

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

Senate Inquiry

Finance and Public Administration Committee.

Submission from Fred Chaney AO & Bill Gray AM.

Introduction.

The authors of this submission have observed from the ground level the development of employment programs initiated by successive Commonwealth governments since the demise of the Community Development and Employment Programme scheme in 2015

We have witnessed the introduction and implementation of both the RJCP and CDP from the perspective of the two organisations with which we have had a direct and ongoing association, namely the Ngaanyatajarra Council (Chaney) and Laynhapuy Homelands Aboriginal Corporation in NE Arnhem Land (Gray) as well as engaging with other organisations and communities affected by these programs.

Since 2015 we have also had the opportunity to engage directly with the Department of Prime Minister and Cabinet (PM&C) in Canberra discussing what we have seen to be the impact of the programs on Indigenous communities in remote Australia. We have sought to draw to the Department's attention what we see to be serious deficiencies both in the underlying philosophy and design of the CDP program and the adverse consequences arising from its implementation including the reliance on Centrelink as the paying agency.

In the main, we would have to say that the views we have expressed have not been in accord with the views expressed by the Department in Canberra about the impact of the program on the wellbeing of affected communities. We remain seriously concerned about the damage that has been experienced by many Indigenous communities because of the poor design and implementation of the previous RJCP and now the CDP across remote Australia.

We seek to draw the attention of the Senate, through this submission, to the concerns we have regarding the CDP and to comment on what we believe would be a more positive and productive approach to securing better employment and social outcomes for Indigenous communities in remote Australia.

The adequacy of the policy process that led to the design of the CDP.

Using the Government's own yardstick of wanting to engage indigenous individuals, families and communities in the design of programs that will impact on their own lives¹, the process that led to the design of the CDP must be rated a failure. There is little evidence, if any, that the Government initiated a credible or transparent process by which Indigenous input was obtained or used in the design of the CDP.

To the contrary, the Government moved swiftly and without consultation to introduce the CDP following the present Minister's declaration that the previous RJCP was a disaster. Communities and Providers were given very little forewarning as to the changes that would be made and very little information was available about how the new and very complex procedures were to be implemented prior to its introduction. The history of the transition to the CDP is well documented and has been the subject of academic examination which we would recommend the Committee examine as part of its enquiry.²

The nature and underlying causes of joblessness in remote communities.

The reality is that within remote Australia there is a lack of a labor market upon which Indigenous job seekers can rely. While there are examples of regional opportunities associated with mining for example, the great majority of remote communities rely on the three levels of government for the creation of a local economy. It is through government investment in infrastructure such as housing, roads, clinics and schools, along with the provision of services, that a local economy is sustained. It is therefore a government choice as to whether the largely government provided economy is a welfare or an employment based economy.

We have seen for many decades that it is no solution to advocate that job seekers must leave their communities to find work. There are a number of reasons for this including the fact that many remote dwellers are not presently equipped to undertake regular employment nor ready to live in those other communities except as fringe dwellers. In addition, the strong traditional cultures existing within remote Australia will continue to prevail against the simplistic notion that people should be made to find work outside their communities if jobs are not available within them. It has been our experience that where work needs to be done and is seen by the community members as being relevant to advancing their interests, jobs will be undertaken with as much diligence and effort as anywhere else in the Australian labor force. The challenge is to identify the ambitions and interests of the job seekers and to create a work program that is designed to meet those needs. All too often, the objectives of the programs or schemes that are designed to create employment opportunities in remote communities are designed and prescribed by central agencies without regard to the realities that exist on the ground or the ambitions of the communities they seek to influence. This situation often results in

¹ See for example the Prime Minister's closing the gap speeches in 2016 2017

² See material prepared by Lisa Fowkes and William Sanders, CAEPR, ANU.

communities being reluctant to participate or being confused and alienated by the processes that they are required to comply with.

We would point to the Community Development and Employment Programme (CDEP) as an example of how an employment scheme could be made to work for the benefit of remote communities. Since its inception in 1977 through to its demise in 2015, CDEP was the most effective program of its kind providing award wages for jobs that remote communities saw as contributing to their advancement. Participants in remote communities did real work and they received real wages. Even many government services were provided on the back of CDEP providing opportunities for local Indigenous personnel to be employed. We acknowledge that there were areas of poor performance and probably inappropriate extension of CDEP to non-remote areas with a labour market but in remote communities the replacement programs have been inferior to what they replaced.

