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SENATE

COMMUNITY AFFAIRS LEGISLATION COMMITTEE

**Social Security Legislation Amendment (Community Development Program)
Bill 2018**

(Public)

FRIDAY, 21 SEPTEMBER 2018

CANBERRA

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SENATE

COMMUNITY AFFAIRS LEGISLATION COMMITTEE

Friday, 21 September 2018

Members in attendance: Senators Dodson, Lines, McCarthy, Siewert, Dean Smith.

Terms of Reference for the Inquiry:

To inquire into and report on:

Social Security Legislation Amendment (Community Development Program) Bill 2018.

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Committee met at 08:34

Evidence from Ms Crowe was taken via teleconference—

ACTING CHAIR (Senator Dean Smith): I declare open this public hearing and welcome everyone here today. We acknowledge the traditional owners of the land on which we meet and pay our respects to elders past and present. This is the first public hearing of the committee's inquiry into the Social Security Legislation Amendment (Community Development Program) Bill 2018. I thank everyone who has made a submission to this inquiry. This is a public hearing, and a Hansard transcript of the proceedings is being made. The audio of this public hearing is also being broadcast via the internet.

Before the committee starts taking evidence, I remind all present here today that in giving evidence to the committee witnesses are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to the committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to the committee. The committee prefers all evidence to be given in public but under the Senate's resolutions witnesses have the right to request to be heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in private. If you are a witness today who intends to request to give evidence in private, please seek out the secretariat staff. Can you confirm that information on parliamentary privilege and the protection of witnesses has been provided to you?

Ms Hatami: I have received information in relation to parliamentary privilege.

Ms Crowe: I have also received information relating to parliamentary privilege.

ACTING CHAIR: I invite you both to make a short opening statement if you wish, and at the conclusion of your remarks we will invite members of the committee to put questions to you.

Ms Hatami: Thank you for taking the time to hear from the various bodies that is will appear before you today to provide you with input on this bill. Before I begin my introductory statement on behalf of the National Social Security Rights Network we acknowledge the traditional custodians of the land on which we meet and pay our respects to their elders past, present and emerging, for they hold the stories, traditions and culture of their people. We're grateful that we share this land and express our sorrow for the costs of this sharing to Australia's first peoples. We continue to acknowledge the legacy of our history and strive in our goals to empower our community through social justice.

There are approximately 35,000 CDP participants currently, 83 per cent of whom are Indigenous Australians. There are currently significant problems with the CDP regime. As a condition of receiving income support payments, participants must engage in job activity requirements far greater than required by jobseekers in non-remote areas. Since its introduction the CDP has seen a 740 per cent increase in financial penalties compared with the preceding scheme. These financial penalties have linked with a significant decrease in food sales at community stores and an increase in crime and poverty across the CDP communities.

The new bill applies the targeted compliance framework for jobseekers living in non-remote areas to remote communities. Penalties under the new compliance framework are non-waivable. The targeted compliance framework that will be applied to CDP participants under the new bill is based on a system of demerit points and includes payment suspensions for single activity failures, including a four-week preclusion penalty. That means four weeks with no income whatsoever. The government's own modelling suggests that, during the first year the TCF is applied to the new CDP model, over 4,000 people will have their payments cancelled for four weeks and in the second year this number will rise to over 6,500 people. This data is based on old CDP penalty data from 2015-16 rather than the current penalty figures, which are higher. We anticipate that the number of recipients in remote Australia who will have to subsist without any form of income support for periods of up to four weeks will exceed the projected 6,500. This figure does not include their family and their children, who will also have to subsist without any form of income support.

In March 2018 it was reported that more than 50,000 eight-week penalties have been imposed on about 15,000 CDP participants since mid-2015. Most have been fully waived. This reflects the extenuating circumstances that have led to the breaches. The new system will not have the facility for waiver. This will result in exacerbation of poverty for Indigenous Australians already living in hardship and poverty, in circumstances where waivers should be granted when people are unable to meet their activity requirements for genuine reasons.

The tightening of rules around the disability support pension has also brought into the CDP many people who have significant physical, intellectual and psychological disabilities, and others who have substantial personal and family challenges. The obstacles to participation are often not recognised and support is often unavailable. We submit that Work for the Dole programs expose participants to exploitation and do not offer adequate workplace protections. Our partner organisations report that CDP participants have been forced into meaningless work, undertaking Work for the Dole activities that should be recognised as proper jobs, working alongside and performing similar tasks as a team of employed individuals. As well as constituting free labour and arguably a form of modern slavery, this reduces the already limited pool of employment opportunities in remote areas.

