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Senate Finance and Public Administration Committee

Submission to Inquiry into the appropriateness and effectiveness of the objectives, design, implementation and evaluation of the Community Development Program

Lisa Fowkes
Research Scholar
Centre for Aboriginal Economic Policy Research, ANU

Thankyou for the opportunity to make a submission to this important Inquiry.

Since 2013 I have been researching the development and delivery of what was initially called the Remote Jobs and Communities Program (RJCP) and is now the Community Development Programme (CDP). The research project, led by Dr Will Sanders, is based at the Centre for Aboriginal Economic Policy Research at ANU. I have worked in employment services for many years, and draw on this experience in my research.

Our research has involved interviews with participants, frontline workers and managers in provider organisations, public servants and community stakeholders. It has included on site observations, provider surveys and analysis of public information about the programs (including penalty data). This submission draws on that research and experience. I have included some excerpts from research interviews in this submission.

Adequacy of the policy process that led to the design of the CDP

For over 10 years, the Commonwealth has acknowledged that '[e]ngagement with Indigenous men, women and children and communities should be central to the design and delivery of programs and services' and has committed to 'engaging and empowering Indigenous people who use Government services, and the broader Indigenous community in the design and delivery of programs and services as appropriate'¹. These principles reflect good practice in relation to program design, not only because of the need to respect the democratic rights of First Peoples to be involved in decisions that affect them, but because they are recognised as essential to program success.

Despite this commitment the Government provided no meaningful opportunity for affected community members, organisations or other stakeholders to engage with it over its proposal to introduce 5 days per week Work for the Dole in remote areas, prior to announcing the change in December 2014. Once the decision had been made known, many Indigenous organisations raised concerns about its appropriateness and the impact of the arrangements. They warned that the Work for the Dole requirements were unrealistic, that they would lead to increased penalties, and that they were discriminatory. They were right, but their arguments were ignored.

The policy making process that led to the implementation of full time Work for the Dole for remote areas is unclear. It does not appear to have been based on any evidence that the approach was likely to improve employment outcomes or incomes for participants. There is evidence that

¹ COAG Service Delivery Principles for programs and Services for Indigenous Australians

Work for the Dole type schemes can lead to (fairly minor) reductions in income support claims as a result of people either leaving income support to avoid the program or declaring work they already had². But there is no research that specifically examines the impacts of Work for the Dole in remote areas, or in areas with where work options are extremely poor. In response to our 2017 CDP provider survey, some providers reported that since CDP started, there has been an increase in people leaving income support for work³. However, more often, they report that people leave income support without work, decide not to claim benefits to which they are entitled, or leave the region to avoid obligations⁴. These reports suggest that the CDP scheme is likely to be reducing individual and family incomes, even before the effect of penalties is considered, because people are choosing to disengage from the system. The most recent evaluation of the Commonwealth's mainstream Work for the Dole program found that some participants in that program reported improvements in 'soft skills' and motivation to work but those in other forms of 'mutual obligation' activities - like part time work or training, were *much more likely* to report these improvements⁵. The poor cost effectiveness of Work for the Dole has been implicitly acknowledged in a series of Government announcements that have reduced emphasis on the program in non-remote areas of Australia⁶.

In the design of the CDP a number of positive aspects of the RJCP scheme were abandoned for reasons that are unclear. Under the RJCP, people could meet their activity obligations through participating in training, and the provider was recognised for assisting people to complete schooling or a certificate 2 or above. These education 'outcomes' were abolished under CDP, and training (other than literacy/numeracy and driver training) must now be connected to a job or a Work for the Dole activity. This move limits options for individuals who may want to pursue education or training, and seems contrary to evidence about the importance of education and training to long term employment pathways⁷. Specific measures designed to focus attention on long term economic and community development were also dropped in the transition to CDP- the Workforce Development Strategy, Community Action Plan and the \$234m Community Development Fund. While these had flaws, they could have led to a greater focus on addressing the longer term development challenges in remote communities had they been given time to develop further.

Changes to CDP also failed to address a number of problems with the RJCP scheme. Already, by 2014, it was becoming clear that the emphasis on what were then called 'structured activities' (akin to Work for the Dole) was driving up penalties⁸. In our 2014 survey RJCP providers reported that penalties had limited impact on behaviour and instead favoured approaches like job creation, development of work in culturally based enterprises and increased investment in foundation skills,

² Peter Davidson, ACOSS Senior Adviser, has provided a useful summary of the evidence here: <https://pagdavidson.wordpress.com/2015/05/10/does-work-for-the-dole-work/>, note also Borland and Tseng, *Does Work for the Dole Work*, Melbourne Institute Working Paper No 14/04, July 2004, DEEWR, *Active Participation Model Evaluation July 2003-2006*, November 2007, Kellard et al, *Evaluation of Work for the Dole 2014-5*, Social Research Centre, 2015.

³ Unpublished 2017 CAEPR provider survey. But note that it was reported that, in some cases, the work was paid less than unemployment benefits.

⁴ Participants were asked about changes since CDP implementation. 42% reported increases in people leaving benefits for work, 68% reported increases in people leaving income support but not for work, 53% reported increases in people who are eligible choosing not to claim, 58% reported people leaving the region to avoid obligations, 92% reported increases in people receiving penalties.

⁵ Kellard et al, *Evaluation of Work for the Dole 2014-5*, Social Research Centre, 2015, pp77-79.

⁶ In the 2016/7 Budget entry into the mutual obligation phase was pushed back from 6 months to 12 months for 'Stream A' jobseekers. The 2017/8 Budget included an end to Work for the Dole Co-ordinator contracts and a narrowing of the focus of group Work for the Dole activities on the most disadvantaged.