Paradoxically, CDEP was demonised by its critics as being no more than a soft welfare scheme to justify sit down money, with governments of both persuasions moving to close the CDEP in favour of what has proven to be a very poorly designed program (RJCP/CDP) which puts all participants into the welfare rather than an employment system. In addition, the welfare system is ill equipped to provide an equality of service to remote communities with remote dwellers being more harshly treated than other welfare participants. As a result, real hardship is being experienced in vulnerable communities. CDEP was a scheme that provided opportunities to secure meaningful employment on award wages. Neither RJCP nor CDP have provided for or sustained the employment outcomes achieved under CDEP. It is worth noting that the former Prime Minister, Tony Abbott, has publicly acknowledged that the closure of the CDEP program was, in hindsight, a “well-intentioned mistake and CDP is our attempt to atone for it”³.

We also note that in a fact sheet relating to CDP released by PM&C following the presentation of the 2017-18 Budget, it is stated that “Current arrangements will continue while the Government consults on how the new model could build on many of the positive elements of the former Community Development and Employment Programme.”⁴ We welcome promises of consultation about a new model but how and when that consultative process will be implemented remains unclear and past experience suggests a top down imposition of centrally devised approaches is more likely.

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

³ Tony Abbott in The Australian October 6, 2016

⁴ Fact Sheet 2017-18 Budget: Community Development Programme; Department of the Prime Minister and Cabinet.

CDP is a program based on the notion of mutual obligation. Those who receive the dole are required to fulfill their obligation to undertake a series of work related activities to gain access to their welfare benefit.

We have yet to see any evidence to this point in time that would suggest that CDP is going to provide a long-term solution to joblessness in remote Indigenous communities. In fact, some studies would suggest that a growing number of participants are removing themselves from the scheme and that the number of penalties imposed under CDP have grown to very high levels in the past 6 months. Worryingly, there are increasing numbers of young people who have disengaged from the scheme for a range of reasons which have yet to be closely evaluated or understood.

CDP is a very prescriptive scheme which is characterised by a myriad of rules, procedures and data gathering, all of which makes it one of the most opaque, unintelligible and confusing programs currently operating in remote communities. It is a punitive system and one that challenges the independence and self-determination of the communities in which it operates. It lacks flexibility and requires participants to respond to demands that are often logistically impossible to meet. By way of example, the scheme requires that in some circumstances job seekers be made subject to health and psychological assessments to determine their eligibility to be exempt from some requirements of the CDP or can meet the work obligations of the scheme. In many instances, those health and psychological assessments are undertaken, not on a face to face basis, but by way of telephone communications which are very limited in remote communities and where many job seekers speak English as a second language. Interpreters are rarely available at either end of the conversation. Other demands for information to feed the requirements of the CDP computerised system also place very challenging demands on job seekers and providers alike.

The administration of CDP is totally reliant on the dictates of the IT system and other inputs that are required to inform that system. Recent studies indicate that providers are swamped with the demands of the IT system which prevents them from engaging productively with participants at a local level in any meaningful way. In addition, the CDP requires the operational input from DHS (Centrelink) for a range of assessments and decisions which has led to intense confusion. It needs to be recognised that CDP is administered by both PM&C and DHS and that unless there is clear and effective coordination between the two departments, the resultant impact on job seekers and communities can be destructive of participation and of income maintenance.

Based on our observations, we would question the current capacity of DHS to fulfill its responsibilities under the CDP. The role of DHS in the running of CDP is crucial to the overall administration of the program, a role that is often overlooked in the examination of CDP. DHS has responsibility to assess and impose penalties, carry out the Comprehensive Compliance Assessment process and to make determinations in relation to a job seeker's suitability, or otherwise, to undertake the mutual obligations provided for under the legislation. As indicated,

this can involve the making of mental health and other complex personal determinations in respect of individuals living in the most remote communities in Australia. We would suggest that the department's operational capabilities to perform its functions under the CDP scheme are limited and should be closely examined.

