



Economic justice in remote Aboriginal and Torres Strait
Islander communities

HRLC's submission to the Senate Community Affairs Legislation
Committee inquiry into the CDP Bill 2018

26 September 2018

www.hrlc.org.au

Freedom. Respect. Equality. Dignity. **Action.**

Contact

Adrienne Walters
Human Rights Law Centre Ltd
Level 17, 461 Bourke Street
Melbourne VIC 3000

W: www.hrlc.org.au

About the Human Rights Law Centre

The Human Rights Law Centre uses a strategic combination of legal action, advocacy, research, education and UN engagement to protect and promote human rights in Australia and in Australian activities overseas.

It is an independent and not-for-profit organisation and donations are tax-deductible.

Follow us at [@rightsagenda](https://twitter.com/rightsagenda)

Join us at www.facebook.com/pages/HumanRightsLawResourceCentre

1. About this submission

1. On 23 August 2018, the Social Security Legislation Amendment (Community Development Program) Bill 2018 (the **Bill**) was introduced into the Senate and referred to the Senate Community Affairs Legislation Committee (the **Committee**).
2. The Human Rights Law Centre (**HRLC**) previously made a submission to the inquiry into CDP undertaken by the Senate Standing Committee on Finance and Public Administration in 2017.
3. The HRLC is a national human rights organisation whose mandate includes the protection and promotion of Aboriginal and Torres Strait Islander peoples' rights. Our work with Aboriginal and Torres Strait Islander organisations is guided by partnership principles and we focus on challenging laws and policies that negatively impact the Aboriginal and Torres Strait Islander peoples' lives. We have worked closely with the Aboriginal Peak Organisations NT (**APO NT**), North Australian Aboriginal Justice Agency (**NAAJA**) and National Congress in responding to CDP. We have read APO NT's submission and endorse its recommendations.

2. Executive Summary

4. All Australians should receive fair payment for work and be treated compassionately by governments in times of need. But these basics are denied to remote Aboriginal and Torres Strait Islander communities subject to the Federal Government's remote Community Development Program (**CDP**).
5. CDP takes control away from remote communities. It subjects them to the indignity of being forced to work substantially more hours in an inflexible program for the same basic social security payment as people covered by the urban 'Jobactive' program, while taking money away from those struggling to keep up. Aboriginal and Torres Strait Islander people make up 83 per cent of all those covered by CDP but only 11 per cent of those under Jobactive.
6. The discriminatory requirement to work more for the same basic payment also leaves Aboriginal and Torres Strait Islander people in remote communities even more vulnerable to financial penalties – having money deducted from a payment as small as \$272.90 per week. Since CDP was introduced in July 2015, financial penalties have soared from an average of 5,900 per quarter to 45,266 per quarter. This means less money for basic life necessities, such as food, rent and clothing. This is especially alarming after 2016 Census data revealed growing poverty rates in remote communities and an increased gap in employment rates between Indigenous and non-Indigenous peoples in remote communities.
7. Rather than address the discrimination inherent in CDP, the Bill would introduce a new penalty system into CDP regions – the Targeted Compliance Framework (**TCF**). The TCF threatens to

worsen poverty in remote communities because: one, two and four week no-payment penalties cannot be waived no matter how desperate a person's circumstances are; vulnerable people will be cut off Centrelink altogether; and there are a lack of safeguards to protect people from administrative errors by CDP service providers. The Parliamentary Joint Committee on Human Rights has also expressed concern about the TCF being inconsistent rights to an adequate standard of living, social security and non-discrimination.