⁷ Gray, Hunter & Lohar, 2012, *Increasing Indigenous employment rates*, Closing the Gap Clearinghouse issues paper no 3.

⁸ Fowkes & Sanders, 2016. *Financial penalties under the Remote Jobs and Communities Program Working Paper 108/2016*, Centre for Aboriginal Economic Policy Research, ANU .

over stricter enforcement of activity requirements⁹. The same survey found that the program was centrally (rather than community) driven and burdened with red tape - a reflection of the adoption of JSA-style IT systems and processes when the program was established. Rather than take the opportunity to reduce reliance on IT and administration, the CDP increased it. Again, evidence from research into the mainstream 'activation' programs (like jobactive and JSA) that shows that this approach fails the hardest to help and that it drives out innovation appears not to have been considered in the policy making process¹⁰.

the nature and underlying causes of joblessness in remote communities;

The single biggest cause of joblessness in most areas covered by CDP is the lack of employment opportunity. This was recognised by PM&C when it reported that:

Even if all jobs in remote communities were filled by job seekers there would be a significant labour over supply. For example, in the larger remote communities in the Northern Territory, if every job was taken up by the job seekers in that community the employment rate would still only be half of the national average. (Department of Prime Minister and Cabinet, 2015¹¹)

Lack of employment is an issue for many small rural and remote communities, but the economic position of remote Aboriginal settlements is also a legacy of successive Government policies. Having disrupted traditional economic activity through settlement on Aboriginal land, various Government policies into the mid twentieth century sought to limit Aboriginal trading activity, restrict labour market participation, and deny control over earned income. Many years of chronic underinvestment in Indigenous communities has meant that the infrastructure and services that underpin economic prosperity elsewhere in the country are lacking. Lack of housing, sealed roads, telecommunications, health care, educational and financial services have, and continue, to put a brake on local economic activity and labour market engagement. CDP providers themselves have had to establish administrative centres outside their service regions because of poor internet connections, intermittent electricity supplies, lack of housing for staff and lack of a local workforce with the level of sufficient digital and administrative literacy to do the work.

Joblessness has made communities poor. It is widely recognised that unemployment benefits are inadequate to meet the costs of living on any long term basis¹². Residents in remote communities are faced with substantially higher costs for basics like food, power and fuel. In the last ten years successive Government policies have pushed more people from higher payments onto Newstart - including sole parents, people with disabilities who would have once qualified for DSP, and those who earned a wage under CDEP. The CDP itself has reduced incomes through the application of penalties - the equivalent of more than 46,000 weeks of income support withheld from around 20,000 people in communities that are already poor¹³. Poverty contributes to poor health, criminal

⁹ Fowkes & Sanders, 2015. *A survey of Remote Jobs and Communities Program (me) providers one year on*, Working Paper 97/201, Centre for Aboriginal Economic Policy Research, ANU pp8-9

¹⁰ Eg. Considine, M., Lewis, J.M. & O'Sullivan, S., 2011. 'Quasi-markets and service delivery flexibility following a decade of employment assistance reform in Australia'. *Journal of Social Policy*, 40(4), pp.811-833, OECD 2017, *Connecting People with Jobs*.

¹¹ PM&C Submission to Senate Finance and Public Administration Committee Inquiry into Social Security (CDP) Bill, 2015

¹² For example: Report of the Senate Education, Employment and Workplace Relations committee into adequacy of Newstart (esp. p54)

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_Employment_and_Workplace_Relations/Completed_inquiries/2010-13/newstartallowance/report/index

¹³ Number of short financial penalties + number of 8 week penalties fully served + number of 8 week penalties part-served*average period served.

activity and psychological distress, compounding the negative effects of unemployment on future work prospects for this and future generations.

There is no short or long term prospect of most included communities having a level of market activity that could absorb available local labour. But Indigenous people have made it clear – in words and actions – that they will not abandon their communities or their country. It is neither practical nor just to expect them to do so. Just as successive Government policies have shaped the conditions and opportunities (or lack thereof) in these communities, the Government must now accept that it has choices as to how it addresses the consequences of joblessness in remote communities. It does not flow automatically that a community that does not have a strong private sector labour market must be desperately poor, or that employment cannot be created. The Government's choices as to how it responds to joblessness will have an enormous impact on whether communities continue to spiral downwards into deeper poverty, or have the means to build themselves up as healthy and vibrant places to live.

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;

At the time of announcing his intention to amend the RJCP to create the CDP, Minister Scullion said that 'Labor simply put the urban model of employment services into remote Australia.'¹⁴ While this statement overlooked some more remote specific aspects of RJCP (like single regional providers, Community Action Plans and the Community Development Fund) it was true in many other respects. Despite all the consultation over the design of RJCP, the final design reflected the view of the Department of Employment (then DEEWR) about what an employment service should look like. As one senior official involved in the process told us:

There is a machine – and it's a well-oiled one – around designing an employment service model, so once you stick it in that machine...before you know it has come out like something...its that hammer – nail thing...like what you had before.

Outside the consultative process, a decision was made to base the day to day operations of RJCP on the systems and processes of the (then) Job Services Australia program. This decision shaped delivery of the program in several ways: it vastly increased red tape and reliance on IT systems; it forced providers to favour case managers with high levels of literacy and administrative skill rather than cultural authority or competence; it facilitated centralised bureaucratic management and control; it made it much harder for local people and organisations to have input into program operations and it embedded a 'hassle and help' program logic in the scheme.

