



**SUBMISSION TO THE SENATE COMMUNITY AFFAIRS LEGISLATION COMMITTEE
INQUIRY INTO THE SOCIAL SECURITY LEGISLATION AMENDMENT (COMMUNITY
DEVELOPMENT PROGRAM) BILL 2018**

SHIRE OF NGAANYATJARRAKU AND NGAANYATJARRA COUNCIL

The following submission to the Senate Community Affairs Legislation Committee is made by the Ngaanyatjarra Council and the Shire of Ngaanyatjarraku.

The Shire of Ngaanyatjarraku is responsible for the provision of "mainstream" local government and delivery of services to the ten communities and visitors within its boundaries. The Shire encompasses an area of 159,948 square kilometres and is located approximately 1542km from Perth.

The Ngaanyatjarra Council (Aboriginal Corporation) represents the interests of around 2000 Ngaanyatjarra, Pintupi and Pitjantjatjara Traditional Owners (Yarnangu) who reside in the communities of the Ngaanyatjarra Council. The 99-year leases held by the Ngaanyatjarra Land Council on behalf of the traditional owners over the lands also form the boundaries of the Shire of Ngaanyatjarraku.

OVERVIEW

The Ngaanyatjarra Council and the Shire of Ngaanyatjarraku overwhelmingly reject the Community Development Programme (CDP) and call on the Government to abandon the program immediately. We believe the CDP contravenes *the Racial Discrimination Act 1975* and is having serious and harmful consequences for Aboriginal people living in CDP regions and in particular our region, one of the most remote in Australia.

We do not support the CDP Bill as it will worsen the impact of the flawed and discriminatory CDP.

We join the many Aboriginal and Torres Strait organisations across the country and call for the urgent abandonment of the CDP.

The CDP should be replaced by a genuine partnership with Aboriginal people in remote areas to design and implement a model to improve the economic, social and cultural outcomes of Aboriginal people. The new model should be based on the aspirations of Aboriginal people, be place based and designed as a special measure under the Racial Discrimination Act. The CDP should be withdrawn immediately and should not be contingent on a new model being ready in its place.

RECOMMENDATIONS

The Ngaanyatjarra Council and the Shire of Ngaanyatjarraku recommends:

1. The Senate recognise the unanimous voice of Aboriginal and Torres Strait Islander people and reject this Bill.
2. The Government:
 - a. Immediately abandon the CDP.
 - b. Compensates Aboriginal people and their organisations for the discrimination, harm, distress and financial loss caused by the CDP.
 - c. Works with Aboriginal and Torres Strait Islander people and their organisations to design a place based model to support improved economic, social and cultural outcomes in remote areas that is underpinned by a community development approach and is consistent with the Racial Discrimination Act.

DISCUSSION

The Community Development Program is discriminatory in design and application

Design of CDP

Whilst promoted by the Federal Government as a program designed to address the unique labour market for all job seekers living in remote areas, CDP is undoubtedly targeted towards Aboriginal people living in remote communities.

- Around 83 per cent of CDP participants identify as Aboriginal and Torres Strait Islander.
- The Minister for Indigenous Affairs is the responsible Minister, rather than the Minister for Jobs or the Minister for Social Services, as is the case with other job programs, including Jobactive.
- The CDP is administered by the Department of Prime Minister and Cabinet's Indigenous Affairs Group, rather than the Department of Jobs.

- In announcing CDP, the Minister for Indigenous Affairs referred to the findings of the ‘Creating Parity – the Forrest Review’, a report on ending disparity between Indigenous and non-Indigenous Australians.
- CDP providers are funded through the Indigenous Advancement Strategy (IAS), a “*strategy through which the Australian Government funds and delivers a range of Programmes specifically for Indigenous Australians*” (IAS guidelines).
- CDP has its origins in a program designed for Aboriginal and Torres Strait Islander peoples: CDP replaced the Remote Jobs in Communities Program, which in turn superseded the Community Development Employment Projects (CDEP) – a scheme that included Aboriginal organisations being provided with grants to employ Aboriginal staff and which operated alongside the social security system. The Minister for Indigenous Affairs has often described CDP as building on elements of CDEP.