8. The Bill would protect people who are CDP participants and in 'subsidised employment' from the TCF. This follows from the Government's proposal to subsidise 6000 jobs in remote communities. However, the details of what subsidised employment means are to be defined in delegated legislation at a later date.
9. The Government's shift in focus to employment creation is a welcome development, however this positive step is completely undermined by the following:
 - (a) The majority of people under CDP who either can't get a job, or have an unsubsidised job, would be left to struggle under the TCF.
 - (b) Making a job subsidy program for remote communities conditional on the introduction of a harsh new penalty system is both unjust and unnecessary. There is simply no need to introduce the TCF into remote communities.
 - (c) The inappropriate use of delegated legislation to define job subsidies.
 - (d) APO NT has raised important concerns in its submission about the shortcomings and inefficiencies of the proposed job subsidy package that need to be investigated.
 - (e) The Government's proposals fall far short of the comprehensive and Aboriginal-led model, *Fair Work and Strong Communities: Proposal for a Remote Development and Employment Scheme*, which was handed to the Government in 2017.
10. If the Government wants to alleviate poverty in remote communities, a clear and immediate step can be taken to reduce the work requirements the Government imposed on CDP participants, at least to a level no more onerous or inflexible than the Jobactive program.
11. In addition, the HRLC supports long-term Aboriginal-led programs and institutions that promote self-determination, fair and just conditions of work and dignified support for those who need it, as reflected in the Fair Work and Strong Communities model. Such a scheme can be legislated, with Aboriginal leadership and control embedded in law, and include compliance measures. This is an approach that remains entirely open to a government genuinely committed to putting its stated commitment to the *Declaration on the Rights of Indigenous Peoples* into action.

3. Recommendations

- Recommendation 1:** the Committee oppose the Bill. If the Bill is to pass, the Committee should recommend that all clauses that would cause the TCF to apply to CDP participants be removed.
- Recommendation 2:** the Government immediately reduce the work and activity requirements ('mutual obligation requirements' in social security law) of CDP participants to no more than those imposed on Jobactive participants of a comparable age, including in terms of hours, start dates and flexibility.
- Recommendation 3:** that the Government work in genuine partnership with Aboriginal and Torres Strait Islander organisations and communities, such as APO NT, to create sustainable Aboriginal-led programs and institutions that promote self-determination, fair and just conditions of work and dignified support for those who need it, as reflected in the Fair Work and Strong Communities model.
- Recommendation 4:** the Government place a moratorium on issuing financial penalties to CDP participants under Division 3A (or 3AA if the Bill passes) of Part 3 of the *Social Security (Administration) Act 1999* (Cth) until Recommendation 3 has been implemented.

4. Why the Bill should be opposed

The Bill does not end the unfairness and racial discrimination of CDP

12. Discrimination and unfairness have been central to the CDP model since it was imposed on remote communities by the Federal Government in July 2015.

Unfairness in the design of CDP

13. 88 per cent of 18-49 year olds in CDP are Aboriginal and Torres Strait Islander.¹ For over three years, they have had to work up to three times as many hours per year in an inflexible 'work-for-the-dole' program for the same basic social security payment as people in the urban Jobactive program.² In other words, they receive less money per hour worked over the course

¹ Data provided by Department of Prime Minister and Cabinet on 19 July 2018 (data as at 30 June 2018). Note that across all age groups, the proportion of Aboriginal and Torres Strait Islander participants is 83%

² Since July 2015, CDP participants aged 18 to 49 years with a 'fulltime capacity' have had to work 25 hours per week, spread over five days per week, for 12 months of the year, with a maximum six weeks off (1150 hours per year). In comparison, between July 2015 and September 2018, Jobactive participants aged 30 to 49 years have only been required to do 15 hours per week for 6 months (390 hours per year). Since 20 September 2018, the work requirements of Jobactive participants aged 30-49 years has increased to 25 hours per week but remains

of a year than people under the Jobactive program. 88 per cent of those in the Jobactive program are non-Indigenous.³ Some CDP workers are receiving a paltry Newstart payment that is equivalent to nearly half the national minimum wage (\$18.93 per hour) despite doing work for which they should be properly employed, paid an adequate wage and protected by workplace rights and safety laws.