Despite Minister's Scullion's public rejection of the JSA model, when the CDP was established it retained all of these features of the mainstream approach. Its effect was to increase the importance of administration in the program and the level of centralised control. Worse, while the RJCP had given providers some flexibility in how they ran the program, particularly around recommending penalties and arranging activity hours, this flexibility was removed. The program vastly increased the 'hassling' of jobseekers while reducing the 'help'.

The 'hassle and help' approach to labour market assistance

In 2002 the Productivity Commission described the underpinning assumptions of the Job Network (the precursor of JSA and jobactive) as follows:

¹⁴ Scullion, N 'More opportunities for jobseekers in remote communities', Media Release, 6/12/14

...the underlying rationale of the Job Network is to overcome the passivity and demotivation that may develop with long-term spells of unemployment, remove other job-seeker-specific obstacles to employment and quickly orient benefit recipients to jobs...In the long run, it is the effective labour supply that determines the level of employment, not demand. (Productivity Commission 2002, sec.2-4)[emphasis added]

The assumption that a combination of 'hassling' with a little bit of 'help' will enable people to get a job underpins the structure of mainstream employment services and - now - the CDP. It is embedded in the processes and systems used in the program - systems that require regular appointments and activities which may have little value, but which are designed to keep people 'doing things' in return for income support. Systems that require constant reporting on jobseekers in order to maintain pressure on them to look for work. Work for the Dole is part of this 'hassle and help' approach, with an emphasis on 'hassling', as the former Minister for Employment Services noted:

...what Work for the Dole is about is changing the culture of incentives so that work is more attractive than non-work. (Tony Abbott, speech to Work for the Dole project launch, 13 July 1999)

But it is abundantly clear that the main problem in most remote communities is that there simply are not enough jobs to go around. No amount of 'hassling' will create them. Implemented in a place without enough jobs, a policy designed to make 'non-work' hard simply makes life hard. And, because the rules are so much harsher under CDP than under non-remote programs, life has been made much, much harder. This is apparent in the extraordinary rate at which participants in CDP are incurring penalties. Over the first 18 months of the CDP, 245,307 financial penalties were applied to CDP participants (around 35,000 people) more than were applied to all jobactive participants, even though the jobactive program is more than 20 times larger (see further on penalties below). It is clear from my interviews with participants that full time Work for the Dole is also making other aspects of life harder. It is crowding out other activities that are important for health and wellbeing. These include providing care for grandchildren and older relatives, maintaining and cleaning overcrowded housing, maintaining cultural connections, participating in community governance, supporting kin at times of loss, collecting food and art materials, and making items to sell. 'Hassling' people in places without jobs to go to is simply harmful and demeaning.

Red tape and wasted resources

One of the consequences of the adoption of the mainstream 'hassle and help' approach is an enormous investment in administration. In our 2017 provider survey over 90% of respondents said that they had to increase the level of resourcing invested in administration and compliance in response to the change from RJCP to CDP, a total of 80 additional staff and approximately \$1.6m per annum in additional payments to external contractors across the 30 organisations that reported.

The case managers who are meant to be working with participants and employers are desk bound, tied to a computer. 84% of providers reported that 'the CDP IT system guides a lot of our day to day work', while 70% reported that 'a lot of our work with clients is about compliance, not what they want or need'. CDP managers report that their performance is judged, not by their community impact, but by their administrative and computer work:

We are now back to a compliance driven model or an administratively driven model where you really are - I had issues in RJCP but it is even worse now - where you are driving systems to get a result. You don't even have to leave your

four walls - you can sit in a dark room and drive the laptop to get the result the Department wants to a large degree. It has really lost that community focus.
CDP Provider CEO

We should expect better of a scheme that, in 2015/6, cost \$268m in provider payments alone.

It is worth mentioning that it has been proposed that some of the responsibility for paying income support should be transferred to providers - effectively privatising these DHS functions. Already, much of providers' time is spent wrestling with complex rules and an IT system that is not designed to support their needs. If they were to take on this role, the level of administrative complexity and IT reliance would substantially escalate. CDEP providers successfully managed payment of wages, but these are quite simple - paid on the basis of work done. Income support payments are based on needs and on means. Entitlements change according to family circumstances (partner income, children), any work done (and whether it has been declared), debts raised and, of course, penalties. Because these payments are designed as a safety net, administrative processes are designed to try to prevent the most vulnerable being affected. None of this has anything to do with getting people into employment or increasing the opportunities available. Any proposal to move income support administration to CDP providers would cement their role as administrators acting under the direction of Government. In my view, the program should move, instead, towards building a much stronger support system for those who want work and for social, economic and cultural development.

Is Work for the Dole meeting the 'needs and aspirations of Indigenous people'

People worked for CDEP because they got paid money. This one, they come in because they don't want their pay to get stopped. (Local Indigenous engagement officer)

In responding to criticisms of CDP, Minister Scullion has said:

...now a breach isn't there to be mean, a breach is there to create an incentive to actually turn up to an activity [so] we can put purpose in your life. (ABC Radio, Life Matters, 6 December 2016).

For decades, under many guises, settler institutions including government agencies and missions, have taken it upon themselves to give Indigenous people 'a purpose'. For all of that time, as recently reiterated in the Uluru Statement, Australia's First Peoples have claimed that right for themselves. This doesn't mean a lack of belief that people should contribute to their communities, or that 'purposelessness' has not been identified as a problem for some. But the engendering of purpose and the establishment of obligations are seen as tasks that are appropriately developed and led at the community level.

Throughout my interviews, participants have identified the CDP as an example of Government taking away community and individual control - another case of the Government telling them what to do:

Q-What are the good things about WfD?