Participants from remote communities often have limited English literacy and don't have English as a first language. Our partner organisations working with clients who have had penalties imposed and payments suspended under this regime report that providers do not regularly use interpreters. Clients simply do not understand how the compliance and penalty framework operates. They are often unable to obtain medical certificates to substantiate their absences from activities, because of myriad issues surrounding the obtaining of such evidence from regional and remote medical facilities, including language barriers, disability, poverty and an inability to travel for financial or other reasons.

The result is that this harsh and complex penalty regime increases the likelihood that people experiencing a range of vulnerabilities will be faced with weeks without any form of income with which to support themselves and their families. It is a great cause for concern when parents cannot provide food for their children and when children are being removed because they're malnourished. Many people have chronic health conditions which make it hard for them to participate. Some may be able to work with the right help, but many are not suited to a program that requires constant activity well above what other jobseekers in the country are required to do. We believe that many people are being penalised because of poor assessment processes and obligations that are beyond their capacity, exacerbating hardship and poverty.

Our position is that the financial impact of penalties is great on individuals surviving on less than \$300 per week. Newstart may not last a fortnight, depending on an individual's circumstances, location, debts, obligations to family, illness and many other issues. \$300 is not a lot of money. Reducing the payments by around \$50 per penalty is significant, let alone suspending their statements altogether. Generally speaking, where communities are living in poverty, this type of regime can result in spikes in family violence, child protection concerns, housing issues and criminal offending. When payments are suspended, rents cannot be paid, food cannot be purchased and essential resources cannot be accessed.

The *Fair work and strong communities: proposal for a remote development and employment scheme* was prepared in 2017 and was submitted to the Senate by Aboriginal Peak Organisations Northern Territory. I have copies for the senators if you do not have a copy already. These organisations are in many cases Aboriginal led and provide essential frontline services to remote Aboriginal communities. They see the impact of legislation such as this bill and are in the best position to provide a solid sounding board to the government on the best way to administer such a regime.

This report is comprehensive and provides an alternative model. It is incentive based rather than punitive, promotes participation in meaningful and sustainable work which benefits the local community, ensures safe working environments for participants, provides greater flexibility to take into account personal circumstances such as family violence, encourages participation in important social and cultural activities, and recognises and aims to alleviate the various structural barriers to social and economic participation by remote communities, including the high rates of illness and disability, lack of infrastructure and jobs, inadequate housing, limited access to technology and low rates of literacy and numeracy.

In 2018 when on so many levels our nation is looking at reconciliation with Australia's first peoples it is surprising to see a regime that by and large affects remote Aboriginal communities has been developed which is so punitive in nature.

ACTING CHAIR: I don't mean to interrupt your flow, but we are on a very tight schedule. Could you table your opening statement so that we can read the remaining part and then hear an opening statement from ACOSS?

Ms Hatami: Certainly. I'm finished; I'd better table it.

Ms Crowe: ACOSS thanks the committee for the opportunity to provide evidence today. We encourage the committee to listen to the voices of the Aboriginal and Torres Strait Islander people who are most affected by this legislation. Aboriginal and Torres Strait Islander comprise 83 per cent of participants in the Community Development Program. Government must listen to and work with Aboriginal and Torres Strait Islander people to redesign the remote jobs program so that it supports communities and improves local employment opportunities.

ACOSS endorses the Fair Work and Strong Communities model, developed by Aboriginal Peak Organisations Northern Territory and an alliance of over 30 Aboriginal organisations, to replace CDP, which is a discriminatory program that has caused extensive harm in remote communities. Millions of dollars have been stripped away from people who are already living in poverty, because of the severe overpenalisation of people under the program. CDP imposes much harsher requirements compared with the mainstream employment program, which has led to the impoverishment of very disadvantaged communities.

The deeply flawed design of CDP will likely be aggravated by the introduction of the targeted compliance framework. The government's own modelling shows that extending the TCF, which we oppose, to CDP will see thousands of people lose weeks of income support. Under the TCF, even where someone is in deep financial hardship, financial penalties cannot be waived. We already know that, since the introduction of CDP, food sales have declined and there have been multiple and extensive reports of people who are unable to feed themselves. Denying people weeks of income support will leave people destitute. Cancellation of payments will likely see people fall outside the social security system altogether. This bill and the continuation of CDP stand to further entrench disadvantage in affected communities. We urge the committee to oppose this bill so as not to further disadvantage and discriminate against people living in remote areas.

