



Our client had in the past received a number of penalties under the CDP compliance scheme. Our client did not understand the compliance scheme until NAAJA explained it to him.

We assisted our client to lodge an ARO appeal of his penalties.

#### *Logistical difficulties*

Our client describes lengthy wait times to engage with Centrelink and PST by telephone.

He instructs that in around September 2016, he and his wife called Centrelink (1800 132 594) and had to wait around 2 hours until they spoke to anyone. Our client was then transferred to PST, spoken to briefly by someone who said he had to wait to speak with someone else, and then waited another hour. Our client ultimately hung up in frustration.

Our client and his wife had to sit at home with their mobile telephone plugged in for this entire time (3 hours).

Our client tried again the following day, and a similar thing occurred. He became angry and frustrated with the Centrelink person who answered his call, as he felt like he was “going in circles”. He ultimately hung up again in frustration.

Our client instructs that he just decided to “leave it”. In his view, living without money, in circumstances where his family was suffering significant hardship, was easier than engaging in Centrelink’s time consuming and circular processes.

#### *Lack of Centrelink agent in community*

There is no Centrelink agent in our client’s community that could assist our client to re-apply for Newstart Allowance after his payment was cancelled.

In light of the difficulties that our client was having communicating with Centrelink by telephone, he and his wife arranged to travel (at their own expense) into their nearest regional centre in order to re-apply.

NAAJA made contact with a Centrelink Social Worker to assist our client with re-applying for Newstart Allowance. At our client’s request, NAAJA specifically requested that an interpreter be booked so as to alleviate the pressure on our client’s wife. When our client attended his appointment, no interpreter was used.

After the appointment, our client and his wife telephoned Centrelink from their community to check everything was in order for our client’s payment to start again. They were informed that our client would need to provide identification including a driver’s licence and birth certificate. NAAJA queried this through the social worker, and the situation appears to have been resolved without needing the production of further identification.

#### *Medical and social issues / Failure to proactively discuss exemptions*

When our client was engaged with the CDP scheme before his payment was cancelled, he described numerous difficulties undertaking his activities.

On a personal and social level, our client and his wife had a number of family members and grandchildren residing in their house. They were full time carers for at least two children. They were also dealing with domestic violence issues between their children in the house. They were left feeling tired and burned out.

Medically speaking, our client held concerns whether he was medically fit for his activities. Our client suffers from high blood pressure, and likely a number of other medical conditions.

Our client describes that the provider was “changing jobs around all the time”. Some jobs (such as working in the nursery), caused him no concern. Other jobs (such as welding and making tables in the men’s shed) caused him to feel anxious for his health due to environmental conditions (discussed below).

#### *Failure to monitor and enforce provider obligations*

Our client instructed that when he was placed on activities such as welding or making tables in the men’s shed, the smoke generated by the welding caused him to get short breath and dizzy. Our client instructs that he informed his supervisor that he felt the activity was dangerous.

#### *Difficulties engaging with health care providers*

Just as our client has struggled to effectively communicate with Centrelink, he has likewise struggled to communicate with the community health clinic regarding his health concerns.

Our client instructs that when he did attempt to discuss his concerns with the doctor in community, he was told that he was “fine to work, he just had to lose weight” and “not to be around smoke.” There was no consideration of what supports were available to our client within his community to assist him to lose weight, or any consideration of what activities may and may not be appropriate for him in light of his present physical limitations.

NAAJA was not able to arrange an assessment of our client at the community clinic, as the clinic would have charged NAAJA a large fee. In the circumstances, the only option available was to assist our client to seek an opinion from an alternative health service in the nearest regional centre, which could be done for free. NAAJA assisted by providing our client with a letter outlining his concerns and seeking a medical opinion regarding suitable activities.

When our client first tried to attend the clinic, he had an onset of chest pain and was immediately transferred to the nearest Hospital.

When he then re-attended, the doctor stated he was unable to provide the opinion requested as he did not have access to our client’s full medical history. The doctor did, however, provide a 2 week medical certificate noting that our client was not fit for work because “a full assessment of [his] work capacity needs to be undertaken upon his return to [community].”

### **Case study C**

Our client is a 49 year old Aboriginal woman. She is the wife of our client in Case Study B.

Our client has had an extensive working history both as an interpreter with the Aboriginal Interpreter Service, and as a health worker. She is a strong and reliable woman in her community. As a result of her skills, she is someone that community members frequently turn to for assistance in understanding their affairs.

When our client's husband was first cut off his payment, the family unit just got by from our client's wages from her paid employment (topped up by parenting payment). However, this put the family in circumstances of severe financial hardship, and eventually, our client and her husband decided to try and get our client's husband's payment started again.

Our client was required to make herself available to assist him in his attempts to re-engage through PST due to his communication difficulties. This was such a time consuming exercise, that in about August or September 2016, our client felt she had to give up her paid employment.

Despite their best efforts, our client and her husband were not able to get our client's husband re-connected until they sought out NAAJA's assistance in late January 2017.

*Failure by providers to have appropriate mechanisms in place to cater for notifications of absence*

Since late January 2017, our client has had her time occupied by a number of family situations, namely:

Travelling to and from the nearest regional centre to assist her husband to re-connect with Centrelink and attempt to get a work capacity assessment completed.

A medical emergency involving her daughter who was recalled to Hospital on an urgent basis following a diagnosis of melioidosis.

Assuming care obligations for her cousin sister who has been diagnosed with Machado-Joseph Disease (MJD) and requires ongoing care.

Our client instructs that:

She has, in the past, attempted to contact the provider to notify of her inability to attend her obligations.

She has done so by attending in person, and by telephoning, but the Provider was not in the office.

There was no mechanism by which she could leave a message for the Provider notifying of her absence.

In early March, our client's Newstart Allowance was also suspended.

*Lack of cross-cultural awareness / Failure to recognise emergency / Failure to proactively discuss appropriate exemptions*

In the March 2017, our client underwent a CCA. Our client instructs that:

She felt as though the PST lady was angry with her.

She attempted to explain the emergency with which her daughter was recalled to the hospital. Our client was “in a panic” at the time - she believed that her daughter might die. (A situation of medical emergency would give a reasonable excuse for not contacting her Provider before the relevant obligations).

She also explained that she had taken over the care for her cousin sister who is suffering from MJD. The PST lady did not believe her and required the MJD support worker to call them and verify the situation.

The PST lady said to our client: “Don’t worry about it”. She told our client: “You can’t help everyone else, you have to look after yourself.”

Our client was highly offended by this cultural insensitivity. She told the PST lady: “I can’t forget about them. They are my loved ones.”

Our client was highly distressed by the PST worker’s comments in light of her cultural obligations towards (and love for) her family. Our client cried and felt really down about what was said. She expressed that the worker’s comments really hurt her feelings.

Comments of this nature certainly show a lack of understanding of the cross-cultural context in which the CDP scheme operates.

#### ***Case study D***

Our client is a 48 year old woman living in a remote community. Three years ago she was involved in a car accident and since that time she has suffered neck and back pain particularly when sitting down. When placed on CDP she was assigned to a sewing program. Sitting and bending over for hours on end inflamed her back and neck, causing her pain. She has missed many activities and been penalised many times, including several serious penalties. Our client told her provider about her back pain but no exemption was actioned by them. She is now seeking additional medical information to support her request for an exemption. Whilst she may still get an exemption, our client and her family have endured several occasions of reduced income because of the onerous obligations on her.

#### ***Case Study E***

Our client is a 37 year old Aboriginal woman living in a remote community. We met our client on her way back from attending an appointment with the local service provider.

Our client instructed that she was having problems with her payments and that she was “getting short pay”. Her partner was disabled as a result of a car accident and was receiving DSP. There were also issues with her partner’s payments and she did not know why.

Our client instructed that she was the primary carer for her husband, who needed to be watched due to suffering from frequent blackouts and dizzy spells. She also was a carer for her mother in law who was also disabled and was living with her and her

husband. She was also supporting her four children (two adult children in their late teens and two younger children under the age of 15) as well as taking care of two small grandchildren. She said that she was 'always doing home care'. Her eldest son was not currently receiving any Centrelink payment and she was supporting him and his two children.

Our client reported struggling with money for food to feed her family members. She reported that recently her payment had dropped dramatically. Normally, she received an amount into her bank account and an amount on her Basics Card. Both had been significantly reduced and she didn't know why. She asked us to assist her to understand why her payments had been fluctuating

We requested information from Centrelink about our client's payments to assist her to understand why her payments were fluctuating. Records obtained from Centrelink showed that her payments had been reduced significantly due to the need to repay various loans and advances that had been made to buy things such as household items. They also showed that two 'No show no pay' penalties had recently been imposed on her, one in the amount of \$150.00 (the penalty imposed for missing three days of activities) and another in the amount of \$100.00 (for missing 2 days of activities). In the fortnights that these penalties were imposed, they would have represented a 30 % and 20 % reduction in our client's total payment, respectively.

In addition, a couple of months earlier our client had had an 8 week penalty period imposed. Our client had been suspended for the full period (ie the suspension had not been addressed and ceased) with the effect that our client had not received payments for two months.

Our client reported that she was required to do 'activities'. She instructed that she had found it difficult to attend activities due to her family obligations and as a carer. She instructed that she was not currently required to attend activities at the facilities run by the service provider because she was doing "home care" to fulfil her requirement to attend activities. Although this made things easier for her, she was still required to attend appointments with the service provider as part of her job plan and found this difficult. It was also clear that she was still receiving 'no show no pay penalties' that dramatically reduced the income that she had to provide for herself and for the family members that she cared for or financially supported. As a result of being required to undertake mutual obligation requirements despite having significant barriers to participation, she had also been cut off from her payments for two months.

Our client demonstrated limited understanding of the mutual obligation requirements associated with her payment and why her payments had decreased or ceased. Unlike other clients, she had not been able to resolve her 8 week suspension period.

NAAJA considers that this case study illustrates the difficulties that individuals subject to mutual obligation requirements in remote communities have with addressing and resolving problems with compliance, resulting in penalties being applied in circumstances where they are unreasonable or cause hardship. For individuals such as our client, the hardship caused by the imposition of penalties

impacts not only on her individually, but on the extended network of family members that she cares for and financially supports.

### **Case Study F**

Our client is a 39 year old Aboriginal woman that lives in a remote community and speaks English as a second language.

Our client is employed part time as a 'supervisor' by the service provider. She instructed that this means that she receives \$125-300.00 a fortnight in wages and about \$200.00 a fortnight in Centrelink payments. Because she is still receiving a payment, she is still required to undertake various obligations as part of her job plan, and can be subject to penalties for non-compliance.