Nothing good, work for the dole. That's rubbish work. That hurts so much when people say you are on work for dole. This government's rules. Government laws. Got to do the job for him. (CDP participant)

While people often see value in some of the activities they do, particularly if the activities are aligned with personal or community objectives, they reject the degree of Government control, and the fact that they are expected to work without a wage:

When we went and cleaned up the old peoples' centre - I felt good about that.
But in that other job - felt like just cheap labour for the government. (CDP participant)

I have heard many politicians and bureaucrats describe the former CDEP as 'Aboriginal Work for the Dole', indeed it has been argued that if providers had control over income support payments then the CDP would have most of the important elements of CDEP. My interviews with participants do not support this view. Participants in CDP are acutely aware of the difference between working for wages and working for the dole, and they know that it is the Government, not the local organisation that is controlling what they do:

In CDEP days people were everywhere. It's completely different now. The rules are made by Government. You can't blame the organisation for that.
(CDP participant)

Most people that I have interviewed have made it very clear that they want to work for wages, and they want community control:

Our people don't like this. Want to work for real money. If they had real money then more people would be involved. They come and go [from activities] because its Centrelink. I said that to the bosses - when it was CDEP wages then everybody was working. Especially Work for the Dole - it look like they lost a bit of their skins. Because they lost CDEP. It's been a long time now. That's what everyone in the community say. (Indigenous Male Supervisor)

I think it's terrible, working everyday, Monday to Friday for the dole. For \$270 per week just the same money - just \$20 top up now. Seems like there are no jobs around here, they are just making up stuff for us to do. It was better in CDEP. We got paid wages. And CDEP was keeping money in the community.
(CDP participant)

Minister Scullion has acknowledged that many CDP participants may face indefinite Work for the Dole¹⁵. If the CDP remains in place he is right. The program does not meet peoples aspirations for employment or a just wage.

Cultural aspirations

Many interviewees have told me that they want to be involved in activities that involve practicing and strengthening culture. The way that cultural practices are dealt with under the CDP is emblematic of the wider problem with Government's top down approach to the program. Under the Social Security Act, people on unemployment benefits can be exempted from mutual obligation to attend cultural business and/or sorry business for up to 13 weeks at a time, although the actual period of the exemption varies according to circumstances¹⁶. The CDEP program was sufficiently flexible not to require this sort of bureaucratic distinction between cultural and other tasks. The job of deciding what work was legitimate was undertaken by local Indigenous community organisations. Even under former employment services, some providers used the flexibilities in RJCP and JSA to recognise the value of cultural activity - for example by including cultural business as a 'community' or 'voluntary' activity in a Job Plan.

¹⁵ In Martin '30 years working for the dole a reality' (2/3/15) *The Australian*.

¹⁶ <http://guides.dss.gov.au/guide-social-security-law/3/2/11/40>

The introduction of CDP has reduced the scope for recognition of cultural practice. CDP guidelines specify that ‘a job seeker cannot meet their mutual obligations requirements by undertaking cultural business’. Apart from the Christmas closedown period, providers can grant up to 4 weeks ‘leave’ from Work for the Dole per annum which can include time for cultural and/or funeral leave. However for any period in which a participant is formally exempted by DHS the provider loses access to Work for the Dole payments, so there is a financial disincentive to providers encouraging people to seek the cultural exemptions to which they are entitled. If people leave the community to attend cultural business without prior approval, then providers are instructed to mark them as an ‘invalid non-attendance’, which may lead to a penalty¹⁷. The Minister has continually referred to the provision of up to 4 weeks cultural leave as a benefit of CDP, even though this is a lesser entitlement than that under the Social Security Act. In the course of my research it has also become apparent that Government officials regularly pressure providers to manage down the time spent in cultural or sorry business:

Initiation can last up to 3 months. We asked PM&C about it, how we can address activity requirements – they said ‘that’s for you to negotiate – you are better situated than us because you are out there’. We do include cultural activity in the activities...but we don’t stipulate it as such. We don’t draw attention to it. (CDP manager)

...they are saying ‘they can’t keep having cultural leave’ ‘they can’t keep having sorry business’ and I am going ‘why can’t they?’ (CDP CEO)

It seems bizarre that sewing and lawnmowing are considered legitimate activities, while cultural practices are not, just as it is bizarre to think that sewing and lawnmowing are more important than dealing with loss of kin or caring for family. In my experience, many providers work around these rules, building cultural activities into activities where they can. But at a systemic level, the insistence on top down control over the daily activities of Indigenous people makes practicing culture a concession, not a right.

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

The right to social security

There are two sets of rules that shape the access of CDP participants to the income support safety net.