Senator SIEWERT: Thank you for your submissions and your comments. Along with the actual legislation and the bill go changes to the approach over job subsidies. What are your opinions on that particular part of the program? They're designed to work together.

Ms Crowe: Our position at the moment is that, whilst subsidies are a step in the right direction, there is concern that they will not lead to investment and jobs in local communities.

The fair work and strong communities model or scheme is specifically designed so that investment is made in local communities and so that that job creation happens in local communities. We all know that that is the overarching problem in remote Australia—there just aren't enough jobs—and we must ensure that investment in job subsidies lead to local job creation. Our concern with what is on the table and which was announced in the 2018 budget is that that won't necessarily occur.

Senator SIEWERT: Could you just expand on that. What makes you think that?

Ms Crowe: I'll refer you to ACOSS's submissions where they go into this in quite a lot of detail, but my understanding is that, to date, there is no specific requirement that would allow local organisations to take up those job subsidies and for the subsidies to be made available to all employers. The concern that ACOSS and others have is that local smaller organisations won't be able to take advantage of those subsidies, largely because they won't have sufficient income to supplement those subsidies over the two-year time frame.

Ms Hatami: The subsidies program also imposes restrictions on participants where if they are forced to leave a position they are prevented from participating in the subsidised position again for six months. Given that only 17 per cent of participants will be placed in a subsidised position at any time, this limits the amount of opportunity that is available. The available investment is about \$21,000 over two years. So there is also a big question mark about what employers are able to support those positions and whether they are in a position to do so. So, despite the fact that we do support subsidised positions, there are significant concerns about this particular model.

Senator SIEWERT: I wanted to go to the whole issue around waivers, the demerit point system and also the new element of the health providers coming into this process. Can I ask both of you to comment on that, please.

Ms Crowe: Our key concern here is that the lack of waiver provisions will lead to many, many people moving into a state of destitution as they lose their income support. The government's own modelling, as mentioned earlier, shows that people stand to receive a financial penalty of loss of payments for between one and four weeks under the targeted compliance framework. Even when someone is at risk of homelessness or is already in severe financial hardship, no waiver can be applied, unlike the current model operating under CDP where, if an eight-week penalty is applied, either it most often is waived or the person is able to effectively work off that penalty by re-engaging with their employment service provider. The TCF model won't allow that. Our clear concern is that this could actually see people lose more income than under the current model and we could actually see people fall outside the system altogether because of the four-week cancellation penalty that will apply if you lose eight demerit points. That will obviously require someone to reapply for their income support payment, and we're deeply concerned that people won't do that or will do that some time after the four weeks has expired.

Ms Hatami: Obtaining a waiver from Centrelink in relation to social security is not an easy task. The evidence that's required in order to seek such a waiver is substantial, and the officers don't exercise this discretion readily. The fact that most of the cases where suspensions have been instituted have been waived up to this date

signifies that there are a lot of extenuating circumstances that have impacted people's lives and led to the breaches and the demerit points. As my colleague just commented, these include things like family violence, child sickness, illness in the family, death in the family and sorry business.

When that waiver provision is removed, it means that the issues that inform people's lives and the hardships that people endure are overlooked, and, instead, people fall further and further into debt. When payments are cut off, that means your rent's not paid, your electricity's not paid and you can't pay for your children's uniforms or books. Those costs don't go away with time; they just add up. It's creating a situation where people are not just living in poverty but have significant debts which they can't afford, and these debts are being deducted from their Centrelink payments every fortnight. It's putting them further and further back where these provisions are not available.

Senator SIEWERT: Thank you.

Senator DODSON: Have both your organisations been consulted on the TCF, in terms of its applicability to the 83 per cent of people who are reliant upon this program?

Ms Hatami: The organisations that are most involved and working at the coalface with the 83 per cent have all put forward their positions in this proposal. The TCF has consistently been rejected as a positive or an applicable model in this situation because of the penalty provisions, which are extremely harsh.

Ms Crowe: Just to follow on from that: ACOSS was not consulted prior to the budget announcement that the TCF would be expanded to the CDP with respect to that proposal.

Senator DODSON: For what period has the TCF been applicable to remote regions? When did it start?

Ms Crowe: The TCF commenced under jobactive, or the mainstream jobs program, on 1 July this year. It's yet to be introduced, as we understand it, to the CDP.

Senator DODSON: In your view, does it take account of any of the cultural and social factors that govern the lives of most of the 83 per cent of those people?

Ms Hatami: No. It's a one-size-fits-all, and it absolutely does not.

Senator DODSON: Thank you.