Our client told us: "I have to share food with all my family. Some payment goes to basics card, some to savings account. Sometimes my payments goes down, I don't know why. It goes up and down."

Our client instructed that her payments had recently been cut off. She reported not understanding why her payments had been cut off, but asked the service provider for assistance. The service provider told her that she would need to call the participation team at Centrelink to get her payments put back on.

Our client called Centrelink to resolve the problem, but had problems getting through. Firstly, she called Centrelink from the service provider's office using her own mobile phone. She instructs that she started calling at 8am but did not get through, and eventually at sometime around 12 noon her phone cut out. At 1pm, a staff member of the service provider offered our client the use of the staff member's mobile phone and she started calling again. She instructs that she waited on hold for the entire afternoon and didn't get through until about 5pm. After getting through to the participation team at Centrelink, and with the assistance of staff at the service provider, she was able to get her suspension resolved.

In total, our client instructed us that she had spent between 8 and 9 hours on the phone that day trying to get her payment resolved. She had only been able to persist due to the assistance of the service provider staff. She instructed that this experience was very frustrating. Our client's account was confirmed by the staff member who had lent our client the mobile phone with which she had made the call.

We proceeded to look further into why our client's payments were changing and understand that this was most likely the result of changes in her income from fortnight to fortnight.

NAAJA has found that reductions in payments due to income earned as a supervisor was commonly a source of confusion among supervisors that we spoke to. The income that supervisors receive as a result of their part time work is often not a substantial amount per fortnight, and because this often results in a decrease in their Centrelink benefit, the difference in the money that they take home each fortnight was not substantial. Supervisors are also still subject to many of the same obligations as other CDP participants under their job plan. As a result, while many supervisors understood their role and responsibilities as different to other CDP

participants, for many supervisors, the distinction between attending the service provider and “working” (earning income through employment) and attending to do ‘activities’ is not apparent.

In some cases, this had led to individuals incurring debts as a result of not reporting wages received from the Service Provider as ‘income’ because they were not aware that this payment was any different to receiving their Centrelink payment.

NAAJA considers that this case study illustrates:

- The barriers individuals face in resolving 8 week penalty payments, including wait times to get through to PST.
- The failure of the current system to provide participants with tangible benefits for gaining part time employment with a service provider (often the most accessible form of employment in community).

### **Case Study G**

Our client is a 22 year old Aboriginal man from a remote community who speaks an Aboriginal language as a first language and limited English. He has a partner with whom he has a two year old son.

Our client instructed that his payment had stopped about a week earlier. He called Centrelink and they told him that his payment had been cut off. It took him about 2 hours to get through to Centrelink. He tried to explain the reason why he wasn’t able to attend activities but said that they ‘didn’t let him’ and told him that he was going to have to ‘sign a form’. The person who he was speaking to then ‘hung up the phone’. Our client was confused by this conversation and about what he needed to do to get his payments restored. The conversation was not conducted with the assistance of an interpreter.

Our client instructed that it was often difficult to get problems with Centrelink payments fixed when you were on activities. Sometimes you went to the service provider to try and fix it and they told you to go to Centrelink. Sometimes you went to Centrelink and then they told you to go back to the service provider. You had to keep on going ‘back and forth’.

Our client was worried that the problem had not been fixed so he kept ringing Centrelink again, but waited a long time and didn’t get through. When we first saw our client he had not been able to reverse the suspension of his payments and not had any source of income for two weeks.

Our client instructed that he was struggling to pay for food and that there was ‘nothing in his house’ at the moment. He had not had anything to eat so far that day and had been ‘going to work hungry’ that week. Despite being ‘cut off’, our client instructed that he had attended activities every day that week so far.

He said that he was most worried about making sure that he fed his son properly and that he was ‘trying to get a job so that he could feed his son’. He had also seen underweight kids being removed from their families by child protection workers and this worried him a lot. He said that parents ‘want to grow their children up strong’ but

that this could be very hard when payments get cut off and was a big problem in community.

Our client instructed that he had been 'going around asking family members for money to feed himself and his family'. His partner was also having problems with her payments and had recently received a fraction of her normal payment.

### ***Case Study H***

Our client is a 42 year old Aboriginal woman living in a remote community.

Our client has several health issues including:

- Diabetes (she requires insulin)
- Back pain
- Kidney problems
- Fluid around heart
- High blood pressure

These health issues cause our client problems with pain, energy, temperature regulation and mood. Our client instructs that these issues mean that she is unable to participate in activities without difficulty.

Our client instructs that she had previously attended activities but had found the activities that she was asked to undertake difficult because of her health issues. The activity that she was previously allocated was sorting out recycling and picking up rubbish.

Our client instructs that she tried to tell participant solutions that she was having difficulties doing activities because of her health, however her payment was suspended despite this. Last year she gave Centrelink a report from a health clinic explaining her heart, kidney, diabetes and back problems. After she submitted this report she was advised that she was still required to work. She later told a social worker from Participation Solutions that her back pain was making it really hard for her to pick up rubbish. Shortly after this she stopped going to her activity.

Our client instructs that she had been discussing her health issues with Centrelink for the past 3 years and has provided medical records to evidence her health issues. She has applied for DSP but Centrelink said she needs to provide more information. She is finding the application process difficult.

In 2017 our client's payment was cut off because of failure to participate in her CDP activity. She did not receive her Centrelink payment for 8 weeks. Our client instructs that she did not get any warning that her payments were going to be cut off.

### ***Case Study I***

Our client is a 44 year old Aboriginal man living in a remote community.

Our client receives Newstart and is required to attend 'activities' as part of his job plan.



Our client used to work in the community with the night patrol. However, he then sustained a serious injury that resulted in injuries including to his head and back and resulted in two pins to be put in his hips/legs.

Our client instructs that he finds labour-intensive activities difficult.

For activities, our client normally does mowing or physical labour such as 'picking up rubbish and rocks, lifting boxes'. Our client instructs that he finds labour-intensive activities difficult. When he does mowing or labour involving lifting objects or bending over 'I have a lot of pain in my back'. Due to problems with his hips and legs, he has developed a special way of bending over with his left foot so that he doesn't have to use his right leg. He instructs that he finds it 'hard to work'. 'When I start to work, then the pain comes back and I start taking painkillers. I have the pain all the time but the pain gets much worse when I do activities'. He says that he is 'scared that [his pain and incapacity] will get worse].

Our client 'used to be on the bush team and would go out bush to work' (activities), However, this work involved lifting heavy logs and he couldn't do it so he asked to be transferred to a team based in the town. The town work is easier for him but he still finds it hard.

Our client instructs that about every three weeks the pain becomes very bad and he can't work at all because of the intensity of the pain and because he feels 'dizzy from the pain'. A severe episode normally lasts for a day or so, sometimes a week or more.

Our client spoke to his supervisor about his problems and has been advised to apply for DSP. He said that his supervisor had said that there is a limit to how many exemptions from work is he able to get. Each time he requests an exemption from work due to his physical condition, he needs to provide a medical certificate. When we first saw our client he had not been at work that day or the day before due to pain and had gone to the clinic to get a medical certificate. The clinic had provided him with a certificate exempting him from work for only the two days that he had already missed. Our client said 'my back is still hurting so I will probably have to go back tomorrow. I ask for a 2 week certificate sometimes so that I can recover but they only give me a day or two at a time.'

Centrelink records confirmed that our client's last job capacity assessment occurred 10 years ago.

Since December last year, our client has been suspended four times (almost as frequently as once a month) and has incurred three 'no show no pay' penalties for failing to attend activities, each in the order of \$50.00 (10% of his fortnightly payment). In the case of each of the suspensions, he was able to resolve the issue without incurring a loss of payment.

Although he has so far been able to resolve the suspension of his payments when this has occurred, he instructs that he has found it difficult to do so. It can take 'often 3 or 4 hours' to get through to Centrelink. The people that he speaks to at Centrelink 'speak to fast' and 'ask a lot of questions'. He finds it hard to talk to them,

particularly because no one speaks his language and English is his second language.

Our client instructs that he does not want to sit at home being bored: he wanted to do 'different work' other than mowing lawns and other physical activities instead. He has thought about what other kinds of jobs he might be able to do and thought maybe he could try and get a job at the take away, but then realised that this also involves lifting stock and stacking shelves.

We consider that this case study demonstrates:

- The inability for CDP programs to assist individuals to find work addressed to their specific needs (including as a result of physical incapacity) due to a lack of resources.
- The incidence of individuals with significant health issues being nonetheless required to participate in activities and the hardship that this creates.
- The difficulties experienced by job seekers in trying to provide evidence for legitimate reasons for failing to attend activities (such as illness).

### ***Case Study J***

Our client is a 39 year old Aboriginal man from a remote Community in the Northern Territory. His experience with the CDP scheme highlights a number of key challenges explained below.

#### *Language and communication difficulties / Lack of understanding*

Our client left school when he was 15 years old to go and work on cattle stations. He is able to read, but cannot write well. He can speak and understand conversational English, but struggles with complex concepts and technical words.

Our client never properly understood the compliance scheme until NAAJA explained it to him diagrammatically on 31 January 2017. He had received a number of compliance failures in the past.

He did not understand that the "provider mob" was different to PST. He had no idea who "Participation Solutions" were or what a "Comprehensive Compliance Assessment" was.

After an explanation of what a CCA was, our client instructed that he may have had one or two of those in the past. They were discussions over the telephone. When asked what was discussed, he said "how to find jobs and get medical certificates". Our client instructs that the DHS / PST employees talked to him in a "fancy way" he did not understand. He repeatedly had to ask them what they meant.

When he was informed that his payment had been suspended for 8 weeks, he did not understand why. He believed he had been doing his work hours.

#### *Cross-cultural issues*

The job provider employed by the Local Authority for our client's community is a woman. Culturally speaking, our client feels shy and shameful discussing some

issues with the provider. This includes health issues and family problems that he has experienced in the past.

This cultural context acts as a barrier to his successful participation in the scheme, as he instructs that he “holds a lot back” from the provider.

#### *Provider’s failure to engage with work goals*

A few years ago, our client was working full time for the Local Authority in his community. His duties included rubbish collection, mowing and generally keeping the town tidy, in return for wages. He obtained a number of certificates during his employment there for activities such as fire service, first aid, and construction.

Unfortunately, our client served a period in prison during 2015/2016. His employment with the Local Authority ceased at that time. When our client returned to community, he was put on Newstart allowance. His activities at that time involved parks and garden work such as planting trees.

Our client has observed that the kind of work he used to do for wages in the community now appears to have been taken over by CDP participants.

Our client feels that the provider is not really trying to help him get paid work. The provider has not had any discussions with him regarding study options or work goals. Our client asked the provider for help to renew his Ochre card, but felt like the provider would not listen and did not help. He wants to work for wages, but the provider just tells him to “go do his activities and go home”.