14. In addition:
 - (a) CDP workers have *daily* work requirements (referred to as 'mutual obligation requirements' in social security law). This is far less flexible than the requirements on Jobactive participants and means increased exposure to the compliance regime of the *Social Security (Administration) Act 1999* (Cth).
 - (b) CDP workers have to start work-for-the-dole as soon as they enter CDP. In contrast Jobactive participants are generally given 12 months in the program before being required to start work-for-the-dole.
 - (c) CDP workers have work requirements 52 weeks of the year (less six weeks 'leave'), while work requirements only apply to Jobactive participants for 26 weeks of the year.⁴
15. CDP reforms announced by Minister Scullion in May 2018 and scheduled to take effect from February 2019, will see a reduction in the fulltime work-for-the-dole hours from 25 to 20 per week. However CDP workers aged 18-49 will still have to work up to 270 hours more over the course of a year than their urban counterparts⁵ and they will still have daily participation requirements unlike under the Jobactive program. This unfairness will be greater for older CDP participants (50 years and over), many of whom will still have to complete up to three times as many hours of 'suitable activities' without an extra payment (see table below).
16. The table **attached** as Annexure A outlines HRLC's understanding of the significantly higher number of hours of work and other activity requirements that CDP participants of all ages are required to satisfy compared to Jobactive participants.
17. There is no doubt that the Government has placed substantially more onerous and inflexible requirements on people in remote communities. These are harder to satisfy and place CDP

limited to 6 months of the year. See Australian Government, *Community Development Programme Guidelines Handbook* (effective 7 September 2015); Australian Government, *Guide to Social Security Law* (31 May 2017) 3.2.10.30; Australian Government, Department of Social Services, *Welfare Reform Act 2018* (Factsheet, 2018) https://www.dss.gov.au/sites/default/files/documents/06_2018/welfare_reform_act_2018_-_pdf.pdf.

³ Data provided by Department of Jobs and Small Business on 23 July 2018 (data as at 30 June 2018). Note that across all age groups in Jobactive, the proportion of Aboriginal and Torres Strait Islander participants is 89%.

⁴ See Australian Government, *CDP Guidelines: Mutual Obligation Requirements* (effective April 2018) and compare with Australian Government, *Guide to Social Security Law* (version 1.249, 20 September 2018) 3.2.10.30.

⁵ Because CDP participants will still have to work requirements up to 52 weeks of the year, whereas the work requirements of Jobactive participants are limited to 26 weeks of the year.

workers at far greater risk of being pulled into the penalty system set out in the *Social Security (Administration) Act 1999*.⁶

Disproportionate impact of penalties

18. In light of the above, it is unsurprising that Aboriginal and Torres Strait Islander people in remote communities have been issued with no-payment at disproportionately high rates. Since the start of CDP on 1 July 2015, the number of financial penalties in remote areas has increased sevenfold – from an average of 5,900 per quarter to an average of 45,266 per quarter.⁷ While there are 22 times more people in Jobactive (around 660,000 compared to around 30,000 people in CDP), more penalties are issued against CDP participants than on Jobactive participants (37,481 per quarter on average).⁸
19. Cutting a meagre social security payment translates into a lack of money for food, rent, fuel, clothes and other basic necessities, including for children. This runs directly counter to other Government and community efforts to reduce poverty and ill-health, including through the Closing the Gap framework.
20. Alarming, 2016 Census data shows that the gap in the employment rates in remote areas between Aboriginal and non-Indigenous people has grown, along with a growth in poverty rates.⁹
21. The HRLC considers that the unfair differences in the design and impact of CDP place the Australian Government in breach of its obligations under the *International Covenant on the Elimination of All Forms of Racial Discrimination*,¹⁰ *International Convention on Economic, Social and Cultural Rights*,¹¹ *Declaration on the Rights of Indigenous Peoples* and Australia's *Racial Discrimination Act 1975*.