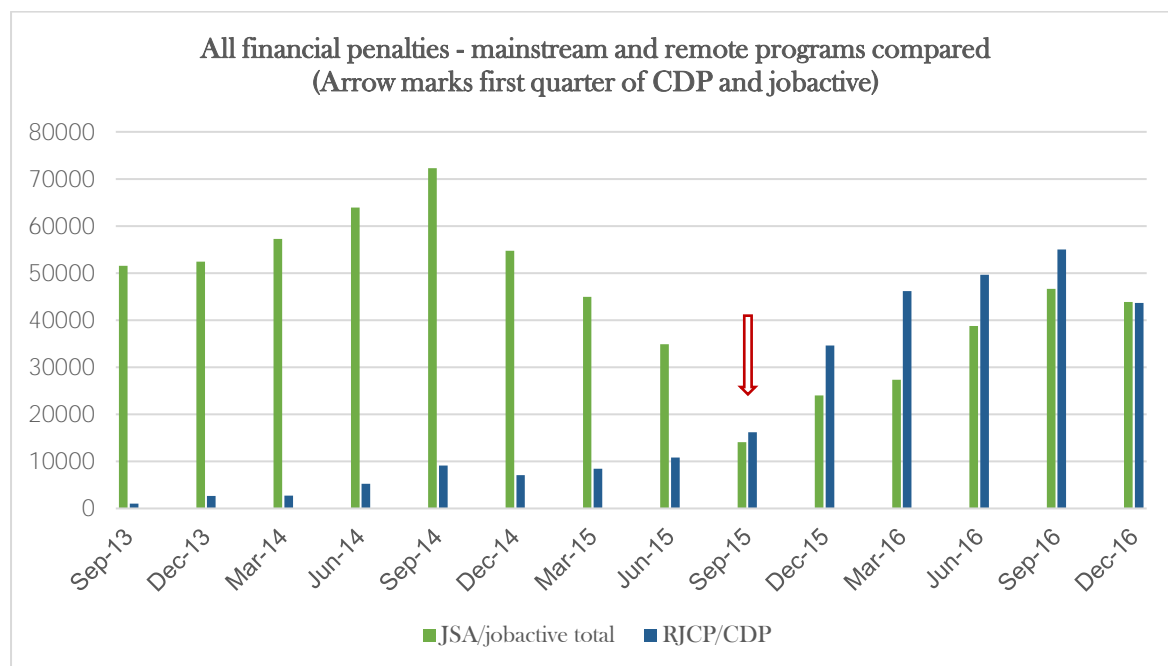
One is the Social Security legislation and its associated regulations, which include the national Jobseeker Compliance Framework. This is a common set of laws that apply to all income support recipients. These laws allow for conditions to be attached to certain payments and have some broad limitations as to what types of conditions they are. The legislation includes specification of penalties, appeal rights, and protections. Amendments are always closely scrutinised by Parliament, and penalties applied are reported publicly, providing a level of transparency.

The second set of rules is determined by the Commonwealth Government and implemented through its contracts with employment services providers. These rules include, for example, instructions to providers as to what the particular obligations of different groups of jobseekers should be (eg how many hours of Work for the Dole) and how the provider should manage compliance. It is through these program rules that the Government can implement very different obligations for people in CDP from those in jobactive or Disability Employment Services.

¹⁷ PM&C, *Advice on Managing Leave for Cultural Business*, Ver 3, 20 August 2016, p4

The specific effect of the CDP program rules on penalties is clear from the data. Over the period from 1 July 2013 to 31st December 2016 (the period for which we have data), RJCP/CDP participants were under the same social security legislation, administered by the same Department (DHS) as every other income support recipient. Yet, as Chart 1 shows, the pattern of application of penalties number has been very different. From September 2015 - the first quarter following the implementation of CDP - the number of penalties that have been applied to CDP participants (caseload of around 35,000) exceeded that applied to jobactive participants (caseload over 750,000)¹⁸.

Chart 1



The changes that have driven the disproportionate level of penalties being applied to CDP participants are changes made by the Government when it implemented CDP.

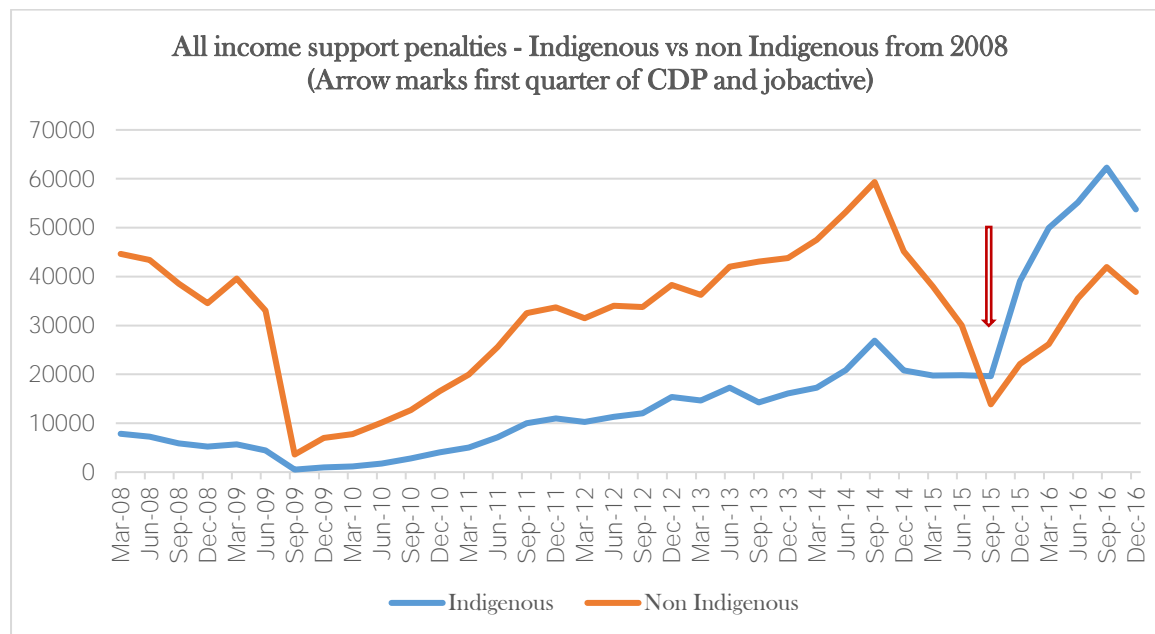
First, the Government imposed more onerous Work for the Dole requirements on CDP participants than on any other group - so, for example, a 35 year old under CDP would start 'Working for the Dole' as soon as they joined the program, and would be expected to work 5 days per day for 46 weeks per year - that is 1150 hours each year. Under jobactive they may have to 'Work for the Dole' up to 350 hours each year if they don't find work after 12 months (increasing to 650 hours per annum next year) (Comparative table at Appendix 1).

