

Additional Comments by Labor Senators

1.1 Labor Senators note the serious concerns with this Bill identified by a wide range of stakeholders in the course of this Inquiry, many of which are reflected in the Chair's report.

1.2 This includes the inadequacy of consultation, and the lack of genuine engagement or co-design with Aboriginal and Torres Strait Islander communities and representative organisations. Aboriginal Peak Organisations Northern Territory (APO NT) expressed these concerns in strong terms:

Despite this we find ourselves, once again, responding to a Bill and a set of reforms that have not been the subject of prior consultation. Again, there is very little detail about key aspects of the overall reform package and it is proposed that much be left to delegated legislation. Again, we have very little time to respond to the submission deadline.

The Government repeatedly says that it wishes to do things with, not to First Nations people. Yet the story of the CDP has been one of top down decision making – from the decision to impose daily Work for the Dole on participants, to the failed 2015 CDP2 Bill, to this current proposal.¹

1.3 Labor Senators agree with the concerns raised by the Senate Standing Committee for the Scrutiny of Bills in relation to key elements of the proposed changes being consigned to delegated legislation, rather than contained in this Bill.² The concerns of Labor Senators also extend to the Government's failure to provide the Committee with all the relevant delegated legislation, rules and guidelines in relation to these reforms.

1.4 It was made clear in the course of this Inquiry, that extending the Targeted Compliance Framework (TCF) to remote parts of the country would harm Aboriginal and Torres Strait Islander Australians. Those with practical experience of program delivery and an understanding of community impacts raised serious concerns about the expansion of the TCF.

1.5 The National Congress of Australia's First Peoples explained:

National Congress asserts that the introduction of the Targeted Compliance Framework (“TCF”) in remote communities is inappropriate, and will not achieve the desired outcome of reducing the number of penalties applied to CDP participants...

Indeed, National Congress notes that the TCF was never designed for use in remote areas, and that it would be inappropriate to apply it to CDP

1 Aboriginal Peak Organisations Northern Territory, *Submission 4*, p. 2.

2 Senate Standing Committee for Scrutiny of Bills, *Scrutiny Digest 10 of 2018*, 12 September 2018, p. 6.

participants. The TCF was designed for use in urban and regional contexts, where the vast majority employment program participants regularly comply with obligations, and those who refuse to often do so deliberately due to dissatisfaction with the system. This is not the case in remote communities: many CDP participants breach obligations on a more regular (i.e. weekly or fortnightly) basis due to social, cultural and community obligations, and persistent non-compliance is more likely to be the result of structural barriers such as geographical challenges.

As such, National Congress believes that, although the introduction of the TCF may remove some penalties for one-off breaches, its overall effect will be equal to, or even worse, than the current system.

1.6 Jobs Australia indicated that the impact of the TCF on people's ability to access even the most basic income would be severe:

The Government's own modelling tabled in the Senate on the 20th August suggests that, in the first year alone, 4,687 people will receive 4-week penalties and be forced to re-apply for income support. In year two, this rises to 7941. From a caseload that currently stands at close to 30,000, 25% of participants getting a 4-week penalty and having their payments cancelled would be disastrous for them, their families and their communities.³

1.7 Labor Senators note the much higher participation requirements of the Community Development Program (CDP), compared to Job Active, and acknowledge that this would make it significantly more difficult for a person to maintain compliance over time. Jobs Australia has explained how expanding the TCF in this context would consign many people to a penalties-and-compliance cycle which will increase the risk of disengagement:

CDP is causing unnecessary financial hardship, exacerbating poverty, creating disengagement and doing more harm than good in remote Australia. After CDP commenced in 2015, the number of financial penalties applied to CDP participants increased at an alarming rate. Despite having only 30,000 job seekers compared to around 660,000 in Job Active, more financial penalties are applied to CDP participants than to job active participants...

The very high rates of penalties in CDP are primarily due to the onerous and inflexible participation requirements in CDP compared to non-remote areas...

The application of the TCF will accelerate penalties and increase the number of CDP job seekers subject to penalties for persistent and wilful non-compliance and would make a bad situation even worse.⁴

3 Jobs Australia, *Submission 8*, p. 6.

4 Jobs Australia, *Submission 8*, p. 4.

1.8 Labor Senators are troubled by the Government's failure to adequately address the very serious concerns identified by stakeholders in relation to the TCF, or respond to calls for increased flexibility. The TCF has simply not been designed for use in remote Australia or as a part of the CDP program and is not appropriate in its current form.

1.9 While the proposal to allow allied health professionals to provide information in relation to work capacity assessment has been supported by several organisations, there are concerns this will divert resources from already under-resourced health services. National Aboriginal Community Controlled Health Organisations explained:

NACCHO also notes that the inclusion of evidence from allied health professionals has also been added with no consideration of health services' current workloads and capacity, no additional resourcing and no consultation. If these provisions proceed, NACCHO recommends that the Government work with Aboriginal health organisations and their peaks to ensure the changes and requirements are properly understood and any financial impact is addressed.⁵

Conclusion

1.10 Labor Senators call on the Government to urgently address the issues raised in the course of this inquiry through a process of genuine consultation and co-design with Aboriginal and Torres Strait Islander Australians, their representative organisations and other stakeholders.

Senator Patrick Dodson
Senator for Western Australia

Senator Sue Lines
Senator for Western Australia

Senator Malarndirri McCarthy
Senator for the Northern Territory

Senator Murray Watt
Senator for Queensland

Senator Lisa Singh
Senator for Tasmania

5 National Aboriginal Community Controlled Health Organisations, *Submission 20*, p. 4.