The fact that the Minister introduced the Social Security Legislation Amendment (Community Development Program) Bill in 2015 to try and provide for greater opportunities for local determinations, modify the procedures and to reduce the red tape associated with CDP, is a clear indication that the program needed to be modified. As the Minister stated in his Explanatory Memorandum at the time the Bill was introduced:

“Job seekers in remote Australia are subject to the national job seeker compliance framework, which applies financial penalties and suspensions for missing appointments and activities. The framework is complex – with a large number of different suspension and penalty types – and difficult for remote job seekers to understand. The consequences of not attending activities (No Show No Pay penalties) are not immediately felt, with long periods of up to five weeks or more before penalties are applied. For many remote job seekers the penalty feels arbitrary and not connected to their behavior. As a result, behaviour is not changing.”

Note that this is the Minister's own assessment. We agree, although we suggest that there may be additional reasons as to why behaviour is not changing such as social and cultural obligations within remote communities.

The Minister also acknowledged that:

“The CDP caseload, while representing only five percent of all job seekers, currently accounts for over 60 per cent of all reported No Show No Pay failures. Despite this, attendance in CDP activities remain low. In addition, current settings are not geared to readily support job seekers move in and out of intermittent work which is often the only type of work available in remote Australia.”

The Minister's stated intention to have a system that would enable individuals to be paid at the end of the week according to performance during that week makes sense if you are trying to provide an employment like environment. However, that Bill was not a workable answer to the stated problem as it was a partial and complex solution when a simple solution is available. In any event, it was never dealt with and the problems and concerns it was supposed to address remain embedded within the current CDP.

The impact of the CDP on the rights of participants and their communities, including the appropriateness of the payments and penalties system.

We have stated elsewhere that the Government espouses the principles in support of empowering Indigenous communities. The Prime Minister underlined his Government's

commitment to those principles in his Closing the Gap speeches in 2016 and again in 2017. Those principles include the need for place based decision making with Indigenous participation, partnerships based on mutual respect and working *with* Indigenous communities rather than doing things *to* them. On all counts, the CDP has not met these benchmarks.

In our discussions with PM&C we have repeatedly emphasised the need to ensure that in implementing their programs the principal objective should be to do no harm. We would suggest that harm has been suffered by many individuals and families within remote communities as a direct consequence of the implementation of CDP. Penalties have been imposed and payments have been denied in circumstances that the relevant participants have not properly understood or anticipated. The complexity of the scheme and in many cases the difficulty of implementing it, has led to job seekers being penalised unfairly and without clear reasons being given as to why. As indicated above, penalties are often imposed well after the activity has been missed and the causal link the Minister desires is lost.

We could produce many examples of how the system disadvantages individuals but one recently drawn to our attention is described in the attachment to this submission. If the Committee wants more examples we would be happy to assist.

All of this has led to a lack of confidence, growing resentment and a lack of respect for the scheme and in some cases, those trying to administer it. Disengagement from the scheme, particularly by the youth, has been widely reported. Some staff administering the scheme for providers are also disengaging because of what they see as the irrelevance of the scheme to the wellbeing of participants. The disengagement of youth in the CDP is acknowledged in the 2017-18 Budget with the Government moving to invest \$11million to develop and implement a CDP youth engagement strategy in collaboration with schools.⁵ How that strategy will be developed and subsequently implemented, remains to be seen but if recent experience is any guide Canberra based bureaucratic planning rather than working with communities in the field is the more likely outcome.

In its response to a question on notice arising from the Senate Estimates hearings of 3 March 2017, PM&C stated that less than 1% of payments made to all job seekers had been withheld under the CDP.

This would imply that the impact of penalties and withholding payments has had a minimal adverse impact on the wellbeing of Indigenous job seekers. Indeed, in our communications with PM&C, we were advised that while financial penalties have increased under CDP, claims they are causing hardship in CDP regions are anecdotal and not supported by the evidence. We would question that view and suggest that the statistical basis of the answer is designed to minimise the apparent numbers of Indigenous job seekers adversely affected. It does need to be recognised, that as with all national statistics, the circumstances of local and regional

⁵ Fact Sheet 2017-18 Budget: Community Development Programme; PM&C.

communities and individuals are often masked by the national figures. It is not until we drill down into the local and regional figures that the on-ground realities emerge. We therefore urge the Committee to examine the regional and local statistical figures to obtain a more realistic and informed picture of what impact the CDP is having on individuals, families and communities in remote Australia.