The new penalty system will aggravate the discriminatory impact of CDP

22. The Bill fails to address two significant drivers to the over-penalisation of Aboriginal and Torres Strait Islander people:
 - (a) the more onerous work and activity requirements under CDP outlined above; and

⁶ CDP participants are currently subject to the compliance framework in Division 3A of Part 3 of the *Social Security (Administration) Act 1999* (Cth). All other 'jobseekers' are subject to the Targeted Compliance Framework under Division 3AA of Part 3 of the Act.

⁷ Analysis of quarterly Jobseeker Compliance Data published by Department of Jobs and Small Business by Lisa Fowkes (1 July 2015 – 31 December 2017).

⁸ *Ibid.*

⁹ Frances Markham and Nicholas Biddle *Income, Poverty and Inequality: 2016 Census Paper No. 2* (Centre for Aboriginal Economic Policy Research, Australian National University, 2018); Danielle Venn and Nicholas Biddle, *Employment Outcomes. 2016 Census Paper No 5* (Centre for Aboriginal Economic Policy Research, Australian National University, 2017).

¹⁰ Committee on the Elimination of Racial Discrimination, *Concluding Observations on the eighteenth to twentieth periodic reports of Australia*, CERD/C/AUS/CO/18-20 (8 December 2017) [23]-[24].

¹¹ In particular, arts 2 (non-discrimination), 9 (social security), 11 (adequate standard of living).

- (b) barriers to accessing Centrelink and others services, including the lack of language interpreters, specialist health and disability services, on-site Centrelink services, phones and internet reception in remote communities. As noted in APO NT's submission, these barriers make Centrelink's changing rules very difficult to understand and comply with.¹²
23. Rather, the primary objective of the Bill is to introduce the TCF into remote communities. The TCF commenced in non-remote areas on 1 July 2018 despite significant concerns raised by ACOSS and other community organisations working with unemployed Australians.¹³ CDP participants were excluded (as 'declared program participants') because the Minister for Indigenous Affairs said that he recognised the need to tailor program requirements to the circumstances of remote communities.¹⁴
24. The TCF has not been tailored for remote communities. The Government has indicated an intention to improve the way work capacity assessments in remote communities are done and to reduce reporting requirements for people with 0-14 hours of work requirements per week. It also appears that in CDP regions, drug and alcohol dependency will remain a valid 'reasonable excuse' for missing an appointment or activity, despite restrictions for Jobactive participants introduced with the Social Services Legislation Amendment (Welfare Reform) Bill 2017.¹⁵
25. While the above are important developments, it does not constitute tailoring a compliance framework to the unique labour market, geographical and cultural circumstances of remote communities. In fact, the Government has made it clear that it seeks to have one compliance framework apply to all social security recipients around Australia.¹⁶

Specific concerns with the TCF

26. The HRLC has the following deep concerns about the introduction of the TCF to remote Aboriginal and Torres Strait Islander communities based on the work we undertake in partnership with organisations like APO NT, NAAJA and National Congress:

¹² See eg, Commonwealth Ombudsman, Department of Human Services: Accessibility of Disability Support Pension for Remote Indigenous Australians (December 2016); See also APO NT submission - Senate Community Affairs legislation Committee, Inquiry into Social Security Legislation Amendment (Community Development Program) Bill 2018, Submission 4.

¹³ See e.g. Australian Council of Social Services, *Welfare 'Reform' Bill: ACOSS Briefing Note* (February 2018).

¹⁴ CDP participants were excluded from the TCF as 'declared program participants' under the *Social Services Legislation Amendment (Welfare Reform) Act 2017* and through the Social Security (Declared Program Participant) Determination 2018. For the Minister's statement, see Nigel Scullion, '2017-18 Budget: Community Development Programme' (Media Release, 9 May 2017).

¹⁵ This is because of the lack of drug and alcohol services in remote areas: see Social Security Legislation Amendment (Community Development Program) Bill 2018, Explanatory Memorandum [17].

¹⁶ Social Security Legislation Amendment (Community Development Program) Bill 2018, Explanatory Memorandum [1].