#### *Logistical issues*

NAAJA assisted our client to lodge an ARO appeal to have his penalties reviewed. At that time, a Centrelink officer advised that our client’s payment had been suspended for failing to attend a CCA.

On Centrelink’s request and NAAJA’s advice, our client made a number of attempts to contact PST to re-engage. He experienced various logistical difficulties, including significant wait times:

On one occasion, he had to wait about 2 hours to get through to Centrelink, was then transferred to PST and had to wait a further 1 hour on hold to speak with a PST employee.

On another occasion, he had to wait 1 hour to get through to Centrelink, then a further 30 minutes after transferring to PST.

On another occasion, he had to wait 40 minutes on hold to speak to someone at PST, who told him to hang up and that they would call him back. It is unclear whether this occurred, and if it did, whether the call back was successful.

On another attempt, he got straight through on the phone. A recording told him to enter his CRN into the phone, then press “#”. He did this and pressed “#” a number of times, but nothing would happen.

Our client's payment was ultimately cancelled for failing to re-engage with his provider.

*Lack of Centrelink agent in community*

There is no Centrelink agent in our client's community. In the face of the above logistical issues, a participant's only alternative is to travel to the nearest regional centre to engage with Centrelink in person.

Many people in communities do not have access to a private vehicle, or even if they do, may not be able to afford fuel (particularly if they are a participant with a suspended or cancelled payment).

The only option is to wait for a lift from a community member (which may take several days), or to take a taxi. A taxi ride from our client's community to the nearest regional centre costs in the order of \$240 - almost the entire amount of a weekly Newstart payment.

*Difficulties engaging with health care providers*

In late 2016, our client was involved in a motor vehicle accident. He underwent surgery at the Royal Darwin Hospital (RDH). Upon his return to community he experienced significant difficulties obtaining a medical certificate from the Doctor at the RDH.

The health clinic in our client's community is run by a non-Government Health Service. A Doctor attends the community only one day per week. Unlike town private clinics, community clinics such as the clinic in our client's community do not take appointments. As a result, people who are feeling unwell may have to wait a considerable period of time in order to obtain a mere 1 day medical certificate. It is also unclear whether nurses are able to issue medical certificates for Centrelink purposes, and if so, whether community members are aware of this.

When our client's ARO appeal was lodged, NAAJA was provided with a list of failures, and invited to provide medical or other evidence in support of the absences. We asked our client to attend the clinic and obtain a full copy of his medical history (as it is often difficult for remote clients to remember events and dates).

Our client struggled to articulate to the clinic what he required. In response, the Health Service provided our client with records only relevant to his motor vehicle accident.

NAAJA is limited in the way it can assist in circumstances like this. For clients in some regions, we can either request a full medical record without charge, or we can write a letter for the client to take to the clinic explaining what records or opinion is required.

For clients in other regions, such as this client, this is not possible. At any mention of involvement by NAAJA, the Health Service will charge NAAJA a fee (sometimes in the order of \$150.00 or more) to provide records or a letter of opinion. NAAJA has limited funding and is unable to meet this expense in the majority of cases, nor can clients who are suspended or cancelled from Centrelink benefits afford to meet that cost.

The end result is that frequently participants are simply unable to properly prove their absence to the standard expected by DHS / PST.

### **Case Study K**

Our client is a 26 year old Aboriginal women who lives in a remote community. She does not speak English and spoke to NAAJA with the assistance of an interpreter. She is a single parent with two children between the ages of 10 and 12.

Our client instructed that she used to work for sport and recreation in community. But then she had kids and had to stop work to look after them.

Our client instructed that her payment went down by \$100 a fortnight. Then it stopped. She instructs that they rang Centrelink and Centrelink asked her 'if she has a job'. She said that the person from Centrelink recently told her she needed to do activities when she rang up to report, but she did not know what these were. 'I was too ashamed and embarrassed to ask'. She says that she was ashamed because of her poor English.

When her payments got cut off, she 'went without money for a long time'. In this period she 'had nothing on her basics card'. She says 'it was a really hard time: no food, no groceries.' She had to get food from her sister to feed herself and her kids. Her sister is on a disability payment and a parenting payment and also has two little kids to look after. Her sister is also a single mother.

Recently, one of the community liaison workers employed by the service provider told her about activities and she understood. They helped her get back on her payments again and now she is getting paid. At the moment she is working from home on cultural business and is fulfilling her activities that way, however soon she will need to go back to attending activities at the Service Provider's office.

She says that she 'doesn't know about activities, what it's like, she has never been there' but thinks that it is a 'waste of time'. She wants to stay at home and look after her kids and find a good job. However she says that 'sometimes it's hard to get a good job here'.

Now that she knows more about activities that she is required to do and understands why her payments got cut off. She thinks that getting cut off is unfair, particularly when people don't understand. She thinks that people should not be made to do activities.

### **The adequacy of the policy process that led to the design of the CDP**

We are not aware of any public consultation or process leading to the design of the current CDP and certainly no process that sought the opinion of Aboriginal people. However, the feedback received in community consultations indicates disconnect between the views and aspirations of Aboriginal people affected by CDP and the design of the current policy. We base this on:

- Consistent feedback as to the problems associated with CDP and set out in this submission come from a broad range of people including consultations

with men and women, concerns raised by service providers, NAAJA client issues and other community groups.

- The widespread confusion about the current policy and its details and the lack of education and awareness of key policy aspects including penalties which impact individuals and families significantly.
- Suggestions for change expressed at the community level and through meetings and fora arranged by Aboriginal led non-government organisations.

In a consultation:

‘Young men here don’t know the history. The fathers and uncles they know what happened in the 70s, 80s. Aboriginal people didn’t invent ‘sit down money’. That was the government.

In the 90s we were making our own things, doing plumbing etc. When dole money came in, people stopped working. In 98, 99 there was change and a lot of confusion.

Then there was the Intervention. The intervention was really bad for [our community]. When it happened, a lot of jobs were taken away from Aboriginal communities.

CDEP was ok. We got top up money. Then things changed for the worse.

They have taken the ‘e’ out of CDEP. The E is for employment. It is true: now CDP is not about employment.

When they changed from CDEP they changed it to what they thought was best for us. Here in [our community] we’ve got strong culture, several different types of ceremony. We shouldn’t be treated like this just because we’re black fellas.’

Aboriginal people in the Top End are impacted by policy and law reform to a greater extent than any other group in Australia. Significant reform to different legal and policy areas has taken place over many years and decades. The complexity in terms of multiple languages and levels of understanding and interpretation of complex policy design impacts communities and individuals. Higher rates of health issues including mental health, the adverse effects of racism (and connection to mental health), systemic issues in terms of criminal justice and the impacts of policy including child welfare as well as an ongoing loss of agency and cultural authority in decision-making processes continues to impact Aboriginal individuals, families and communities.

NAAJA is concerned about the impact of significant reform where there is little to no provision for culturally competent mechanisms in managing substantial policy change.

The Uluru statement, as a collective statement of more than 250 Aboriginal representatives from across Australia, illustrates this point:

‘Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people. Our children are aliened from their families at

unprecedented rates. This cannot be because we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future.

These dimensions of our crisis tell plainly the structural nature of our problem. *This is the torment of our powerlessness<sup>2</sup>.*

### **The nature and underlying causes of joblessness in remote communities**

The nature and underlying causes of joblessness in remote communities are complex and multi-faceted.

In the context of remote community employment services an underlying cause of joblessness in remote communities is the inability of these services controlled by government and non-government organisations to adapt to local and regional contexts. Aboriginal people at the local level and in communities, consistently call for greater decision-making roles and cultural authority in matters pertaining to them and their families and communities. The function of supporting this is ensuring employment structures, positions and policies value and support Aboriginal people including from remote communities, across the facets of the criminal justice system and related sectors.

In NAAJA's direct observations and experience Aboriginal people from remote communities value the importance of work and the link between meaningful employment and personal wellbeing.

In one consultation, the group expressed the view that 'doing activities is good' in the context of the activities that they were assigned to do (making items for sale to members of their community in a context where they had agency over the nature of the work, received income from sales and could design and produce culturally informed and well-made objects that they were proud of). Participation of Aboriginal people from remote communities in the Department of Correctional Services Sentenced to a Job program in areas where there are correctional facilities (prisons) indicate strong participation in work. Aboriginal people hold Ranger positions and participate in work including tourism and art across the Northern Territory.

In feedback from a men's group:

'These boys have a good work ethic.

This place does get people jobs. We've got a good record. But it's because we go further, help people bridge the gap between CDP and work. You have to ease people in. People need more support, even with basic things like transport to get to work.

Some of the work available in this community is contract work, short term.

Some people don't want to do contract work for builders: they would prefer to work in the workshop making objects to sell to their countrymen even if they get less money than on a building site.'

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<sup>2</sup> Uluru Statement from the Heart, 26<sup>th</sup> May 2017

The incentive and commitment to work is motivated by a commitment to serve family, community, and cultural obligations. Some of these obligations relate to looking after family or cultural obligations of ceremony.

In one consultation:

‘We are living in two worlds. Two different laws. There are too many rules, we can’t keep up. The two different laws, they conflict.’

‘We have other responsibilities at home. We can’t do them because we have to do activities.’

Negative behaviours also affect motivation. In one community consultation it was observed ‘some young people take drugs and drink alcohol.’

### **The ability of the CDP to provide long-term solutions to joblessness, and to achieve social, economic and cultural outcomes that meet the needs and aspirations of remote Indigenous people**

Investment in training, resourcing and working with community organisations and giving people an opportunity to develop employable skills and practices – which form the core elements or intent of CDP – does have the ability to affect joblessness and achieve social, economic and cultural outcomes that meets the needs and aspirations of remote Aboriginal people.

As the challenges facing Aboriginal people are multi-faceted the response must also be multi-pronged and so CDP sits within the scope of other significant programs and policies.

An example of the impact of the criminal justice system and related sectors is provided in our response to the terms of reference ‘nature and underlying causes of joblessness’.

Housing and chronic overcrowding is another significant issue. In one consultation with a service provider:

‘One of the reasons why people don’t attend is because they are too tired. Overcrowding means that often there are up to 20 people in a house, including a number of children. When there are young or sick kids or sick family members, then the whole house might be kept up during the night’.

For communities with a very limited supply of jobs and given Aboriginal people’s commitment to meaningful work, the notion of CDP has a prominence in vocation and the idea of regular activity. It is for this reason that local control and influence of CDP policy is particularly important. Systemic reform which empowers and restores Aboriginal people’s ownership and direction of CDP has the potential to serve as an example to other areas of government policy as to what can be done to give substance to the notion of Aboriginal control. This type of reform is envisaged in the APONT paper. Conversely, a program with harsh penalties, difficult review mechanisms and poor communication channels disempowers communities and contributes to disaffected communities – which is also a contributor to joblessness.