Second, CDP providers service fees were tied to reporting non-attendance at Work for the Dole - so that if they do not recommend a penalty for a person who fails to attend Work for the Dole without a 'valid excuse' they have no chance of receiving service fees for that person. While under the national Jobseeker Compliance Framework, providers are meant to be able to exercise discretion as to whether a penalty is appropriate, under CDP they are penalised for making this choice.

¹⁸ The exception is the most recent reported quarter, which included the period leading up to, and during the Christmas closedown. Work for the Dole was suspended for 2 weeks and provider offices closed.

The importance of these rules in driving penalties is clear from the data. In the 18 months prior to the introduction of the CDP, 26,690 ‘No Show No Pay’ penalties were applied to RJCP participants for failing to attend activities. In the 18 months following its introduction, 205,995 of these penalties were applied. While the CDP applies to all remote unemployed people, 90% of those penalised in 2015/6 were Indigenous. The fact that CDP is having a disproportionately adverse effect on Indigenous Australians is clear from Chart 2.

Chart 2



The role of DHS

The emphasis on compliance under the CDP (and the reduction in provider discretion) has forced remote participants to engage much more closely and more often with DHS. For example in the 2014/5 financial year, there were 6215 referrals of RJCP participants to DHS for a ‘Comprehensive Compliance Assessment’ – a formal assessment following multiple compliance failures. In the 2015/6 financial year, following the implementation of the CDP, this number jumped to over 40,000. This number continues to climb.

Not only has this been immensely frustrating for participants, it has highlighted the failure of DHS to provide quality, culturally appropriate services to remote Indigenous Australians. This failure has impacted on remote Indigenous Australians’ access to the income support safety net in many ways, including denial of entitlements. Recently the Commonwealth Ombudsman reported on the obstacles faced by remote Indigenous people in accessing the Disability Support Pension, showing that many who are clearly unable to work are being left on CDP¹⁹. It is these same set of assessment processes that are relied on to ensure that physical/psychological and other barriers to participation that CDP participants have are taken into account – both in setting obligations and in considering whether they should incur serious penalties. This role is particularly important given the lack of provider discretion and the inflexibility of Work for the Dole. Providers continue to report that participants with substantial impairment who are referred for expert assessment (ESAt) are being given inappropriate requirements. DHS’ Comprehensive Compliance Assessment process – which is meant to involve a specialist officer in reviewing underlying barriers to

¹⁹ Commonwealth Ombudsman, Department of Human Services : accessibility of the Disability Support Pension for remote Indigenous Australians, December 2016

participation – continues to result in twice as many adverse findings against CDP participants as against all others.

The Minister for Indigenous Affairs has argued that, instead of addressing the inadequacy of access to DHS services, some of its functions – particularly in relation to applying penalties – should be privatised and transferred to CDP providers. This proposal was initially put forward via enabling legislation (the *Social Security Legislation Amendment (Community Development Program) Bill 2015*) without any detailed examination of its costs or implications. Rather than increasing local control, the proposal was to reduce discretion of providers further – so that they could not allow non attendance unless prior notice was given of a ‘valid excuse’²⁰. It has not been explained how this shift would address the disproportionate rate of penalties being applied to CDP participants – which largely flow from unreasonable Work for the Dole requirements. In fact, it appears likely that the scheme would substantially increase penalties, as DHS currently rejects a substantial proportion of provider reports (45% in December 2016 quarter). Any proposal such as that put forward in the Government’s *Social Security Legislation Amendment (Community Development Program) Bill 2015*, that would remove a group of – predominantly Indigenous – people from the broader protections of the Social Security legislation, or would remove their access to critical public services runs the risk of entrenching a second rate system, and undermining access to rights enjoyed by other Australians. Privatisation is not a solution for the current inadequacies of DHS services.

Employment rights

CDEP wages were paid at the award rate. When Work for the Dole was established, participation hours were set on the basis of the number of hours of labour that Newstart could ‘buy’. But many CDP participants are expected to work for less than \$11 per hour indefinitely, while their city cousins not only have access to stronger labour markets, but are expected to work half as much.

CDP creates a very large pool of unpaid labour, creating the opportunity for employers to substitute CDP workers for paid employees. Under CDP, a worker can be assigned to a task that would normally be performed by a paid worker for 6 months. If they refuse, they can be penalised. Over half of providers surveyed in 2017 reported that it is likely that local governments are relying on CDP to do tasks that are their responsibility, while nearly 40% report private employers asking for CDP labour rather than employing people. Substitution of CDEP workers for other employees was a criticism of CDEP, but for CDEP workers, the scheme was voluntary and paid award wages. CDP has created a labour force of predominantly Indigenous workers, paid at less than award wages with none of the rights or safeguards of other workers.

Faced with the reality that there are not enough jobs in remote areas, and that there are many people willing and able to work, the Government has a choice. It can either keep people in the welfare system, using the threat of penalties to force continual ‘activity’ for its own sake, or it can make it possible for people to work for award wages and conditions, for organisations that are embedded in their communities. In my view, only the second option is consistent with the rights of Indigenous people to employment and to self determination.

[the funding of the CDP, including the use of unspent funds in the program;](#)

Funding for CDP providers is now reported as part of the overall IAS Jobs Land and Economy stream, so it is difficult to tell how much is being spent or forecast except where responses are given to questions in Senate Estimates.

