

Analysis of the CDP Bill 2018

Remote communities are suffering under CDP

Remote Aboriginal and Torres Strait Islander communities want to take up the reins and drive community development, but to do this, fair programs that promote waged work and dignified support must be in place.

CDP takes control away from Aboriginal and Torres Strait Islander people. It subjects them to the indignity of being forced to work substantially more hours in an inflexible program for the same social security payment as people in cities, while penalising those struggling to keep up.

CDP workers, over 80 per cent of whom are Aboriginal and Torres Strait Islander, are 25 times more likely to be penalised than non-remote jobseekers, and 50 times more likely to have a serious penalty imposed on them (up to 8 weeks with no payment).

Cutting a meagre social security payment, even for one day, has real consequences – no money for fresh food, for rent and other basic necessities for survival.

Why are penalties so high in remote communities?

The high rate of penalties applied to CDP participants is the result of:

1. significantly more onerous obligations on CDP participants, both in terms of hours and flexibility (see table below), which exposes them to more risk of non-compliance;
2. existing barriers to accessing Centrelink services (including remoteness, language barriers, lack of internet and phone reception and transport); and
3. disproportionate levels of ill health and other obstacles combined with lack of services that, together, make it harder for people to participate.

Census 2016 data shows that the employment rate of remote Indigenous people has declined, while poverty has increased¹.

The CDP Bill 2018 would bring in a harsh new penalty system in CDP regions

The *Social Security Legislation Amendment (Community Development Program) Bill 2018 (CDP Bill)* would replace the current penalty system in CDP regions with a new model – the Targeted Compliance Framework (TCF).

The TCF commenced in non-remote areas in July 2018. People covered by CDP were exempt from the TCF and remain under the pre-1 July 2018 compliance rules.

The TCF does not address the above three factors contributing to the high rate of financial penalties imposed on Aboriginal and Torres Strait Islander people under CDP.

National Congress of Australia's First Peoples, Aboriginal Peak Organisations NT, Australian Council of Social Services, Jobs Australia, the National Social Security Rights Network, and the Human Rights Law Centre strongly oppose application of the TCF to CDP participants.

Concerns with the Targeted Compliance Framework (TCF)

Reduced discretion and reduced oversight by DHS:

- Currently, when a CDP participant misses an appointment or activity without a reasonable excuse, the CDP provider has discretion as to whether to recommend a penalty. It is then DHS that decides whether a penalty should actually be applied.

¹ Markham, F. & Biddle, N., 2018. *Income, Poverty and Inequality: 2016 Census Paper No. 2*, CAEPR, ANU., Venn, D. & Biddle, N., 2017. *Employment Outcomes. 2016 Census Paper No 5*. CAEPR, ANU.

- In around 60% of cases DHS overturns the provider's recommendation to penalise.

Under the new TCF, instead of 10% non-payment penalties for non-attendance, the first five compliance failures attract 'demerit points'. There is no provider discretion as to whether to apply the points if no excuse has been given. DHS has no role in checking whether a demerit is justified.

Harsher consequences for persistent non-compliance:

- The TCF is designed to be much harsher for people who have five or more instances of non-compliance within six months. In remote areas, over 90% of people in this group are Indigenous.
- Under the TCF after five demerit points a participant moves into the 'penalty zone'. Thereafter, missed appointments mean loss of one week's payment, then two weeks and then cancellation of income support and a minimum four weeks without payment.
- Once a decision has been made to penalise someone, they will not be able to have their payment reinstated early, even if they agree to go back to Work for the Dole. At present, most CDP participants work off some or all of any serious penalties they incur, reducing the loss of income and harm to their families.
- Where payments are cancelled, an individual would have to reapply to Centrelink, a process that is notoriously difficult in remote Aboriginal and Torres Strait Islander communities.

Government modelling of the impact of the TCF on CDP participants

The Government has provided estimates of the number of penalties that will be applied to CDP participants under the TCF. Table 1 shows Government estimates of numbers of penalties that would apply to CDP participants under the new system in its first and second years. Each 'day lost' equals 1/10th of a participant's fortnightly unemployment payment.

Table 1 Government modelling of effect of TCF on CDP participants

	1 st year of TCF		2nd year of TCF	
	Number of penalties	Days lost	Number of penalties	Days lost
1 week penalty	13,318	66,590	19,073	95,365
2 week penalty	8,281	82,810	12,873	128,730
4 week penalty	4,687	93,740	7,941	158,820
TOTAL DAYS LOST		243,140		382,915

Note: assumes the whole CDP caseload is subject to TCF.

Lower figures in the first year of the TCF are because of the transition period as individual job plans are updated and penalties are reset to zero. Year 2 provides a better picture of the TCF fully operating.

The Government's modelling shows that, once the TCF is fully implemented, those in CDP will lose, on average, more than two weeks income support in the year.

Under the existing rules the number of days lost through penalties *actually applied* in 2015/2016 was 224,676. The Government's own modelling shows that, had the TCF been applied, it would have meant harsher penalties.