The funding of CDP, including the use of unspent funds in the program.

If an employment like system is to prevail, CDP “wages” should not be funded through the welfare system but locally administered through a funding allocation to providers, along with adequate funds to support administration of the program and funds to enable employment like activities to be undertaken. We would assert, that so long as there is a reliance on the social security system as a means of paying those who engage in employment, the complexities and failings associated with CDP will continue, regardless of any amendments made to the Social Security Act. A social security system provides a safety net for the vulnerable and destitute, and should not be used to pay for or reward those engaged in work.

The extent of consultation and engagement with Aboriginal and Torres Strait islander communities in the design and implementation of the CDP, and the role of local decision making within the program.

See comments above.

Alternative approaches to addressing joblessness and community development in remote communities.

In the absence of any clear Commonwealth policy about the place and continuing existence of remote communities, it is difficult to make individual policies such as CDP coherent as there is nothing to be coherent with. In Western Australia, an apparently casual comment by then Premier Barnett about closure of communities led to national concerns about their future. In the case of Western Australia, the resulting furore led to the production of a policy for remote communities⁶ that set out the then Government’s approach. Its status with the incoming Government is not yet clear but it was a rare recent attempt to explain what that Government was trying to do and what it saw as the future of those communities.

We know of no similar Commonwealth document. However, the cumulative impact of successive individual policy changes by the Commonwealth suggests that there is no

⁶ Resilient Families, Strong Communities A roadmap for regional and remote Aboriginal communities. July 2016.

commitment to maintaining communities in ways that are respectful of their right to exist in any way which is not in conformity with the general community living in very different circumstances. Put bluntly, it is impossible to explain Commonwealth policy across the Howard, Rudd, Gillard, Abbott and now Turnbull Governments other than as assimilationist in intent designed to use compulsion to require remote Aboriginal people to fit into a metropolitan framework of work or welfare. The unstated purpose seems to be to drive Aboriginal people into towns and cities. There is no sense that remote Aboriginal people should be permitted to pursue or maintain a different set of ambitions within any framework of government support. The pleas of Aboriginal people⁷ to be allowed to determine their own futures may from time to time command rhetorical agreement but actual policy and implementation are quite different.

There are endless expressions in policy documents and political statements of the need for Aboriginal involvement in the design and delivery of policy.⁸ These expressions are largely rhetorical and bear no relation to remote Aboriginal experience over recent parliaments.

It is evident from recent policy that the Commonwealth wants remote Aboriginal people to be, as far as possible, employed, their children safe and educated, capable of moving into towns and cities capable of participating in employment. These are entirely appropriate policy objectives. Yet the design and implementation of relevant programs and policies are inimical to those ends. The achievement of these objectives necessarily involves the agency of the people themselves. It is difficult if not impossible to educate an unwilling child lacking parental support and to employ someone against their will. Yet the Commonwealth's approach seems to be that these worthy objectives can be achieved by enacting punitive and prescriptive schemes that are inconsistent with the Government's own rhetoric in relation to empowering communities and which compounds the disadvantage experienced by the many individuals, families and communities in remote Australia.

Successive governments, through the various iterations of the intervention, have universalised welfare as the basis of the economy of remote communities. CDP, instead of providing people with the experience of working for wages on appropriate award rates and the possibility of improving their living standards through earning top up money, subjects them to a harsh regime which for the reasons set out above leads to disengagement rather than engagement.

What would a rational employment framework look like?

An alternative policy within a framework of the likely continuing existence of remote communities would seek to ensure that, as far as possible, people derive income from work rather than welfare. They would do so in a way that best prepared them for work off country if

⁷ see for example Galarrwuy Yunupingu "The law of the land" the Monthly, July 2016.

⁸ See for example schedule D of the COAG National Indigenous Reform Agreement (NIRA).

they leave their communities either permanently or orbit between community and town as many do.