Senator McCARTHY: Can I go to you, Ms Crowe. The TCF commenced under jobactive on 1 July. In your experience, how has it been going with that program?

Ms Crowe: It's early days but we are hearing from people that they have noticed a difference in that it is a much harsher program.

Senator McCARTHY: In what way?

Ms Crowe: That there is less flexibility in its application. The key reason for that is discretion has been removed from the application of breaches or demerit points. Employment service providers have responsibility for applying the first four demerit points. They do not have discretion, so they cannot decide, 'Look, even though this person, on paper, does not have a reasonable excuse, I know that they're trying hard and I'm not going to apply this demerit point.' They must apply the demerit points where they believe that the person does not have a reasonable excuse. Our concern is that under the old program, where employment service providers did not have responsibility for applying breaches and, rather, would make recommendations to the Department of Human Services whether or not to apply a breach, they got those recommendations wrong 40 per cent to 50 per cent of the time. So giving private employment services the power to—

Senator McCARTHY: Sorry, Ms Crowe. In the previous program, when service providers recommended breaches for particular reasons, who got it wrong 50 per cent or 60 per cent of the time?

Ms Crowe: Employment services got those recommendations wrong 40 per cent to 50 per cent of the time.

Senator McCARTHY: Sorry, 40 per cent to 50 per cent.

Ms Crowe: Correct—largely because the department found that the person did in fact have a reasonable excuse.

Senator McCARTHY: The department thought that that was a reasonable excuse? Sorry, I'm having a bit of trouble hearing you.

Ms Crowe: Apologies; the department found that the jobseeker had a reasonable excuse for failing to meet one of their requirements.

Senator McCARTHY: You said in your opening statement that 'the deeply flawed design of CDP will likely be aggravated by TCF'. What do you mean by that?

Ms Crowe: The fact that CDP participants have far more onerous requirements in order to receive their income support payment will naturally see people fall into the penalty zone under the TCF much more quickly, compared with people under the mainstream program. CDP participants must engage in Work for the Dole activities immediately upon receiving an income support payment that is activity-tested, as opposed to the people under the jobactive system where they must only do so after 12 months of receiving an income support payment. People must also engage in work-like activities five days a week, which is not a requirement under the mainstream program. In short, the more onerous conditions applied on people who are under the CDP mean that it's far more likely that they will fail to meet those obligations and that they will end up in the penalty zone much more rapidly than someone under jobactive.

Senator McCARTHY: Thank you very much, Ms Crowe.

ACTING CHAIR: Ms Crowe, you mentioned that there had been a reduction in store sales and an increase in crime. What is the evidence base for that? The reason I ask is that I recall the chairman of Outback Stores saying at a Senate estimates hearing not long ago that, in his view, there was no evidence for that. I'm curious to know what is the evidence that you're relying on.

Ms Crowe: Apologies; I believe that my colleague from the National Social Security Rights Network made that comment. We did mention in our submission the evidence produced by the Arnhem Land Progress Association, which found that, since the commencement of the CDP, community stores had recorded a drop in food sales. I will refer to my colleague, who is present.

ACTING CHAIR: Thanks very much. Ms Hatami, what is the evidence base that you're using for those two statements?

Ms Hatami: The evidence is based on news reports by the ABC, dated August 2017. It is footnoted in our submission to the committee, which has been filed, I believe.

ACTING CHAIR: Does that ABC news report have an evidence base or is it just a statement that someone's made that's been reported?

Ms Hatami: I believe there is anecdotal evidence but I would need to take that on notice and provide you with a copy of the report.

ACTING CHAIR: If you could, that would be great. Ms Crowe, I'm assuming you have raised the comments you made with regard to financial hardship directly with Minister Scullion?

Ms Crowe: We have, yes.

ACTING CHAIR: What was his response?

Ms Crowe: The minister contested some of those assertions. I'm happy to table the response we received, if it would help the committee.

ACTING CHAIR: It would. Did he seek any additional information from you as part of that dialogue?

Ms Crowe: From memory, yes. Sorry, I don't have the correspondence before me. I am happy to table it.

ACTING CHAIR: If you could table the correspondence but also the follow-up information that ACOSS provided to Minister Scullion, that would be great. Are there any other questions? There being no other questions, the committee thanks both the National Social Security Rights Network and the Australian Council of Social Service for providing us with a contribution this morning. Thank you very much.

HOBDAY, Mr Michael, Chief Executive Officer, RISE Ventures

[09:06]

ACTING CHAIR: Welcome. Could you please confirm that information on parliamentary privilege and the protection of witnesses and evidence has been produced to you?

Mr Hobday: I have received all that documentation and information, thank you.