The proposed reforms do not address our concerns that CDP is targeted towards Aboriginal people.

CDP also imposes more obligations on CDP participants than Jobactive participants to access their income support payments. Further, their ability to meet those obligations is made more difficult by the lack of Government services, particularly Centrelink services, in remote Aboriginal communities and the lack of recognition of Aboriginal culture, languages, communication styles, health and disability, and entrenched poverty linked to colonisation.

We note the decrease in mutual obligation requirements from 25 hours to 20 hours per week. However, we remain concerned that the impact of this reduction in hours will have limited, if any, real effect on the ability of the Aboriginal job seeker to meet their mutual obligation requirements under CDP. Even with the reduction in the maximum number of hours to 20, the mutual obligations in CDP remain more onerous than those under Jobactive. CDP participants:

- start work immediately upon entering the program;
- work indefinitely; and
- are required to work Monday to Friday.

Jobactive participants by contrast:

- are not required to start work for the first 12 months of the program;
- must work only 6 out of every 12 months thereafter;
- and have flexibility in relation to which days they are scheduled to work to complete their activity requirements.

It is misleading for the Government to characterise the reforms as decreasing the mutual obligation hours for CDP participants to up to 20 hours per week, which is fewer hours than Jobactive. A CDP participant who is 30 to 49 years old on full time participation requirements will be required to work 20 hours per week all year round compared with 30 to 49 year olds in Jobactive. They are only required to work 15 hours a week over 6 months and only after 12 months from commencement in the program.

We do not accept that the obligations are comparable and the proposed CDP reforms do not address our concerns in this regard.

Should the Government now seek to argue that the CDP is a special measure under the Racial Discrimination Act, it is our view that it would not meet the conditions for a special measure in any case. In particular we note that there have not been any transparent or formal consultations or an attempt at a partnership with Aboriginal people to design and implement the CDP. Consultation has been targeted towards CDP Providers and is focussed on implementation of predetermined reforms.

Application of CDP

The Government's own data indicates that CDP participants (mostly Aboriginal people) are around 20 times more likely to be financially penalised as participants in the Jobactive programme. CDP participants have to attend activities more often than anyone else, so they have more 'opportunities to fail' and they incur many more penalties than other unemployed people.

We also believe the high rate of penalties is due to:

- an over estimation of a person's work capacity in their initial work capacity assessment;
- use of phone assessments;
- lack of cultural competence of assessors;
- failure to use interpreters;
- differing cultural perceptions of disabilities;
- high levels of unassessed or unaddressed mental illness and/or disability in remote communities;
- lack of internet and phone services;
- reluctance of Indigenous people to disclose family or personal challenges, especially over the phone to a person they do not know; and
- poor or non-existent Centrelink services.

These issues have been well documented in many forums and against many programmes, yet the CDP takes no account of these circumstances. The so-called CPD 'safety nets' are heavily reliant on services that don't exist in remote communities or unreliable including: access to a trusted medical professional; Centrelink staff and social workers; interpreters; and access to phones and computers.

The higher and unfair application of penalties under the current CDP compliance framework is having devastating impacts on Aboriginal people, with increasing hardship, people going hungry and increasing family stress.

We believe this situation equates to an unequal access to social security payments for Aboriginal people in remote areas compared to other Australians and is inconsistent with the protections under the Racial Discrimination Act. The current CDP Bill does not address these issues.

The Targeted Compliance Framework

The Government has stated that the Targeted Compliance Framework (TCF) arrangements are designed to reduce penalties for those who might miss the occasional appointment within a six-month period, and increase penalties for those who are 'wilful' and miss appointments or activities more often; and will be consistent with the Jobactive Programme.

We do not believe that the introduction of the TCF will address any of our concerns that the CDP is discriminatory, and will in fact cause greater harm for Aboriginal job seekers in remote areas.

Firstly, and our primary concern, is that the TCF will make it harder for people who have multiple failures, and as noted above, this is more likely to occur for Aboriginal people in remote areas and is not because they are 'wilfully non-complaint'.