The TCF would have a harsher impact on CDP jobseekers than others

The Government's modelling suggests that, on a per capita basis, the TCF would have at least five times the impact on CDP participants as on other job seekers:

Table 2 Government modelling of TCF impact on CDP compared with other jobseekers

Government modelling of TCF penalties year one CDP vs all others				
	CDP		Mainstream	
	Number	days lost	Number	days lost
1 week	13,318	66,590	61,254	306,270
2 weeks	8,281	82,810	32,388	323,880
4 weeks	4,687	93,740	17,568	351,360
TOTAL DAYS LOST		243,140		981,510
caseload at 30 June 2018		30,380		662,284
days lost per person on caseload		8.00		1.48

Note: Available caseload is for jobactive only and therefore undercounts all those affected. Assumes whole caseload is subject to TCF.

Appropriateness of use of 2015/2016 data

According to the Ministerial statement that accompanied the TCF modelling, the Department used 2015/2016 penalty information to forecast the impact of the TCF. But, as Table 3 shows, the number of penalties applied has grown since 2015/2016.

Table 3 Number of penalties actually applied 2015/16 and 2016/17

	2015/2016	2016/2017
Short penalties	127,504	173,449
Serious penalties	19,150	31,765
TOTAL	146,654	205,214

The promise to establish new, subsidised jobs

The Explanatory Memorandum to the CDP Bill explains that the Government intends to offer new wage subsidies and hopes to create 6,000 subsidised jobs for people currently in CDP. The Government is proposing that people who take up these new jobs would be exempt from the TCF so that 'they have the best chance to succeed in their new workplace'. The Bill will not guarantee the new jobs, or set out any details about their pay and conditions. It is not clear whether CDP participants who are working, but not in one of these subsidised jobs, will also have the benefit of exemption from the TCF. These details are to be left to a legislative instrument. Although new investments in job creation are welcome, there is simply not enough information to allow an assessment of these proposals. There appears to be no mechanism for consultation.

While there is a real need to create new, waged jobs in remote communities, this must not come at the expense of impoverishing thousands of others in remote communities.

The CDP Bill must be rejected

The Government's own modelling shows that the TCF will be harsher than the current penalty system.

Under the current system, CDP participants are already receiving more than their fair share of penalties because of the discriminatory Work for the Dole rules of the CDP.

The TCF would make an already unfair and discriminatory Work for the Dole regime much worse by removing the ability of participants to 'work off' their penalties. It will give people less control over their lives and incomes, and increase poverty.

While any genuine proposal to empower communities to create new jobs would be welcome, this Bill would continue the practice of placing greater control in the Minister's hands.

TABLE 2: MUTUAL OBLIGATIONS REQUIREMENTS (FULLTIME CAPACITY) – CDP AND JOBACTIVE COMPARED

	CDP	Jobactive (from Sept 2018)
Participants aged 18-49	<p>Current:</p> <ul style="list-style-type: none"> Complete up to 25 hours work-for-the-doleⁱ per week for 52 weeks of the year (with up to 6 weeks leave); Annual work hour obligation: 1150 Commence work-for-the-dole from date of entry into CDP; Daily participation requirements. <p>From February 2019:</p> <ul style="list-style-type: none"> Complete up to 20 hours work-for-the-dole per week 52 weeks of the year (with up to 6 weeks leave); Annual work hour obligation: 920 Commence work-for-the-dole from the date of entry into CDP. Daily participation requirements 	<ul style="list-style-type: none"> Complete up to 25 hours work-for-the-dole per week 26 weeks of the year; Annual work hour obligation: 650 Flexible scheduling of obligations; Commence work-for-the-dole 12 months after entry into Jobactive.
Participants aged 50-54	<ul style="list-style-type: none"> Complete up to 25 hours mutual obligation requirements in 'suitable activities'ⁱⁱ per week; Obligation appears to apply 52 weeks of the yearⁱⁱⁱ; Annual work hour obligation: 1300 (or 1150 if 6 week leave) 	<ul style="list-style-type: none"> Complete up to 15 hours mutual obligation requirements in 'suitable activities' per week; Complete suitable activities for 26 weeks of the year. Annual work hour obligation: 390
Participants aged 55-59	<ul style="list-style-type: none"> Complete up to 15 hours mutual obligation requirements in 'suitable activities' per week; This obligation also seems to apply 52 weeks of the year^{iv}; Annual work hour obligation: 780 (or 690 if 6 weeks leave) 	<ul style="list-style-type: none"> Complete up to 15 hours mutual obligation requirements in 'suitable activities' per week; Complete suitable activities for 26 weeks of the year. Annual work hour obligation: 390.
Participants aged above 60	<ul style="list-style-type: none"> Complete up to 15 hours mutual obligation requirements in 'suitable activities' per week; This obligation also seems to apply 52 weeks of the year^v; Annual work hour obligation: 780 (or 690 if 6 week leave) 	<ul style="list-style-type: none"> Complete up to 10 hours mutual obligation requirements in 'suitable activities' per week; Complete suitable activities for 26 weeks of the year. Annual work hour obligation: 260.

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

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

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

^{iv} Ibid.

^v Ibid.