²⁰ Except in the case of DSP recipients. Source: *PM&C Consultation Paper. Changes to the Community Development Programme*. March 2016

I am aware that when the RJCP was established, while it was initially suggested that the overall budget would match that applied to the programs it replaced (JSA, CDEP, DES, IEP), this did not occur, and overall funding was reduced. Another reduction occurred when the \$234m Community Development Fund - a fund that was intended to support community and economic development projects in RJCP communities - was discontinued. A new Indigenous Entrepreneurs Fund was established but, again, it is impossible to tell how much has been spent and with what outcomes.

In my interviews with providers and provider surveys, the complexity of the CDP funding model has been raised often. The model appears to have been designed to drive provider behaviour (including promoting use of penalties), but its complexity has led to perverse results, as this comment from a manager illustrates:

We basically spend 3 days at the end of the month solid data auditing - but none of it is auditing around did we help this person find a job. Its simply 'is this person in the right activity, at the right time.' For example if someone is on income support then maybe they don't put their form in, and they drop off income support for 10 days, then we are not going to get paid for them because they are not going to do WfD- we would exit them out of the activity so that we get basic payment for that period. It helps our attendance rate as well. But that doesn't achieve anything in terms of having a real meaningful difference in someone's life. Manager, CDP provider

Providers report that it is extremely difficult to forecast revenue, which can make them reluctant to invest in particular types of projects. There is no relationship between provider cost structures (which vary widely across regions) and their revenue. The recent spate of end of financial year spending commitments made within the program suggest that the Government may also be struggling to predict what the program will cost it across the year. Again, there is no transparency about Departmental costs of managing the program or of the cost of managing penalties.

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;

I have addressed the issue of consultation in the development of CDP above.

In the community consultation process leading up to the implementation of the RJCP two of the key themes that emerged were the desire of local people to have substantial influence over local delivery, and the need to invest in community and economic development. The then Labor Government responded to these aspirations by selecting a significant number of Indigenous organisations to deliver the scheme, requiring that they work with local people to develop Community Action Plans, and establishing the Community Development Fund. The initial draft Performance Framework anticipated that communities would have a say in measuring provider performance. However both the CAPs and the CDF were abandoned in 2014, while the Performance Framework was not implemented (in fact no targets - for employment or anything else - were implemented by the Government over the full 2 years of RJCP). Providers are now encouraged, through the current Performance Framework, to consult with communities about the types of activities they run, but there is no scope for community involved in determining how the program should run - its objectives and priorities, what activities are legitimate, the way that obligations should be set or handled, or penalties applied. These matters are determined by the Commonwealth Government.

The Government has continued to emphasise the importance of Indigenous organisations in delivery. But while it has been keen to contract Indigenous organisations, it has steadily reduced

their autonomy. In fact, on a number of occasions the Minister has described these organisations as the ‘delivery arm of Government’, and has said that those who criticised CDP ‘were not doing their job’. This is not conducive to genuine conversations about the strengths and weaknesses of the program. All of the CDP providers that responded to our 2017 survey (most of which were Indigenous organisations) reported some attempt at advocating for changes to the CDP program, however over half reported that their advocacy had had ‘no effect at all’. 68% of respondents agreed that ‘providers are fearful of repercussions from Government if they are publicly critical of CDP’, half thought being seen to be critical would make it less likely that they would keep their contract, and a quarter reported that their own organisation had already been negatively affected by its advocacy.

A radical transformation of the Government’s approach to managing the CDP and the Indigenous organisations that are involved in it is required if there is to be any hope of giving communities a say. More broadly, new institutional arrangements are needed to ensure that Indigenous participants and communities are able to drive the direction of the program, not simply be told what to do.

alternative approaches to addressing joblessness and community development in remote Indigenous communities

I have been working with the Aboriginal Peak Organisations, NT to assist them to develop an alternative to the current CDP that better reflects the needs and aspirations of remote communities and is eminently achievable. I support the adoption of its approach. The proposal would mean establishment of employment opportunities for many, while retaining an income support safety net for those who need it. It would enable organisations involved in delivery to focus on long term improvements in opportunities.

I would like to emphasise to the Committee the critical importance of the institutional arrangements that are established to implement any new program. Many of the problems in RJCP and CDP have emerged from bureaucratic and political cultures that insists on centralised management and control. This started in DEEWR, when officials insisted that the RJCP be based on their programs. It has continued in PM&C. It is this culture that has generated a ‘one size fits all’ approach and that has relegated Indigenous organisations to doing the bidding of Government. Despite the program sitting in the Indigenous Affairs part of PM&C for more than 3 years, no structure has been established that would enable input of Indigenous stakeholders into the way the program is run. Even PM&C’s own local staff find it hard to have an impact on decision making. No matter what program design is adopted, unless this culture changes, it will continue to be top down and inflexible. I believe that this can only occur within a new agency which is independent from the Government of the day and has strong Indigenous leadership.

It is also important to recognised that no matter how clever the thinking, or how much consultation has taken place, any program that is implemented in remote communities will need to be highly flexible and adapted over time. This does not mean constant tweaking from the top, or knee jerk responses. It means that the overall program framework cannot be highly prescriptive - there has to be a lot of room for local people to set rules and experiment with different approaches. It also means that while broad performance objectives should be set up front, these need to be negotiable and adapted over time. Importantly, in this context, local communities must play a part in establishing and monitoring objectives and measures. There is a role for an independent Government agency in supporting and facilitating but not commanding and controlling. If change comes, it must be collaborative and evidence based. Not ideological, or an attempt to centralise

control. We have tried to incorporate this thinking into the APONT approach, while providing enough information about what people might expect to see if the scheme were adopted.

any other related matters.

I want to briefly comment on the claims made that the CDP has succeeded in making a 'transformational change' to remote communities.