The TCF includes the removal of the current ability of participants who have had a longer penalty applied to return to their activities and have their income support reinstated. Under the TCF, individuals who have been penalised would have no way of having their payments re-instated early

by returning to Work for the Dole. They could appeal the penalty, but in practice this is extremely difficult for Aboriginal people living in remote areas where Centrelink servicing is very poor and inconsistent, English is not the first language and there are multiple barriers to communication. This will increase the hardship for Aboriginal people in CDP regions.

In addition, those who receive 4 week penalties will have their payments cancelled altogether and they will need to re-apply for payments. This will be much more difficult for people in remote areas who may have language barriers, lack access to a phone or have underlying cognitive or health impairments and will likely mean that Aboriginal people in CDP regions will continue to have less access to income support payments than other Australians.

Secondly, the TCF is designed for non-remote areas and does not consider the additional challenges of remote areas, including the lack of government servicing and job opportunities, or that the majority of CDP participants are Aboriginal and have unique communication and health needs. We also note that the TCF has only just commenced in urban and regional areas and is yet to be evaluated.

It is extremely difficult for Aboriginal people on income support to save money whilst they are on income support. We are deeply concerned about how Aboriginal people will be able to meet their basic daily living requirements, like food and shelter, with no income during periods of preclusion which will now last for a minimum of 4 weeks. We do not see how this penalty is proportionate to the act of non-compliance, particularly given that this is a system that is almost impossible for Aboriginal people to navigate.

The TCF should be rejected by the Senate.

Subsidised employment scheme

We note that the Government has claimed that it is involved in detailed consultations with communities over this proposal. We are not aware of any consultations aside from those with CDP Providers and we have not been provided with any schedule or plan for ongoing discussion. Certainly, no written material has been provided for us to consider this reform properly. Further, we cannot ascertain what engagement the Government has had with potential employers, particularly those based in remote regions or what evidence the Government has drawn on to argue that the proposal will be effective.

From what limited information we can glean, we have significant concerns about the proposal and are unable to support it at this time.

- There is a substantial gap between the employment subsidy and the total cost of employment for a full-time worker.
 - o This will make the scheme out of reach for most Indigenous organisations that are based in very remote areas and it is likely to be taken up by larger, private organisations based in larger centres that already have a labour market.
- There is a significant risk that the 6,000 places will not be taken up.
- Those employed under the scheme are likely to be the most 'job ready' and could already access secure casual/seasonal work when available. It is not clear that wage subsidies will make a significant difference to the employment prospects of this group.

- In many communities there is a strong preference for part-time work, particularly if the total number of jobs available in the community is very limited.
- The scheme is not flexible or generous enough to empower communities to pursue their own projects and objectives. It could not be used, for example, to develop initiatives responsive to Aboriginal aspirations and be responsive to place based markets like caring for country programs; carbon farming and solar initiatives, tourism and bush food industries.

While the Government has not given figures for the cost of the scheme it appears to be poorly targeted. It does not appear to have been designed with remote Indigenous communities in mind and we have not been consulted.

REPLACING THE CDP – A COMMUNITY DEVELOPMENT APPROACH

The starting point for the development of a new model should be on that is compliant with the Racial Discrimination Act and reflects the economic, social, and cultural aspirations and needs of Aboriginal people living in remote communities in each region. CDP should be abandoned now and ahead of any new model being developed. It is racially discriminatory and hurting Aboriginal people in remote communities and this should not be tolerated any longer.

A new model should be developed to replace CDP that is based on the following principles:

1. A new program must be a special measure for Indigenous people under the International Convention on the Elimination of All Forms of Racial Discrimination that enables remote communities to achieve greater equality.
2. The purpose must be community development including economic development rather than delivering an employment service on its own and Indigenous regional organisations should be funded on a long term basis to achieve this in partnership with governments.
3. Rather than applying a single uniform national program with the same rules in every part of remote Australia, the Federal Government will implement a program that enables different responses in different regions reflecting the needs and priorities of Indigenous communities and their organisations.
4. The arrangements for each region will be negotiated between the Federal Government and Indigenous communities and their organisations in each region and confirmed in a formal agreement.
5. Instead of job seekers being paid Centrelink allowances, grants should be made to regional organisations similar to the original CDEP scheme that enables wages to be paid to participants to avoid reliance on Centrelink services.