- (a) **Punishments are excessively harsh:** The TCF is a demerit point system. After receiving five demerit points in six months, a person enters ‘the penalty zone’ unless a capability assessment by the Department of Human Services (**DHS**) identifies that the requirements imposed on them are inappropriate.¹⁷ Once in the penalty zone, escalating financial penalties apply for each subsequent demerit point – from one week without payment, to two weeks without payment and then the cancellation of payments combined with a four week payment preclusion period. The only escape from the penalty zone appears to be complying with every work or activity requirement set for three months.

There is no option to seek a waiver for severe financial hardship or to work a penalty off through work-for-the-dole activities. This is very concerning because under the current penalty system, waivers and working off a penalty have helped people struggling to keep up engaged with employment services providers and other support – in March 2018 it was reported that of more than 50,000 eight-week penalties imposed on 15,000 CDP participants since July 2015, most had been “fully-waived”.¹⁸

The Parliamentary Joint Committee on Human Rights has expressed concern that the Bill violates human rights because vulnerable people won’t be able to have a penalty waived for serious financial hardship. The Committee noted that it “is unclear how limiting the availability of a waiver on the grounds of severe financial hardship would achieve the stated objectives” of the TCF, which the Government has identified broadly as reducing “long-term unemployment” and “welfare dependency”.¹⁹

In light of the fact that the TCF does not address the two key drivers of the over-penalisation of CDP participants identified above, it is not difficult to foresee that a devastating consequence of the TCF will be disproportionate numbers of Aboriginal and Torres Strait Islander people cycling through the penalty zone for prolonged periods without income.

- (b) **Cutting people off Centrelink will mean less income in families already living in poverty:** the most severe punishment under the TCF is the cancellation of person’s payment combined with a four week payment preclusion period.²⁰ According to Government modelling, 7,941 people in CDP regions would have their income

¹⁷ A ‘capability interview’ is also undertaken after three demerit points in six months. This is done by the employment service provider. If activity requirements are assessed as inappropriate for their circumstances at either a capability interview or DHS capability assessment a person’s demerit points will be reset to zero.

¹⁸ Dan Conifer, ‘Indigenous work for the dole scheme ‘failing abysmally’, worsening poverty, Greens say’ (ABC Online, 17 March 2018).

¹⁹ Commonwealth of Australia, Parliamentary Joint Committee on Human Rights, *Report 10 of 2018*, [1.14] – [1.60].

²⁰ This may be for persistent non-compliance, work refusals or voluntary unemployment: Australian Government, *Social Security Guide* (version 1.249, 20 September 2018) 3.1.14.50.

payments cancelled in the second year of the TCF – over a quarter of all CDP participants.²¹

As noted above, it can be incredibly difficult to access Centrelink services in remote communities. Cancelling payments is likely to see people left without money for more than the four week preclusion period, as they either struggle to navigate the Centrelink application process or give up and disengage entirely.

When the basic Newstart payment is as low as \$272.90 per week, even the loss of one day's payment (\$55) can mean not having enough money to eat, pay rent, buy medicines and pay for school excursions. That Aboriginal and Torres Strait Islander people in remote communities will be precluded from any income support for four weeks and forced to reapply while trying to survive without any money should be of enormous concern to a Government committed to Closing the Gap.

- (c) **Important safeguards will be lost under the TCF:** Currently, when a CDP worker misses an appointment or activity without a 'reasonable excuse', the CDP service provider has discretion as to whether to recommend a penalty.²² If a penalty is recommended, DHS then assesses whether a penalty is appropriate. In nearly 47 per cent of cases nationally, DHS rejected the recommendation of an employment or CDP provider to issue a financial penalty²³, including because of failures on the part of a provider to comply with its obligations.