### **The impact of the CDP on the rights of participants and their communities, including the appropriateness of the payments and penalties systems**

NAAJA is currently providing a client advocacy service to persons affected by the CDP arrangements and who have applied (and are eligible) for legal assistance. These are clients from remote Aboriginal communities across the Top End.

NAAJA draws upon its limited funds to provide this service in explaining the changes to CDP. Our civil law section is at capacity and involves very busy lawyers who are passionate about supporting clients and undertaking the work necessary to support our client group. The support for NAAJA clients affected by CDP is reflective of the greater need for information.

We suggest considerations in the reform of CDP also consider the likely impact to legal services and that this information is presented clearly by decision-makers involved in the reform and to the public (and those services likely affected).

We suggest further that this information is used to inform policy design and resources required for effective change management in policy design.

We anticipate similar issues for the health sector in terms of the requirement for a medical certificate and the additional work required to process certificates and requests for certificates.

In one consultation, the additional burden affected an organisation's ability to assist CDP participants:

'There are lots of problems with clients having to contact the PST team to deal with non-compliance issues (i.e. they don't show up for activities or fulfil mutual obligation requirements).

If we aren't there to help people when they get put through, then very often they don't get seen with an interpreter, even if they really need one. The Centrelink staff on the phone very often don't know to ask our client if they need one.

Because of this, our clients get really disengaged. People get frustrated and don't come back, even if that means that they won't get paid. This is one of the reasons why there are so many people suspended: sometimes as many as 20-30 at a time.

We don't get funding to provide this type of assistance, but we have to do it otherwise people will get penalised.'

### ***People are confused about the process including payments and penalties systems***

A common theme across our consultations and client work is the widespread confusion about the CDP and particularly the payments and penalty components. The most obvious example of this is varying terms used by our clients to describe CDP, including commonly: 'RJCP', 'work for the (provider)' or CDEP. It appears that

even the most basic information about CDP – its name and that it is different to previous programs- has not been communicated.

In one consultation:

‘Participants reported some understanding of how penalties work under the CDP system (‘if you don’t come you don’t get paid’). However, there was a great deal of confusion about different types of obligations under the job plan (i.e. the difference between appointments and activities, why payments sometimes went down and why people get cut off for 8 weeks, even among the group that were attending regularly). Participants also noted that although they had some understanding of what they had to do to get their payment, many people in the broader community didn’t.’

‘Some people understand how [work for the dole/CDP] works, some don’t. The different penalties and different requirements make a lot of confusion.’

In another consultation:

‘People sit on the phone for hours and hours. Then Centrelink says – you’ve got to come for an appointment to get back on your payment.’

‘When those young girls don’t understand they just say “yes”. But then they don’t know what is happening, what they have to do. So many people don’t understand. There’s so many things to understand – reporting, activities, appointments.’

In a consultation with a service provider:

‘The mainstream system, it doesn’t work out here, in remote communities.

There’s no capacity to train supervisors due to a lack of resources. There are big language barriers for participants so they need well trained supervisors to help that speak the language.

Participants don’t understand how it works until it affects them.

The government is always putting pressure on service providers to get results, but not providing enough support.

The real barriers for the group that I work with are education, literacy, numeracy, English.

Here, we employ older women to try and engage the younger ones. We need resources to help train these older ladies.

The service provider staff just don’t have capacity to look after people, to make sure they don’t get cut off etc. There used to be more staff. Now there are less staff and we all carry high case-loads.

We tried to run a [recreation activity] but we didn’t have the room and the resources. We don’t have space for a big group of women.

We try and talk to people, help them understand how it works (fortnightly reporting, NSNP, 8 week penalties, suspensions etc). But there’s not enough

staff members to educate people, run activities and help people resolve problems’.

Several other aspects of the penalty system applied under CDP have harsh, unfair and unintended outcomes when applied to remote clients due to language, literacy, communication and cultural awareness issues:

- A wide range of exemptions are available for jobseekers who are participating in activities and a diverse range of ‘reasonable excuses’ can, in theory, be applied to prevent penalties from being unfairly imposed. However, our clients can have significant issues with accessing these exemptions due to language barriers, communication issues and cultural barriers which prevent our clients from explaining why they were unable to attend.
- Communication issues and a lack of understanding of cultural awareness also contribute to an increased risk that a DHS employee will not understand a participant’s barriers to fulfilling their mutual obligation requirements and will thus assess a participant as having “intentional, reckless or negligent compliance failures” or “persistent non-compliance”. This increases the risk of a participant having a “serious failure” imposed (and, as a result, sanctions such as a suspension of payments or an 8 week non-payment period).
- When our clients have issues complying with their mutual obligation requirements, they are sent for a Comprehensive Compliance Assessment (CCA). CCA’s are conducted by Centrelink officers, often over the phone. Due to language barriers and communication issues, CCA’s are ineffective at identifying barriers to participation and grounds for exemptions such as health issues and family responsibilities. This contributes to the high number of people being required to attend activities and failing to comply due to these barriers to participation that are not being recognised. As a result, penalties are being applied (see case study E which relates to caring responsibilities and case studies A, J, H which relate to health issues).
- In addition, failures to adequately deal with barriers to participation lead to a failure to address those barriers. This leads some clients into cycles of attending CCAs, having a ‘serious failure’ imposed, being required to undertake a period of ‘compliance activities’ (in which non-compliance can lead immediately to significant penalties being imposed), failing to comply, and then starting the cycle again with an increasing risk of having significant penalties imposed or having payments suspended or cancelled.
- The threshold for a ‘serious failure’ to be imposed is very low: depending on the circumstances, the trigger for a CCA and the imposition of a serious failure might be missing a single appointment with a service provider, or failing to attend 3 days of activities within a six month period. Participants without a good understanding of their mutual obligation requirements and the reasons why penalties are imposed, are significantly more likely to meet this threshold.

In a consultation with a service provider:

‘One example of this [where the process does not take into account local context] is a client recently who got cut off. We helped them call Centrelink, wait, get through, book a CCA and attend the CCA. They had the CCA in the morning and then were required to attend [the service provider] in the afternoon for an appointment with [the service provider]. However, they didn’t come to [the service provider] in the afternoon, so they breached immediately and got cut off again. They didn’t come because they didn’t understand they had to because the CCA wasn’t conducted with the use of an interpreter. So after all that, they were still cut off’.

To be direct, NAAJA does not recommend that all of the systemic deficiencies of CDP can be resolved through merely communicating the program to participants better. However what is clear is that for any program to be effective it must have widespread understanding, particularly in the context of community wide language barriers and incessantly changing obligations and government intervention.

***Requirements are too onerous and fail to take into consideration barriers to participation on remote communities***

The requirements under CDP are more onerous than any other job market program in Australia. On top of that, living in remote Aboriginal communities comes with many additional challenges, including distance, lack of public transport, overcrowding and often poverty. Feedback received from multiple consultations is the view that the requirements for CDP participants are too hard and too onerous. Our submission is that this view is not unreasonable.

Mutual obligation requirements are complex, with many participants being required to attend ‘activities’, appointments (often at multiple locations), and report by telephone or in person on a fortnightly basis. As noted in the APONT paper (p 5):

‘Employment assistance provided under CDP is based on a mainstream ‘activation’ model. The program is designed to maintain pressure on people to ‘do things’ - like go to appointments – even when these activities are unlikely to lead to employment. The threat of income support penalties is the main tool to keep people active, which means that the program is highly rules based and dominated by administration’.

Feedback from participants and providers indicates that this approach is not well adapted to communities where participants face language barriers, lower rates of literacy and problems with transport.

In another consultation:

Participants expressed a view that requirements should be clear, rather than a system that has many different obligations and different penalties:

‘Sometimes we understand how it works, when we have to go to appointments. Sometimes we forget when we have appointments.’

In another consultation:

'It's hard to get young girls to understand that they need to come to activities.'  
It's 'hard on them'. The older women and supervisors said that 'we try to help those girls get their money'.

'The young girls say: why do we have to just go and work long hours for Centrelink money? Then they go home.'

We [the women] don't feel useful coming in here for activities especially compared with the men who can 'go anywhere'. A lot of people say 'what's the point? It's pointless what we do here.' 'Some of the work is boring.'

'Everyone wants to get a proper job or full wages. Or we'd rather be at home. We'd rather be at home cleaning up the house than here drinking tea.'

There are different reasons why people don't come. Some don't understand. We try and get them to do activities but very often they don't understand.

Some people are doing discos, gambling.

Sometimes people miss activities because of problems at home'.

'In my house, there are 15 people and two bedrooms. People are tired, they're not sleeping. They can't get to activities in time. People need to sleep so that they can go to work but it's so noisy with all of those people, you have to look after the kids.'

'You're only allowed to miss so much. You can't take a week off if you need to sort something out.'

In another consultation:

'There are lots of people that don't come.

There are ladies that are longrassing, shifting around town. Or they move and have to swap programs. Or it is too far to come if you don't have a car. Transport is limited.

Because of taking care of children.

Because people are tired.'

In another consultation:

'It's really confusing.

Doing activities impacts on people. People that are doing other things get forced to do activities. And people don't really understand why. We ask, can I get a real job?'

(Participant in her 30s): 'I want a real job so that I can earn real money. But I will need to find it myself, they have said I need to do it. It's hard to get a job in [this community].

It's particularly hard for women to get a job in this community.

We want to try and get jobs doing landscaping, running nurseries, working outside, taking care of children. We want proper jobs, like the men.

There used to be jobs in child care. But when the [service operator] took over the child care centre, there were no more jobs for Aboriginal people.'

In a consultation with a service provider:

'People also get frustrated with having to do so much work (activities), the fact that they have to turn up so much. They don't understand why they are doing it, they don't see the point.

There's no flexibility with the times that people attend. We have to run it 8-1pm Monday to Friday for people that are full time. For a lot of people the timing doesn't work.

...

Staff at the service provider simply just don't have the capacity to make sure that people aren't getting cut off unreasonably. We've got to administer the program.

Think about it – the requirement is to attend five days, every day, only six weeks exempt, excuse. It's as onerous as a job but without the flexibility and it's just for dole money'.

An activity requirement of 50 hours per fortnight restricts the liberty of a participant to engage in any other pursuits, bearing in mind that they are receiving a limited financial benefit for participation. This is putting aside the inhibiting effect that requiring people to spend hours doing, what many describe as mundane activities, has on their ability to source employment.