The main evidence for this claim is that on 1st July 2015, when the program started, reported attendance in Work for the Dole activities was only 7%, while by 30 April 2017, it had risen to 70%. The critical word here is 'reported'- meaning reported in the IT system. Prior to 1st July 2015 providers were not required to report attendance via the Government's IT system, so it is unsurprising that, on the 1st day of the program, attendance reported on line was low. Under RJCP providers had more scope to tailor activity requirements to individual needs, so while the vast majority had been assigned to some activity, many were in activities (like community projects) that did not require daily timesheets. The daily on line reporting requirement was implemented gradually over the first 6 months of CDP. A provider survey conducted in October 2015 revealed that at that point 18% of respondents were only reporting online occasionally or not at all. In other words, while I am sure that the number of people turning up to Work for the Dole has increased, the 7% to 70% 'transformation' simply reflects a change in reporting.

Another indicator of attendance is, of course, the number of people being penalised for not showing up. As shown in Chart 1 above, this has increased over every reported quarter in the program except the last reported (which co-incided with the Christmas close down). If behavioural transformation has been so radical, it is hard to fathom why the number of people getting penalised for not turning up has continued to grow. Rather than deny that a problem exists, it would be more fruitful for government officials to engage in a dialogue about why people may not be participating and what needs to be done to more closely align policy settings with the aspirations of local people.

Appendix - Comparison of mutual obligation requirements between jobactive and CDP

| | Jobactive Annual Activity requirement | Community Development Programme |
|---|---|--|
| Duration of requirement | Annual Activity Requirement starts at 12 months after starting in the program. The requirement is for six continuous months in each year of unemployment. | Work for the Dole starts immediately and continues until the participant leaves income support or their circumstances change. Providers can give participants up to six weeks 'time off' in any 12 month period. (46 weeks per annum) |
| Hours of work required. (people with full time work capacity) | Currently: * Aged under 30 years: 50 hours per fortnight for 26 weeks each year = <u>650 hours per year</u> * Aged 30 to 59: 30 hours per fortnight for 26 weeks each year = <u>390 hours per year</u> From September 2018: * Aged 30-49 increases to 650 hours per year In addition - job search and appointments. | * Aged from 18-49 inclusive: 25 hours per week in Work for the Dole activities. (at least <u>1150 hours per year</u>) * 50-54: 25 hours per week mutual obligation activities (at least <u>1150 per year</u>) * 55+: 30 hours per fortnight mutual obligation activities (at least <u>690 hours per year</u>) In addition - job search and appointments. |
| Hours of work required. (people with part time work capacity ie principal carers, people with disabilities) | * Aged under 30 years: <u>390 hours per year</u> over 26 weeks= 30 hours per fortnight over 26 weeks * Aged 30 to 59: <u>200 hours per year</u> over 26 weeks (15 to 16 hours per fortnight) Or minimum assessed work capacity. From Sept 18, 30-49 yrs have higher requirement. In addition appointments and job search where appropriate. | * 30 hours per fortnight of activities = approx. 690 hours per year Or minimum assessed work capacity. In addition appointments and job search where appropriate. |
| Types of activity | The annual activity requirement can be met through: <ul style="list-style-type: none"> • Work for the Dole • National Work Experience Programme (up to 4 weeks) • Voluntary work • Part-time work • Study or training at Cert 3 level or higher | Work for the Dole compulsory for all participants 18-49 with full time capacity. Hours in part time work can be counted towards the 25 hour per week requirement. Training can only be counted if it is necessary for the WID project or is linked to a job. |

| | | |
|--------------------------|---|---|
| | <ul style="list-style-type: none"> • Defence Reserves • Other approved Government or non Government programs • Drug and alcohol treatment (from 1/1/2018) <p>With some exceptions, activities cannot be conducted on private property or in commercial enterprises. They cannot involve work that would have been done by a paid worker had the Work for the Dole activity taken place, or reduce hour sor existing paid workers or perform tasks done by workers made redundant in last 12 months. (Deed cl108 and WfD Guideline)</p> | <p>The Guidelines allow for the majority of the 25 hours to be spent in a service (eg rehabilitation) ‘where there is a clear need’, but in these cases records of attendance must still be kept.</p> <p>Participants with part time work capacity or 50 years+ can participate in range of activities as per jobactive.</p> |
| Unpaid work experience | <p>National Work Experience Programme with employer including for profit. Job seekers must volunteer. Up to four weeks and no more than 25 hours per week. Employers who have recently, or plan redundancies excluded.</p> <p>Participants in Youth Jobs PaTH’ program placed in ‘internships’ for 4-12 weeks. Places are voluntary and \$100 fortnight paid on top of income support.</p> | <p>Work for the Dole places may be created in for profit or other organisations doing ‘real work’. There are limits on the number of ‘real work’ placements a ‘host’ can offer – for example businesses with 11 to 20 employees can offer one Hosted Placement for every five ongoing employees. Placements can be for up to six months, with capacity for PM&C to agree to an extension. Hosts can directly advertise for participants. Placements can be mandatory.</p> |
| Scheduling | Flexible | <p>Activities must be scheduled so that they ‘set a daily routine for job seekers across a five day, Monday to Friday week’. Providers may put forward a proposal for different scheduling under ‘special circumstances’.</p> |
| Monitoring and reporting | <p>In Work for the Dole, must record attendance for each day. Must enter into IT system within 10 days.</p> <p>For other activities, must record on a monthly basis.</p> | <p>WfD: Attendance must be recorded for each day and entered into the IT system. Monthly payments are based on records in this system.</p> <p>Payments are not made where a person has not attended WfD and the provider has not reported non compliance to DHS. Provider KPIs are also linked to reporting non compliance to DHS.</p> |