In contrast, the TCF would introduce a more automated system to CDP regions. We understand that for the first five indiscretions, such as a missed appointment without reasonable excuse, a demerit point will be issued and payments suspended without DHS oversight. What this means in effect is that the responsibility for making sure a CDP provider has complied with its obligations falls on the shoulders of the CDP worker – rather than DHS checking that a provider did what they were supposed to, the CDP participant will need to ask their provider to reconsider the demerit point, and if still dissatisfied call a Department of Jobs and Small Business customer service line.

In addition, the issuing of a demerit will be considered an "administrative mechanism"²⁴, rather than a decision under social security law, which would appear to restrict access to the formal review processes provided for under the *Social Security (Administration) Act 1999*.

²¹ Minister for Indigenous Affairs, correspondence to Senator Scot Ryan, President of the Senate (20 August 2018).

²² This is a discretion that is significantly constrained however, by a financial incentive for CDP providers to recommend that DHS apply a penalty.

²³ Department of Jobs and Small Business, *Job Seeker Compliance Data – December Quarter 2017*, Table 7a.

²⁴ Australian Government, *Social Security Guide* (version 1.249, 20 September 2018). 3.1.14.10. The rules relating to these administrative mechanisms are set out in the *Social Security (Administration) (Non-compliance) Determination 2018* (No 1).

These are important procedural safeguards that would be lost, at least for the first five demerits. The restriction of DHS' important oversight role is deeply concerning in light of the number of provider penalty recommendations that have been overturned.

27. We note one aspect of the TCF that the HRLC would support being incorporated into the current CDP compliance framework – greater use of payment suspensions (which can be back paid) over no-payment penalties.²⁵ Payment suspensions are a more proportionate response, which encourage people to remain engaged. Unfortunately, the TCF limits suspensions to the first five demerit points, after which non-waivable penalties apply.

Job creation should not be tied to a harsh penalty system

28. The Bill exempts CDP participants in 'subsidised employment' from work and other activity requirements and in doing so, shields them from the reach of the TCF.

The Government's subsidised job proposal for CDP regions

29. The exclusion of CDP participants in subsidised employment follows an announcement in May 2018 that the Government would fund 6,000 subsidies to support new jobs in CDP areas as a part of reforming the CDP program.
30. A focus on creating employment opportunities is a welcome development, particularly in light of reports of CDP displacing waged work opportunities in remote communities. However, we note the significant concerns raised in APO NT's submission about the shortcomings and inefficiencies in the Government's proposal. We also note that the Government's CDP reform package falls far short of the alternative 'Fair Work and Strong Communities' model that was handed to the Government in 2017 and endorsed by 34 organisations across Australia.²⁶

It is inappropriate and unjust to make job subsidies conditional on the introduction of the TCF

31. The Bill itself does not create the structures or conditions for a subsidised employment program. Rather, it ties the future creation of subsidised employment to the expansion of the TCF to remote communities already struggling under the racial discriminatory CDP. In effect, it makes the Government's offer to provide job subsidies in job-starved remote communities conditional on the acceptance of a penalty system that will leave many people worse off. This is unjust and cynical law-making.
32. The Bill's statement of compatibility makes it clear that the Minister for Indigenous Affairs has some understanding that the TCF will make life harder for people subject to it. It describes the exemption of CDP workers who are in subsidised employment from the TCF as "reasonable,

²⁵ This comment should in no way be construed as supporting the expansion of the TCF to remote communities.

²⁶ Senate Community Affairs legislation Committee, Inquiry into Social Security Legislation Amendment (Community Development Program) Bill 2018, Submission 4.

necessary and proportionate to achieving the legitimate objective of *encouraging persons to remain engaged with employment services and actively seek and accept suitable work*.²⁷ The same case could be made for every person who is required to complete work or other activities in order to get social security payments.