NAAJA assists clients in several larger remote communities that act as hubs for a number of smaller homeland communities or outstations. Many of these communities are affected by lack of access to transport due to their remote location. We are aware of instances in which clients living in extremely remote locations have had their payments suspended (or cancelled) as a result of failing to attend RJCP/CDP appointments due to a lack of transport. In some cases, individuals report pooling limited resources to charter private aircraft to attend appointments with Centrelink or service providers at significant cost due to being told that they must attend in person.

### ***Trying to fix CDP problems is difficult***

#### *What consultations say*

In group consultations concerns were raised about the difficulties participants experience when trying to address and fix individual problems associated with CDP (including missing appointments and penalties).

In one consultation:

'When you have a problem with CDP/payments, it's very difficult to fix it.'  
'Sometimes you have to go to [the CDP provider], sometimes you have to go to Centrelink. Sometimes [the CDP provider] can help you. Sometimes you go to [the service provider] and they can't help you and they have to send you to Centrelink. It's very confusing.'

'Sometimes, [the service provider] puts us on the phone. Sometimes when we are on the phone we talk to the participation team. Sometimes we can tell that we are on speaker and there are people talking in the background. Sometimes they transfer us to the local Centrelink office. Sometimes the people in the local office laugh at us. We know them. They make fun of the Centrelink clients in the community.'

In another consultation the issue of problems with the phone system was raised:

'Getting through to Centrelink is a big problem. 'Sometimes they put you on one line, you have to wait long hours, and then they transfer you to another line and you have to wait long hours again to talk to participation.'

'Participants in the group reported commonly waiting 2-4 hours on the phone before getting through to Centrelink, sometimes more. 'If you miss activities and you get 'on the list' it can take 3 hrs on the phone, sometimes more. You had to wait so long, people just give up.'

'You see someone talking on the phone for a long time and you know they are getting the opera music. We are so sick of that opera music.'

'Participants often used their own mobile phone to call Centrelink, although sometimes a phone at the service provider or the Centrelink office was available. 'Calling Centrelink creates money problems. You put in \$10 credit and it just goes like that. It uses all your credit because you have to wait so long. You have to buy a lot of credit. Or sometimes you call and wait a long time and then your credit is done and it cuts out.'

'The CDP participants that I spoke to were aware of the Freecall Centrelink number and the Freecall Indigenous hotline but reported that using this number meant that you had to wait longer – sometimes up to several hours more – because once you got through your call had to be redirected'.

'Another problem with Centrelink wait times was that it could cause problems with your partner: 'if you're waiting too long on the phone maybe your wife gets jealous she doesn't know why you are spending so long on the phone, who you are talking to? Maybe you have to get off the phone'.

(I asked if speaking to Centrelink fixed the problems). 'Sometimes yes. Sometimes there are problems.'

In another consultation:

'You get stuck on the phone for hours listening to the music. The boys, sometimes they dance to it in the office because they have to wait and they are so bored. It makes you sleepy waiting. When you call from your phone, it

takes your credit. There is a Freecall number it takes longer because you have to get transferred and then you have to wait again.'

This can add to anxiety associated with a lack of understanding about the cultural nuances of a group which are important to a group.

Concerns in relation to the CDP system not taking into account cultural aspects was raised in a consultation:

'Sometimes I get on the phone to try and talk to [Centrelink] about why I missed activities. For example, maybe there was a funeral and you talk to them and tell them the reason why you didn't go. Then sometimes they are very rude: they ask the name of the person who has died. For [Aboriginal people], you can't call someone by their name, you can't use that name when they have died. It makes it very difficult. Also, when a funeral is on, that funeral might go for a week. Sometimes, they don't understand this, they don't understand that when there is a funeral you might have to miss activities for a whole week. It depends, some people that you talk to are ok, but sometimes the people at Centrelink that you talk to are very rude and don't understand.'

(I asked how many people in the group had this problem (i.e. having trouble getting an exemption from activities to go to a funeral and getting penalties or having problems because Centrelink didn't understand). Every person in the group (about 8 people) raised their hand).

Further:

'When we rang Centrelink to talk about problems with getting payments while on CDP, sometimes an interpreter is used, sometimes one is not used. When no interpreter is used, sometimes the people that we speak to don't understand us.'

'Some boys are shy. When they have family problems, or personal problems, they can't tell Centrelink. You can't talk about some confidential subjects to Centrelink. You can't tell that story.' This could particularly be a problem if you were a man talking to a woman on the phone who is a stranger'.

Similar issues were raised in a separate consultation with women:

'Things like sorry business, it takes a lot of time. Centrelink don't understand that.' There are night ceremonies that can go for weeks, every night. This doesn't fit in with getting an exemption. It's hard to tell Centrelink about this. People don't understand. Also, it's hard to talk about it'.

In one consultation with a service provider assisting Aboriginal people:

'There are lots of problems with clients having to contact the Participation Solutions Team (PST) to deal with non-compliance issues (i.e. when they don't show up for activities).

When people have had their payments suspended, we try and help people talk to Centrelink. We get people to come into our office and use our phone to contact Centrelink.



If you have two people waiting to get through to PST, they won't let you pass the phone on once the first person is done. You have to call back again and start the process again.

Because of wait times, our phones lines are very often are tied up for most of the day with people waiting to talk to Centrelink. Sometimes there are so many people that I let them call on my own mobile phone.

The PST number is a 1300 number so it really chews through our client's credit. They can't afford it. Or, it's so long that their battery in the phone dies. There is a 1800 number but it's a general number, so that you have to wait in the queue and then are on hold for a long time, then you get transferred and have to wait in the PST line again so it takes even longer.

Once you get through after waiting for a long time, if you then ask for an interpreter, you might have to wait again. Same thing if you ask for assistance from the indigenous team at Centrelink. Then it takes even longer'.

Of significant concern:

'If we aren't there to help people when they get put through, then very often they don't get seen with an interpreter, even if they really need one. The Centrelink staff on the phone very often don't know to ask our clients if they need one.

Because of this, our clients get really disengaged. People get frustrated and don't come back, even if that means that they won't get paid. This is one of the reasons why there are so many people suspended: sometimes as many as 20-30 at a time'.

In a consultation with a service provider:

'Exemptions that we can grant are capped. But bush holidays (ie time on country with family and for cultural reasons), etc can take longer. Particularly because people sometimes go on trips and get stranded because they don't enough money to get back or the road is closed. The system doesn't take into account culture, family responsibilities'.

In another consultation with a service provider:

'When people get cut off and they have to ring up for a Comprehensive Compliance Assessment (CCA), they could get someone on the phone that could be anywhere in Australia. They might have no idea what it's like out here, what barriers people are facing. We say to people, when you ring up, tell them you need an interpreter, tell them about the barriers.

People will call up and talk to Centrelink and think that it's all sorted, but they are still cut off or they still have requirements to fulfil; they think they are finished, but they have to come back for another appointment.

People often sit on the phone for 2-3 hours'.

In one consultation a service provider raised a point about how the obligations on participants are not compatible with common obstacles relating to accessing mail and providing suitable identification:

Another reason why people don't get on DSP or an exemption from doing activities is because people miss their Employment Services Assessment Appointment (ESAt) appointments once these are booked. The ESAt appointments are organized by Centrelink and not the provider. Centrelink notify them by phone or by mail. In [this community], people don't know how to access these appointments, can't get relevant documents and have trouble filling the paperwork. Trying to notify people by mail is pointless because so many people can't pick up mail here because they are required to show ID and they don't have any ID. The service provider isn't notified about the ESAt appointments: it shows up in the system but not as an alert or anything like that you have to already been looking in someone's online records to see it.

For example, the other day I was looking at someone's file and I saw that they had an ESAt appointment scheduled so I went and told them about it and helped them attend. They didn't have any idea, and neither did I. If I hadn't come across it by chance then they probably would have missed it. We can't check everyone's records all the time though – we have roughly [hundreds of] people on our books at the moment.

Sometimes, the ESAt assessors ring [the service provider] when someone hasn't shown up to an ESAt appointment and we go and try and find them.

Because of this, a lot of people don't know that they have ESAt appointments and they miss them.

The same issue happens with appointments for re-engagement – because Centrelink organizes them directly with the individual people don't understand or don't know when they are happening and they miss them'.

A further obstacle reported by a service provider:

'We very often help people ring from the office using our own mobiles. We only have [limited] phone lines here and if they are both tied up then we can't take calls from people who are calling in to give excuses for non-attendance, PST can't call us, we can't call supplies and organize activities etc. People get tied up for hours and hours and put our phones out of action: recently there was someone on one of our lines for over 6 hours.

The local Centrelink office tries to help but there's a limit to what can be done from that office without calling PST etc.

Limited use of interpreters for over the phone services is a big issue'.

In consultation with a womens' group:

'There are people that come in and have to ring Centrelink and then they sit on the phone for the entire activity time (8am-1pm).

Once there was someone in our office who was waiting on hold for 8 hours. At 4.30 we had to leave and the client left without fixing it. It's really disheartening for clients.

Also payments get cut of/ penalties get imposed weeks after their non-attendance, so when it happens they don't really know why they are getting penalised'.

#### *What the lawyers say*

NAAJA Civil lawyers seek to 'fix problems' by assisting clients to access their social security rights and appeal DHS decisions. Overall, the awareness of participant appeal rights is staggeringly low: very few people we speak to are aware that a penalty decision or exemption rejection can be appealed. Often, we speak to clients who have an extremely limited understanding of what payment they are on and why they sometimes receive less money, meaning that they may have difficulty even identifying that a smaller penalty (such as a No Show No Pay (NSNP) penalty) had been imposed.

Typically NAAJA assists clients to lodge Authorised Review Officer appeals. Successfully overturning penalty decisions is greatly hampered by:

- i. Evidence supplied by providers being greatly preferred over the stories of participants;
- ii. Participants are not quickly informed in writing with detailed reasons for a penalty and appeal rights (including as a result of barriers to accessing online services or mail), causing delays in seeking legal help or reducing quality of participant evidence. Where notice is provided in writing and can be accessed by clients, it is done using overly technical language rather than plain English, and may not be able to be read or understood by clients due to language and literacy barriers;
- iii. Participants not being aware of their appeal rights and thus not seeking an appeal;
- iv. The unreasonable requirement that excuses be sought before an absence – noting that this requirement does not accord with standards under most employment conditions where personal leave can be applied for after it is taken (i.e. on the next day of work); and
- v. Poor or minimal information about individual circumstances being recorded by providers and made available to DHS (the decision maker).