If the Commonwealth continues to address the joblessness issues found in remote communities as a welfare problem rather than an employment issue, the solutions imposed within the framework of the Social Services legislation, including the use of Centrelink, will continue to disrupt and disadvantage individuals, families and communities in a totally unproductive and damaging sequence of inappropriate prescriptions and penalties. If, on the other hand, opportunities are created for job seekers to engage in real work, through a scheme that provides for employment and award wages on a 'no work no pay' basis, the current confusion and administrative maelstrom associated with CDP can be eradicated. The objectives and ambitions of local communities would underpin local initiatives and the work undertaken would be seen by job seekers and communities as more meaningful and productive. We would see such an employment scheme as being administered and monitored by local providers responsible and accountable to the funding agency and to their local communities.

Such a scheme would be made workable and affordable if there was a clear policy of maximising local employment opportunities in health and welfare services including aged and disability services, community maintenance and administration, and so on. Present government approaches, involving contracting out to external agencies and reduced funding to Aboriginal corporations, result in the essential and meaningful tasks in communities being done by non-Aboriginal visitors. The recent example of the ten-year housing maintenance contract for remote communities in Western Australia being let to a company in Queensland inflating costs and leading to massive travel costs as against actual maintenance while at the same time depriving locals of work, is an extreme but not atypical way in which employment possibilities in remote communities are destroyed by government approaches in the name of mythical efficiencies.

The test of a CDP replacement should be whether it:

- provides an experience of paid work in a way that demonstrates the superiority of work over welfare;
- contributes to the maintenance of an orderly community and its administration;
- demonstrates to those at school a future course of conduct, i.e. work, which is superior to welfare;
- contributes to the capacity of those individuals who may wish to move from their home community to places where work is more available;
- provides a strong foundation for the youth to engage in training, employment and community advancement;
- strengthens local community leadership and governance;
- provides for transparent and mutual accountability between communities and funding agencies; and

- promotes flexible place based solutions which support the ambitions and interests of the local communities.

Other related matters

We would be happy to meet with the committee to discuss this submission. We understand that CDP is a critical program for remote communities that, in the absence of any clear overall policy framework for remote communities, has a disproportionate role in the health, wellbeing and sustaining of those communities. Its devolution would best take place within a State and Commonwealth policy framework for remote communities within which governments accept the reality of their existence and provide support relevant to their health, wellbeing and order within an enabling framework for social and economic development.

Appendix

An example from the field

“The ability of Centrelink to manage Participation Failures seems to have collapsed.

I had a client RHKL come to me on the 2nd of May and tell me that he was told by Centrelink on a phone call that he was cancelled on Newstart and he needed to reapply for a payment.

RHKY is a 25-year-old man.

He had been paid the previous week and that did not sound right.

I called the agent line and was told that he had not been cancelled and that he needed to talk to Participation Solutions Team line and put me through.

The PT advised that RHKY needed to engage in a Comprehensive Compliance Assessment to address a failure to complete a Participation Compliance Activity.

I was advised that there were no social workers available and to ring again the next day, earlier in the day.

The next day RHKY came in to the office to ring the PST line.

The PST line answered and an operator stated that a technical failure had made records inaccessible and that he should call back later in the day.

RHKY rang back later in the day and was again told that his payment was cancelled and that he would have to reapply. I had dealt with the earlier cancellation on his behalf and was told that in fact the cancellation was incorrect and his payment restored. His payment was restored because his record showed repeated attempts to re-engage with Centrelink and the PST unsuccessfully.

We were told that he would have to continue to contact the PST line in an effort to get through to a social worker to complete a Comprehensive Compliance Assessment and that as long as his record showed that he was trying to make the contact, if unsuccessful, he would still be eligible to continue on Newstart.

The wait times for these calls are counted in hours, not minutes and the differentiation between the various elements of the program are so nuanced as to elude experienced Centrelink staff.

RHKL, quite explicablely, is frustrated, humiliated and confused by not being able to transact what is required of him.

Both of RHKY's parents were very heavy petrol sniffers. His father died as a result of a petrol induced aspiration pneumonia when he was about ten years old. His mother was jailed for ten months for supplying petrol for use as an intoxicant to her children.

He himself had a severe problem with solvent abuse for many years and he has spent several periods in custody when he was younger.

He had limited schooling and few opportunities. His literacy and numeracy are minimal and he is very much a Ngaanyatjarra first language speaker.

He has made the best of his lot and stabilised his life.

His life has been difficult and this is not making it any easier.