33. If people in subsidised employment are to be exempted from the TCF, those in non-subsidised employment who still receive social security payments would also need to be exempted so as to avoid disincentivising unsubsidised work. Having said this, the HRLC does not support the TCF applying to anyone in its current form.
34. It to be inappropriate and unconscionable for the Government to make its commitment to creating new jobs in remote communities conditional on the introduction of the TCF. Furthermore, it is also unnecessary. The Standing Committee for the Scrutiny of Bills has said the definition of subsidised employment should form part of primary legislation “unless a sound justification for the use of delegated legislation is provided”.²⁸ The Minister’s justification is that the Government is still finalising the details of the subsidised jobs program “in consultation with communities”. Given this, it is clear that there is no urgent need to push through the introduction of the TCF to CDP regions.
35. In addition, the Minister’s justification is inadequate for the delegation of considerable law-making power, which will effectively determine a new class of social security recipients, with limited parliamentary oversight.²⁹

A new model for fair work and strong communities should be developed first

36. A long-term approach to employment creation and community development for remote communities could be introduced in a dedicated piece of legislation – an Act whose primary objective is to create the structures and institutions to support Aboriginal and Torres Strait Islander-led economic and community development. Aboriginal leadership and control could be embedded within this legislation. Measures to encourage participation by vulnerable or disengaged people could also be included and are more likely to be effective if designed by and for the unique circumstances of remote communities.
37. A viable model underpinned by these principles has already been presented to the Minister for Indigenous Affairs: the *Fair Work and Strong Communities: A Proposal for a Remote Development and Employment Scheme*.³⁰ It remains an entirely feasible option for a

²⁷ Social Security Legislation Amendment (Community Development Program) Bill 2018, Statement of Compatibility with Human Rights, 20.

²⁸ Commonwealth of Australia, Standing Committee for the Scrutiny of Bills, Scrutiny Digest 10 of 2018 (12 September 2018) [1.17].

²⁹ Ibid. The Committee noted that “it does not generally consider administrative flexibility to be sufficient justification for including significant matters in delegated legislation rather than in primary legislation.”

³⁰ Aboriginal Peak Organisations NT, *Fair Work and Strong Communities: Proposal for Remote Development and Employment Scheme* (May 2017).

Government genuinely committed to putting its stated commitment to the *Declaration on the Rights of Indigenous Peoples* (the **Declaration**) into action.

38. We note the frustration expressed in APO NT's submission about its attempts to engage with the Government after undertaking the incredible task of coordinating the development of the Fair Work and Strong Communities model and securing endorsements from 34 organisations across Australia, including CDP providers. Despite all its work and attempts to work collaboratively with the Minister for Indigenous Affairs and Department of Prime Minister and Cabinet, APO NT was not consulted on the development of this Bill. This is extremely disappointing.
39. The Australian Government made commitments to the United Nations to uphold and implement the Declaration in "word and deed" as part of its campaign to secure a seat on the Human Rights Council.³¹ Disappointingly, this Bill demonstrates again that the Government has little interest in working in genuine partnership with Aboriginal and Torres Strait Islander people to design programs suited to their lives.
40. Remote Aboriginal and Torres Strait Islander communities have said that they want to take up the reins and drive community development. It is beyond time for the Government to listen.

³¹ United Nations General Assembly, 'Note verbale dated 14 July 2017 from the Permanent Mission of Australia to the United Nations addressed to the President of the General Assembly' (UN doc A/72/212, 24 July 2017) [18].