DHS has outsourced much of the decision making that it is responsible for in relation to issuing penalties to third party providers. Whilst this may have some benefit as providers often have on-the-ground community information, it also means the majority of decision are not made subject to the requirements of all administrative government decision makers, including that they are procedurally fair, unbiased, transparent and supported by policy decisions. This is not to say that all providers may fall foul of these requirements, however it cannot be expected that the community organisations who are often service providers would make decisions with

the same accuracy and consistency as DHS. Unfortunately, for the reasons described above, appealing and reviewing these decisions is often more difficult rather than less.

Compounding this problem is that most participants only have limited individuals to deal with at a provider. These people are usually a coordinator and hold significant power over a participant, including what could be fairly perceived as a broad discretion to reduce or cut off payments. In circumstances where a person may dispute their provider's decision, their recourse to raise this with the provider is inhibited by an assumption that this may cause that person to be unfairly treated. CDP providers enshrine none of the basic workplace dispute protections enjoyed by an employee in a similar situation. Fixing a CDP problem is costly, time consuming, unlikely to succeed if the outcome sought is other than reconnection, and potentially going to jeopardise one's relationship with their provider.

As a result of these barriers, participants are unlikely to challenge the imposition of minor penalties (such as a 10-30% cut in their payment as the result of a NSNP penalty) even if they had a valid reason for failing to attend activities or appointments (see, for example, case study E and I).

In addition, NAAJA has observed that some clients have felt unable to challenge the suspension of their payment or the imposition of an 8 week non-payment penalty (see, for example, case study A and K). This is of significant concern given hardship associated with the loss of payments

In a consultation with a service provider:

'There's a lot of people on the books at the moment that are on the brink of an 8 week penalty. They'll have to do their period of compliance activities without any errors. But people can't do it, it's too onerous, so they just get penalized again. So people just say 'I'm going cop it''.

Issues with resolving penalties and suspensions lead to participants having difficulties 're-engaging' once issues arise which can lead to being permanently cut off.

Even when clients are able to access legal assistance, it can be hard for lawyers to effectively assist clients in challenging penalties. If time has elapsed since a penalty was imposed (often due to a client not being aware of a penalty being imposed or not understanding that it could be challenged), a challenge may be out of time, or a client may not be able to recall the circumstances in which they missed attending a mutual obligation requirement.

In addition, challenging a penalty through the ARO process may require the investment of significant resources by community legal services. For example, to effectively challenge a \$50 NSNP penalty, it may be necessary to seek a client's records through FOI and then sort through hundreds of pages of documents to identify relevant information. The resource-intensive nature of such reviews and resource constraints on organisations such as NAAJA assisting remote clients means that they are less likely to be legally assisted to challenge smaller penalties,

despite such penalties representing a significant proportion of their fortnightly income.

Failures to identify, challenge and overturn unreasonably imposed penalties, have flow on effects for participants. For example, having a previous 'serious failure' or a number of NSNP penalties on your record could increase the likelihood that you are assessed as having a 'persistent non-compliance' issue at a later date.

***Punitive focus of CDP results in severe financial hardship for remote clients***

Penalties result in a significant percentage decrease in social security payments (ie payments might be docked by 10-30% in one payment cycle). Payments are already at a low rate, particularly given the extras expenses that can result as a consumer in living in a remote community. High anecdotal rates of young people not receiving Centrelink at all are the hidden cost of CDP.

We note the significant and persistent work of organisations such as ACOSS in highlighting the inadequacy of the Newstart payment to meet needs of basic daily living.<sup>3</sup> Obligations for 50 hours per fortnight work to attract this insufficient payment compound this.

This loss of income is occurring in communities where individuals often live in public housing, may have significant debts, low assets and complex obligations to support and provide for family members financially. These factors exacerbate the impact of loss of income from welfare.

On the basis of our casework and consultations, it is unclear how frequently the requirement on decision-makers to consider whether the penalty would result in 'severe hardship' has been upheld before penalising participants, despite the relevance of this consideration in remote communities.

Imposition of penalties often compounds disadvantage of marginalised or vulnerable members of communities. It also can result in financial pressure on individuals on other types of payments (including parenting payments, the aged pension or disability pensions) due to increased financial reliance on them by family members who are cut off or getting "short pay" due to penalties.

In one consultation:

'The group spoke about having problems with 'getting less money' and about getting cut off. Several people in the group had been cut off for a period of time before being able to fix the problem. They also spoke about people that they knew who had been cut off (both 8 week non-payment periods and also suspensions), some of whom had not come back'.

'[The CDP scheme] is very hard for some people, when they get cut off or have money problems. We see people who have these problems, they struggle.'

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<sup>3</sup> ACOSS, Media Release 31 May 2017, viewed at [http://www.acoss.org.au/media-releases/?media\\_release=government-tries-to-slash-incomes-of-poorest-again](http://www.acoss.org.au/media-releases/?media_release=government-tries-to-slash-incomes-of-poorest-again)

'Being cut off is a really big problem if you have kids. It's hard to get food, power cards (for pre-paid electricity). You have food problems (not enough food) or you don't have clean clothes (can't do the washing). Then the kids don't go to school.'

'If you are cut off then sometimes you have to ask family for help. But sometimes family have the same problems [with being cut off]'

In another consultation, senior women noted:

'When those young girls are cut off they got no money. They ask us for money'

'People are waiting 8 weeks to get their money back. They come around to your house, humbugging. Getting cut off for not doing activities'

'Some young people they are stealing'

'My son came around, humbugging. I have to give him money for his kids, for him.' His wife isn't paid enough [to support the family].

'My son, he was on activities. He had an appointment but he missed it, got cut off had problems. Then he had another appointment so I went with him. I was there 2 hours.

You can also lose money with your kids, if they don't go to school. Sometimes it's hard to get them to go to school. They get bullied and they don't want to go. If the teachers or the other kids are from the wrong family, then they might get bullied, have a hard time. There are problems, fighting. But it's hard to make kids go to school when you are on activities. If you leave activities then your pay gets docked both ways'

In another consultation:

'It's a worry. It keeps the family worried. If parents are on activities and the money stops, then it is hard to supply for your family. It's hard to get the kids to school. It affects the kids. They don't have food, they don't have things like nappies.

It's also hard for families where people are disabled, or older. Harder to look after them'

In consultation with a service provider:

'We see a lot of people that have a "double whammy": they get less money because of penalties for missing activities, and less money because they are getting penalties because their kids aren't going to school. And it's normally when there are other problems in the background. It means that they have issues and it sort of compounds and creates further issues'

### ***Current Structure of CDP program leads to disengagement with work and Centrelink***

The purpose of the penalties and cutting people from payments is to serve as an incentive to encourage greater participation in training or work-like activities. However, participants who do not engage in activities risk being cut-off from payments. The ability to receive monetary payments relies on compliance and conforming to the rules and requirements of CDP.

With this system, there is the risk that these incentives are not seen in the same way from the perspective of a person in a remote community, as it is for the designers of the policy and people who live in urbanised settings.

In many consultations with participants, community members and client groups individuals expressed that they considered that a CDP scheme that required participants to spend a significant amount of time attending work like 'activities' but did not provide a fair wage, was unfair (see comments under heading 'Alternative approaches to addressing joblessness and community development in remote Indigenous communities').

The sense that that CDP is unfair among participants and community members is leading to disengagement and refusal to participate even if this means living without income. This is particularly a problem with regards to young people. Where there was a lack of appropriate activities, or involvement in activities that don't provide skills capable of assisting participants to find ongoing and meaningful work, this lead to a sense that participation in activities is a 'waste of time'.

In our view, such sentiments are unsurprising in circumstances where on a per hour basis, participants can receive below \$11, in a context where they don't enjoy the conditions and rights of employees and may have low prospects of obtaining a good job in their community as a result of their participation in CDP.

In addition, the punitive focus of a program (imposition of penalties for non-attendance rather than top up pay for attendance) means that people 'give up' once they are suspended or given a penalty. In many instances, penalties were ineffective in encouraging compliance, but instead led to disengagement from training and work and long-term cancellation of payments.

In one consultation:

'When people get cut off, some of those boys understand, some of them don't. They get cut off, and they don't know how to fix it, so they just stop coming and then they don't get paid. They just walk away [from receiving a Centrelink payment].'

In one consultation a community member said:

Put yourself in our shoes. You have to work 5 days a week, for 5 hours a day. That's a lot of work for dole money.

Another community member stated:

'Aboriginal people are working hard (doing activities as part of CDP). It is unfair that we are working hard but not getting wages. The boys on activities work all the time and they work hard but it's no good for them. They are working a long time, working 5 days a week but they are only getting dole

money. They have to pay rent, they need money to feed their families, for power. But they are just getting dole money. Their families have a hard time.

'It's hard to talk about problems with families'.

In a consultation with a service provider:

'There are lots of reasons [why people are cut-off]. For the women in particular, a common reason is that they have to look after other people's kids. Or they have sick family members. I say, 'let me know I can help you fix it, get an exemption etc'. But people don't tell you about it'.

When asked if the penalty system works, a service provider said:

'the penalties don't work. People will just wear it. They will just wear the 8 weeks.'

In a consultation:

'We used to have a big mob of people here. But the money side is a problem.

Some people find it boring. Sometimes it's too boring, that's why people don't want to come.

But its good here that we get breakfast, even though it is boring. Some other places, you have to get up early, and you don't get food to eat.

There are ladies here who have just started and other ladies who have been here for a long time. For the ladies that have been here a long time: it's a long time to work for dole money. It's a waste of time. We are mostly new: most of the ladies that used to work here have all left.'

In another consultation:

'I'm concerned that young people don't know what's going on. They are penalised by the government. They don't understand what's happening. People don't understand how the system works, why they are penalised.

People go up to the Centrelink office for help with their payments. But very often they are told 'you are on the list'. If you are on the list, that means that the Centrelink office in [our community] can't help you, you have to call Centrelink (the PST line).

When people have problems with their payments on CDP they have to walk back and forth. They go to the service provider, then they go to Centrelink, then they come back to the service provider etc. etc. back and forth.

People have to do work for their payments, but they don't understand the forms.

If people are not working, their payment get cut automatically. When people don't have money, they take their kids next door. Then they go to the next door. There are a lot of men and women in this situation right now in [our community].



When people get cut off they get really low. I ask them how they are feeling. They are really low. They say what am I going to do now? They have to go and ask family members for money to survive. If they have kids, then they have a big problem. CDP is a nightmare for my countrymen here.

People in this community are not getting the money they are entitled to.

Getting cut off creates a lot of hardship in the community. They are trying to feed their family, trying to keep their family together. It creates a lot of conflict, fighting. People have to ask other people for money all the time.'

We met several people employed by service providers as 'supervisors'. These were often senior members of families and communities. Most commonly, they were working part time assisting to administer the CDP program, but the wages that they received reduce their payment so they were still on mutual obligation requirements.

(I asked why some people don't come to activities). 'People work long hours. They work hard but only for a little money.' 'People have had enough of reporting, appointments, they have problems with their payment. They say – I don't want to do it anymore. Then they don't get paid. But they say – I don't care, I'm sick of this.'

Consistent feedback across our consultations raised concerns about the 'top up' payments available under the current CDP scheme being insufficient and not being able to meet expectations in terms of the amount of time and expectations of work.

In one consultation:

'CDP is not enough money for the work you do'. 'People should get top up money, like the old way'. The top up money is \$20. It's not enough.

'Some people say, this is not a proper job. So they don't come. It's a lot of hours for only Newstart, Youth Allowance. We do lots of hours from not much money. The supervisors get more money though.'

In another consultation:

'It's a good place, you've got food and everything but it's boring and just for dole money. Lots of people aren't coming because of this.

It's bad to just get Centrelink money for all of that work. 'I come to work every day, just to get the same money that Centrelink pays me'. We don't want to keep working and working and just getting the same pay.'

In one consultation the group raised the issue that top-up money from profits made by the activity and shared with participants was not sufficient (compared with wages). For the top-up money, profit for some weeks was around \$200 and when that was divided amongst a group of about 15 people with the administration fee and supply costs deducted 'there was not much money going around'.

In one consultation:

(Will activities help you get a job?)

'The only people who get work through doing activities are the supervisors employed by the service provider.'

'If you come in every day, maybe you will get a good job. That's what I'm hoping. The service provider looks at the people that are attending and then they see if they can get you a good job. That's how it works. I'm hoping I will get a job'

'I'm not sure that I will get a job through activities'.

'Some people who have done activities here, they have got jobs at the arts centre or in sports and rec'. They try and put us into other jobs'.

'Activities are good when you are learning, being busy. It's good to learn, do this, try and get a good job, but we need more pay. I would prefer to have a real job instead.'

### ***CDP arrangements and health***

We are concerned that health matters are not adequately taken into account in relation to how CDP is administered, and understand these concerns will likely be raised in other submissions including those by relevant health organisations.

We have come across health related matters in our consultations and client work.

In one consultation:

'We need links with the clinic so that they can help if someone is away sick. We need the clinic to advocate for us about health problems but they don't help, take the time.'

'Supervisor: you can get a JSCI (Job Seeker Classification Instrument) done again but you need a special certificate. Then you can get up to 3 months for big health problems.'

'There are other problems that are very common: hearing problems, liver problems. You can only get sick leave for one day. For the people over 40, it is hard, there are many people that are sick.'

'My son is very sick [with a serious mental illness]. He is also on Newstart. I need to look after him. With my son I am up all night looking after him, making sure he is ok. Then I have to go to work [activities]. Sometimes I fall asleep at work.'

In another consultation:

'I got cut off because I was busy at hospital, sick. I tried to fix it, called Centrelink, but they said, you have to come to activities. I said that I was sick and they said you need to bring a medical certificate. But I forgot to get one. Then I got cut off. I got back on payments, but it was hard.'

In a consultation with a service provider:

'There are a lot of people who have health issues who are still on activities, in particular, mental health issues.'

For example: there was an individual with [serious health issues including a leg amputated]. But she couldn't get an exemption while waiting for a further medical appointment, so she was getting issued with penalties for non-compliance'.

In another consultation:

'Mental health is also a big issue. It's even harder to exit someone when the disability is a mental illness. We've had blokes that are clearly psychotic and they're required to attend. There are several others that are severely depressed.'

In a consultation with another service provider and in the context of participants who are senior members of their community:

'We see a lot of people that shouldn't be required to do activities but who have been incorrectly given these requirements. For example, we see jobseekers over 50 who are required to be doing activities [rather than attending on a voluntary basis].

There's also a big problem with people who are sick or disabled being required to attend. I've seen people with serious [health problems]. They are required to attend activities despite their disability. In addition, some of these people may have to walk [often long distances] from home in order to attend.

We try to help these people to get their status changed. However, this can be difficult. We can give people short term exemptions but only for a certain period of time. And, you need a medical certificate from the clinic. We give them the forms and tell them that they need to go to the clinic, but very often they have trouble getting the documents that they need – i.e. they might get a medical certificate but only for one day, then they have to go back again the next day. This is particularly the case for mental health issues like depression, anxiety, psychosis, drug and alcohol addiction.

The system won't let us exit these people [from the requirement to do activities]. So if you are going to really fix the problem, you need to change their status, to get them on Disability Support Pension (DSP). This is really difficult. We tell people, you need to call PST, go to Centrelink, organize an assessment etc. But very often people are unsuccessful at getting on DSP but are still too sick or disabled to do activities.

What this means is that people don't attend and then get NSNP and 8 week suspensions.

Even if we are successful with helping them get an exemption or onto DSP, this takes a lot of time and we have limited resources.'

Further feedback in another consultation:

'I've worked in service providers and Centrelink in other places. In rural places I've worked, it's common to have approximately 25% of job seekers with their obligations to participate in activities suspended because of health

reasons etc. In [this community], people don't know how to access this, can't get the documents and have trouble filling them out.

...

The support available from the clinic is limited (for medical certificates, etc).

It's hard to get on DSP. A lot of people try it and fail. There are many people on activities who have serious health issues, both mental and physical health, injuries, psychosis. But if they are below the threshold for DSP it's difficult. If you identify that they have an issue then you can try and help them organize an ESA and see if you can suspend the requirement to do activities. Otherwise you just have to exempt them and this is capped at 6 weeks.'

In consultation with a women's group and providers:

'It's too hard to get on DSP. Lots of people try to get on it who aren't fit to attend activities. But they can't.

There was an older lady who was coming in and her payment got cut off because she missed activities. She was trying to sort it out with Centrelink. She was sitting on the phone and we helped her. We realised that she was over the age limit so she was only attending voluntarily. But she still was being penalised. We helped her with it, but if we hadn't been involved Centrelink wouldn't have picked it up.'

Case studies A, B, D, J, H and I also detail the experiences of clients experiencing health issues while being required to subject to mutual obligation requirements.

### ***Disengagement and conflicts in a community***

Because CDP does not adequately empower regions and local decision-making authority in its design and process there are circumstances where local conflicts between different groups affect the obligations placed on participants.

In one consultation with a service provider:

'When there are conflicts in community, people don't show up.'

And further in another consultation:

'One of the reasons why people don't attend activities in this community is because of conflicts within the community. We try to run lots of different activities for different families within the community. People want to be in activities with their countrymen. We try to make sure that these activities are appropriate: for e.g. people are going out and working on their land, not land that is the land of another family group. However, [when the roads are inaccessible] this can be difficult because we can't go out as much. We have to place people in activities together in town, we don't have a choice. Because there is fighting and conflict in some family groups that means that sometimes people won't come to activities because there is a conflict between their family and the other families doing activities.'

### ***CDP and discrimination***

We are concerned about the application of more onerous rules as part of CDP as compared to similar work-for-the-dole programs applicable to the broader community. At least 8 out of every 10 people to which CDP applies is Aboriginal. The Minister for Indigenous Affairs, Nigel Scullion, introduced the scheme to the public and continues as the government spokesperson for the program. There can be no doubt that CDP is a scheme targeted at remote Aboriginal communities and the argued connections between reliance on income support payments and social problems.

The ABC report of 22 March 2017 notes that ‘participants must work 25 hours a week to receive welfare payments, which is up to three times longer than other unemployed people<sup>4</sup>’.

In the Guardian newspaper:

Figures from the Department of Education revealed more than 46,100 financial penalties were applied to the approximate 34,000 people in the CDP since its introduction, compared to fewer than 27,400 penalties to the more than 760,000 people in JobActive.

A comparison of 46,100 penalties to a pool of 34,000 people as compared to 27,400 penalties to a total pool of 760,000 raises significant concerns in terms of the application of penalties across two very different groups of people, and where the penalties applied to Aboriginal people is significantly higher.

In order to receive the same income support payment as a person not living in a remote Aboriginal community, CDP participants must do significantly more work and be at far greater risk of penalty. Such disparity on the basis of race smacks very strongly of discrimination.

### ***Current structure of program including current penalty system is resulting in significant negative impacts on communities***

The negative impacts of the CDP on remote communities include:

- Significant loss of income into communities, resulting in lower economic activity;
- Increased likelihood of participation in criminal justice system;
- Increased risk of contact with child protection as a result of severe poverty (see Case Study G and concerns raised in this submission in relation to severe financial hardship);
- Loss of community resources when senior members of the community diverted to participation in activities and/or running programs; and
- Increase in risk of experiencing housing insecurity or incurring housing debts.

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<sup>4</sup> Work-for-the-dole scheme to come under parliamentary scrutiny, Dan Conifer, 22<sup>nd</sup> March 2017 ABC Online

### *Current arrangements result in significant loss of income into regions and communities*

In feedback from consultations concerns have been raised of a significant financial loss to a large community as a direct result of penalties applied to individuals where they are receiving no payments. When payments are suspended, decreased or cancelled, the funds that would have been paid to community members are not reinvested in community based programs or at the community or regional level.

One large community calculated that the loss of income to members of the community due to the imposition of CDP penalties as amounting to approximately \$750,000.00 over the previous year. The loss of income as a result of the roughly 300 other people eligible for Newstart or Youth Allowance who were not engaged at all with Centrelink and thus not receiving any payment was estimated to represent a loss of income into the community of approximately \$160,000.00 each fortnight and up to \$4 million dollars a year.

Loss of income into communities is further evidenced by a substantial increase in individuals seeking charity in order to buy food and basic groceries in some communities. In feedback from one community store we were informed there was a substantial increase in the requests for \$50.00 food vouchers in the last 12 months. Management at the shop reported that in the last 12 months they had noticed a significant decrease in volume of groceries sold by the shop as well as overall takings. They reported that initially they thought that this might be due in part to a new shop opening up in a neighbouring area, however they had since found out that this shop was “struggling too” in terms of customers attending. (Another community member we spoke to stated that he was aware that profits from the local takeaway were down by 40%). The store has reported having witnessed an increase in financial hardship in the community, resulting in measures such as the local health clinic on occasions writing to the store to request that it provides donations of milk powder to mothers taking care of young children. They noted that people in community that come to buy food are “supporting other people in their family, supporting kids: it’s a bigger picture than just the individuals”.

This loss of income in community can significantly affect local and regional economies and feeds into the local and regional businesses including stores and transport services. These are funds that can otherwise serve to benefit communities and regions.

### *Housing problems*

When individuals have their Centrelink payments suspended, cancelled or stopped due to an 8 week non-payment period, they don’t receive income and are unable to pay rent in private or public housing as a result. In public housing, this increases the risk that our clients will incur substantial housing debts as a result of unpaid rent. In addition, not receiving income or a Centrelink payment may preclude individuals from accessing some forms of public housing.