ANNEXURE A		
MUTUAL OBLIGATIONS REQUIREMENTS (FULLTIME CAPACITY) – CDP AND JOBACTIVE COMPARED (26 SEPTEMBER 2018) ⁱ		
	CDP	Jobactive
Participants aged 18-49 ⁱⁱ	<p><u>Current:</u></p> <ul style="list-style-type: none"> Complete up to 25 hours work-for-the-dole per week for 52 weeks of the year (with up to 6 weeks leave) Annual work hour obligation: 1150 (with six weeks leave) Commence work-for-the-dole from date of entry into CDP Daily participation requirements <p><u>From February 2019:</u></p> <ul style="list-style-type: none"> Complete up to 20 hours work-for-the-dole per week 52 weeks of the year (with up to 6 weeks leave) Annual work hour obligation: 920 (with six weeks leave) Commence work-for-the-dole from the <u>date of entry</u> into CDP Daily participation requirements 	<p><u>Current:</u></p> <ul style="list-style-type: none"> Complete up to 25 hours work-for-the-dole per week 26 weeks of the year Annual work hour obligation: 650 Commence work-for-the-dole <u>12 months after</u> entry into Jobactive
Participants aged 50-54 ⁱⁱⁱ	<p><u>Current</u></p> <ul style="list-style-type: none"> Complete up to 25 hours mutual obligation requirements in 'suitable activities' per week; Obligation appears to apply 52 weeks of the year^{iv}; Annual work hour obligation: 1300 (or 1150 if 6 week leave applies) <p><u>From February 2019:</u></p> <ul style="list-style-type: none"> Complete up to 20 hours mutual obligation requirements in 'suitable activities' per week; Obligation appears to apply 52 weeks of the year^v; Annual work hour obligation: 1040 (or 920 if six weeks leave applies) 	<p><u>Current</u></p> <ul style="list-style-type: none"> Complete up to 15 hours mutual obligation requirements in 'suitable activities' per week Complete suitable activities for 26 weeks of the year Annual work hour obligation: 390

Participants aged 55-59 ^{vi}	<p><u>Current and from February 2019</u></p> <ul style="list-style-type: none"> • Complete up to 15 hours mutual obligation requirements in 'suitable activities' per week • This obligation also seems to apply 52 weeks of the year^{vii} • Annual work hour obligation: 780 (or 690 if 6 weeks leave applies) 	<p><u>Current</u></p> <ul style="list-style-type: none"> • Complete up to 15 hours mutual obligation requirements in 'suitable activities' per week • Complete suitable activities for 26 weeks of the year • Annual work hour obligation: 390
Participants aged above 60 ^{viii}	<p><u>Current and from February 2019</u></p> <ul style="list-style-type: none"> • Complete up to 15 hours mutual obligation requirements in 'suitable activities' per week • This obligation also seems to apply 52 weeks of the year^{ix} • Annual work hour obligation: 780 (or 690 if 6 week leave) 	<p><u>Current</u></p> <ul style="list-style-type: none"> • Complete up to 10 hours mutual obligation requirements in 'suitable activities' per week • Complete suitable activities for 26 weeks of the year • Annual work hour obligation: 260

Table notes

ⁱ This table is based on information sourced by the HRLC and reflects our understanding of the differences in mutual obligation requirements between the two programs.

ⁱⁱ Work-for-the-dole is the principal activity to satisfy mutual obligation requirements for people aged 18-49 in both programs.

ⁱⁱⁱ Participants aged 50+ are *not required* to undertake work-for-the-dole, but can volunteer to do so as part of their mutual obligation requirement. For those aged 50-59 years, if they elect to do work-for-the-dole, this is recorded as 'compulsory' on their Job Plan and they can be penalised for a failure to comply.

^{iv} The 6 weeks 'leave' is referred to as 'time off work-for-the-dole'. The CDP Guidelines refer to it only being available for people *required* to do work-for-the-dole.

^v Ibid.

^{vi} Participants aged 50+ are *not required* to undertake work-for-the-dole, but can volunteer to do so as part of their mutual obligation requirement. For those aged 50-59 years, if they elect to do work-for-the-dole, this is recorded as 'compulsory' on their Job Plan and they can be penalised for a failure to comply.

^{vii} Ibid.

^{viii} Participants aged 60+ cannot be compelled to do work-for-the-dole but they can be compelled to do other 'activities' and these activities are included in their Job Plan as a compulsory activity, for which they can be subject to the compliance framework. If they volunteer for work-for-the-dole, this is listed in their Job Plan as 'voluntary'.

^{ix} The 6 weeks 'leave' is referred to as 'time off work-for-the-dole'. The CDP Guidelines refer to it only being available for people *required* to do work-for-the-dole.