### *Negative behaviours associated with hardship*

An overlooked aspect in the public welfare debate is the fact that in many countries across the world with no welfare safety net there are significantly high rates of crime including serious crime, and high levels of fear of crime. This is particularly so for countries where young people come in from regions and communities to major population centres with no employment and no welfare safety net. In these places the regions and communities have stable, subsistence economies but are not places where young people wish to reside on a long-term basis.

In our feedback and consultations there are concerns that hardships placed on individuals including those cut off from payments or exiting the CDP / welfare system altogether, have high contact with the criminal justice system.

Some individuals that we spoke to in various communities remarked on the link between financial hardship and an increase in engagement with the criminal justice system.

A review of files of matters before the courts in one community indicated 7 clients who had been cut-off from payments. One criminal lawyer observed:

‘A surprising number of people in the 18 to 25 year old bracket said that they were not on Centrelink and never had been (and thus were living off food and other essentials provided by family members on Centrelink). The barriers to getting on Centrelink in the first place might be something worth exploring.’

In one consultation with a service provider:

‘The conflict, fighting over money – it breeds domestic violence.

...

In my experience, you could have 5 adults in a house, and kids and only one person is getting a payment and that might be a payment for a single person depending on who’s in the house. And all those people are living off that one payment’.

### **The funding of the CDP, including the use of unspent funds in the program;**

In our consultations and feedback it is clear that significantly more funds are required to properly support CDP and its underlying ethos of getting more people into work, and primarily in the areas of ensuring greater job opportunities and availability so that participants have pathways to real jobs.

Anecdotally, in some communities there may be hundreds of local jobseekers and much smaller numbers of available jobs.

In one consultation, feedback provided was that ‘it’s good to try and get a job, but a lot of the good jobs out here, they go to white people’.

For any number of regional or remote communities a skills and jobs audit can reveal a broad range of positions including in local government, health, education and Police which require skills and education that do not match the profile of local Aboriginal people. Even in positions which can be held by a local Aboriginal person

there can be obstacles that lead to the employment of people who is not a local Aboriginal person.

The supply of real jobs ought to reflect and ensure the balance of participants' cultural obligations in accordance with what is reasonable and as determined by the local community and families and elders. Some families and elders require participation in ceremonies and 'sorry business' which often conflicts with the requirements of mainstream jobs. Some families have obligations to other family members including young people or partners or husbands and wives that may conflict with the requirements of mainstream jobs.

The supply of jobs in communities and regions needs to match the skill set and human capability and resources of local people.

In one consultation with a service provider:

'We try and help people as much as we can as a service provider but there are limits to what we are able to do.

All this takes time away from delivering the services: i.e. organizing activities, coming up with an administering programs to help people get jobs.

Under CDEP, we got more funding and it was in multiple (3) streams. If someone stopped attending activities, then we could use that money to hire someone else and give them a wage rather than just dole money.'

### ***Justice reinvestment and CDP***

In our view, there are justice reinvestment principles relevant to reforming the criminal justice system in the NT that can also be considered in the context of funding CDP and associated work programs including the Department of Correctional Services 'Sentenced to a Job' program.

A core principle of justice reinvestment is that funds used to accommodate and deal with people subject to offences under the criminal law are diverted to alternative programs to prison that can reduce the offending rates in those communities and regions. NAAJA has been a strong supporter of justice reinvestment because we believe too much money is being spent on prisons and not enough on alternative, community based programs that will likely have a greater impact of reducing recidivism and to lowering offending rates.

### **The extent of consultation and engagement with Aboriginal and Torres Strait Islander communities in the design and implementation of the CDP, and the role for local decision making within the program**

Ensuring an appropriate balance in the role of local decision-making is crucial for Aboriginal and Torres Strait Islander (ATSI) policy formulation. Substantial decisions directly impacting the lives of ATSI people are often made by influences and motivations much broader than, and external to, the ATSI body politic for which the decisions relate. Public announcements concerning policy design often promote and convey the importance of a greater role for local decision-making, but are not



appropriately acknowledged in the design of policy. Policy also needs to balance the role of local decision-making with appropriate accountability measures.

In our consultations and client matters there are several consistent themes across the feedback and issues raised. These are addressed in this submission, and highlight the problems local people feel and face in their dealings with CDP. The consistency of these themes and the extent and depth of advocacy by local people around these themes highlight concerns in relation to the lack of local decision-making in the CDP.

The APONT paper refers to the importance of local decision-making and recommends broader, systemic change. Projected benefits of a new program such as the number of participants in training or work-like activities can serve as key performance indicators or indicators to ensure accountability. These can be negotiated so that they are reasonable and achievable in the context of a broader and more appropriate policy structure and design.

Page 8 and 9 of the APONT paper state:

The problems with CDP arise, not just from the program design, but the way in which the program has been managed and implemented. There has been little or no opportunity for Indigenous stakeholders to be involved in the process of developing and implementing the program. Under CDP, decision-making is highly centralised in Canberra. Despite considerable involvement of Indigenous providers in delivery, they are treated as arms of government, rather than partners. Nor has authority been devolved within PM&C as was initially anticipated. While policy change has been constant, the changes do not seem to have been based on learning or evidence – at least none that has been negotiated with stakeholders. The program’s funding model and approach to performance promote short-term, transactional thinking, rather than development of long-term community strategies. They are ‘one size fits all’ in the context of very diverse regions with varying obstacles and opportunities.

A new program design will not be enough to address these issues. A wider cultural change needs to occur: from top-down to devolved decision-making; from short-term to long-term thinking; from coercive to strengths-based; from Canberra controlled to Indigenous led.

### **Alternative approaches to addressing joblessness and community development in remote Indigenous communities**

NAAJA supports APONT’s paper ‘Developing Strong and Resilient Remote Communities: Proposal for Establishment of a Remote Development and Employment Scheme, May 2017’ as an alternative approach to addressing joblessness and community development in remote Indigenous communities.

NAAJA as an organisation serves a member role in APONT and has input into APONT’S governance and deliberations. The APONT paper was developed in

consultation with member organisations and people with expertise and a history of involvement in CDP and its various, historic manifestations.

We recommend the APONT paper 'Developing Strong and Resilient Remote Communities: Proposal for Establishment of a Remote Development and Employment Scheme, May 2017' serves as the guiding foundation for reforming CDP and that reforms are consistent with the suggestions and directions set out in the paper.

Alternative approaches have also been raised in feedback.

In one consultation:

I asked what changes they would make to CDP. The group said that their key suggestions were:

'People who are doing activities should get paid better for their work, like a job.

The obligations on CDP participants (ie reporting, appointments, activities) should be less onerous and less confusing.

Penalties should be less confusing and fairer.

People want to have a good job. We would prefer to have a real job and earn real money, not dole money.'

Whilst these issues are also addressed elsewhere in this submission they serve as a succinct and direct set of suggestions at the community level and are consistent with APONT's paper.

In another consultation:

'People sit on the phone for hours and hours. Then Centrelink says – you've got to come for an appointment to get back on your payment.'

'When those young girls don't understand they just say 'yes'. But then they don't know what is happening what they have to do. So many people don't understand. You need remote teams in Centrelink.'

'These are our ideas:

Other jobs at the youth centre

Need more staff to make the activities better

People want to work at the crèche. But it's hard to get into the work at the crèche, to get a good job. 'I want to find a real job'.

Not enough money 'we should get wages'.

What we need is ID cards, birth certificates, Ochre cards.'

In another consultation:

'Get employment for Aboriginal people, get paid good money not dole money.'

'It's a waste of energy coming in every day all the time for dole money. We need to see something change.'

'A large proportion of the group said that "people stop coming because they think it's unfair to just work for dole money, because they get bored doing the activities, they want a real job.'

'We want to see training for young people. We're waiting for this to start – soon there will be some traineeships but just for young people (18-21 year olds).'

Further in another consult:

'We want to try and get jobs doing landscaping, running nurseries, working outside, taking care of children. We want proper jobs, like the men.'

'There used to be jobs in child care. But when the [a local operator] took over the child care centre, there were no more jobs for Aboriginal people.'

'The old system (CDEP) was better. Some of us used to do it (about 7 people). That was a good one. We used to get paid for work. Now, we are only getting Centrelink payments.'

'Under the old system there were activities like planting, farming.. Who does that work now? The Shire took over, they are not CDEP activities anymore. The Shire hires other people to do those jobs (Aboriginal and non-Aboriginal).'

'I would prefer to work at [a local Aboriginal corporation]'

'Aboriginal people are not being employed enough'

In one consultation and in the context of activities:

'People ask to do hunting and fishing as CDP activities. One of the reasons why is because it's an important way to supplement your food when you are supporting several family members on Centrelink payments.'

The proposed activities not only have an economic outcome for the family in terms of supplementing food but can also be therapeutic for mental health and related issues and can form part of culture and connection to country.

In another consultation:

'We need to talk, to change the rules [re activities, CDP]. We need to be listened to.'

'We want to tell Canberra our stories.'

In a consultation with a service provider:

'There are so many things that I'd like to be able to do but can't at the moment due to time and resource constraints:

Training supervisors

Teaching people about the system

Helping people call Centrelink, talk to them about why not coming, avoid getting cut off.

CDEP was better because it was a top up: you were paid for going to work, not penalized if you didn't show up. It worked better.

For supervisors, it can be very confusing. They get some money in pay and some money from the dole. They still have to show up to activities and are still subject to requirements, so if they don't come they can get a penalty imposed.

The amount that they earn, the payments, it changes every week. Some people say 'it'd be easier just to get the dole'.

The women who are supervisors are also important people in their families and communities. When something happens, goes wrong they have to be there to help. Having them here, required to do activities, it's taking them away from the roles that they play in their communities.

I think that the age group for activities should be 20-40 years. For the older women it should be flexible: i.e. if they want to come in and help then they get paid, like regular employment. They are so great at helping the younger group of women, who are more likely to have missed out on English lessons, education etc. The people who were born in the 60s, they are the ones that helped their parents with English etc and now they are helping their children. The younger group, you need an interpreter to work with them.

But it should be on their terms. They can do work through the service provider and when they need to they can go and work in their own communities. There's a lack of respect in the way that the system teaches these older ladies. They have responsibilities, they are respected. But they don't get any flexibility, and if they can't play their role, and if they miss it then they get cut off'.

**Any other related matters.**

This submission covers the extent of the matters.

We thank the Committee for the opportunity to make a submission.

Yours sincerely,

John Rawnsley  
Manager  
Law and Justice Projects  
NAAJA