ACTING CHAIR: I now invite you to make a short opening statement. At the conclusion of your remarks I'll invite members of the committee to put questions to you.

Mr Hobday: I'd like to acknowledge the traditional owners of the land on which we meet today and pay my respects to elders both past and present. We at RISE Ventures deliver CDP services in five regions across Australia. I'd like the committee to note that I am a provider not a peak organisation and, therefore, we follow the rules and laws that are applicable in these contexts.

We are here today to provide evidence in terms of the targeted compliance framework. To give you a little bit of background information on our organisations, we deliver in five regions and have 2,200 active jobseekers on our books, at the moment. I have over 18 years experience in the employment sector, outside of government, working for organisations like this. As an organisation we partner, in every location, with local Indigenous organisations to deliver these services. It could be councils, it could be prescribed body corporates or it could be local Indigenous groups that operate in these environments.

Our focus is very much on the jobseeker, on local engagement, on community development and on providing jobs. Our record on providing jobs is sound, as noted by the Department of Prime Minister and Cabinet's six-monthly audit. We note and agree with the intent of the targeted compliance framework to the extent that they are aiming to change the number of touchpoints, if I could put it that way, between the Department of Human Services, Centrelink and the jobseekers. But we also note the reduction, from 25 to 20 hours, in terms of mandatory work hours per week. We believe that is a good move, a positive move.

We also table, senators, that there has been a lack of detailed information apart from the legislation itself and the explanatory memorandum. What we would say is we basically understand the 'what' that the government is trying to do here. We acknowledge what the government is trying to do here, particularly with the subsidised wage subsidies. That, we believe, is a very good thing. But we would also state that there's a lot more detail required about the 'how'. When we compare programs such as jobactive, the Disability Employment Services contract and CDP, as an organisation that delivers in all three of those contracts we can say that there are such variables in all those three—we would say it's mainly because they're run by three different departments—that, when you look at it, a jobseeker is a jobseeker. They are looking for jobs. When we compare the treatment of people in CDP, we think there are some good things in this legislation that will provide for fewer penalties and more flexibility locally than there is under the current system. I am happy to elaborate on that in questions.

ACTING CHAIR: Thank you very much. Drawing on your experience as a provider, what do you identify as some of the benefits of the CDP program?

Mr Hobday: I can only really comment on how we operate—and, to be honest, we learnt this lesson the hard way: effective engagement with communities is not a holistic approach, it is a one-to-one approach. You need to understand those people you serve and that you provide services to; and you have to listen, look and learn, particularly around the current circumstances in remote Australia. We actually do believe that CDP does work. We do believe also that it does need change. I visit most of these locations on a weekly basis—and I am talking about remote communities. I see the people who turn up to do the activities. I see the people who get a job. I see the actual help that is going on. I could give you examples of community projects that really have improved communities in very remote areas. That could be things like improving the surrounds of a school—fixing fences so that dogs can't get in and bite the kids—and improving traditional burial grounds and handing them back to the community. We are very proud about the work that we do. We see these people on a daily basis. With respect, we look after them and we try to give them every bit of service that we can. But we are bound by the rules. The new targeted compliance framework, if it comes in, will immediately take someone to level 4 if they don't turn up for three days in a row. We think that is harsh. We think this needs to be thought through. And this is where I make the comment about the 'how'. If this legislation is actually enacted, the most important part will be how it applies in remote communities compared with CDP and the Disability Employment Program—because they are completely different.

Senator SIEWERT: How long have you been running the CDP program?

Mr Hobday: In this company, for two years.

Senator SIEWERT: Over that time, how many of the people that you are responsible for have received suspensions?

Mr Hobday: We'd say less than five per cent. The majority are overturned by Centrelink.

Senator SIEWERT: I'm not asking about them being overturned; I'm asking, firstly, how many? Is it definitely five per cent?

Mr Hobday: It is definitely less than five per cent—very few.

Senator SIEWERT: So five per cent have received penalties. Are they the total number? Is it five per cent of participants? Five per cent of participants have received suspensions. Have some of those received repeat suspensions?

Mr Hobday: Some have. Why don't I give you the exact numbers. Could I take that notice?

Senator SIEWERT: Could you take on notice the total number of suspensions you have had, how many have been suspended and after what period of time? It is all very well if you get an eight-week suspension and you lose a couple of weeks—

Mr Hobday: Exactly.

Senator SIEWERT: There is also 'no show, no pay'. If you could separate out that data, that would be appreciated.

Mr Hobday: With pleasure.

Senator SIEWERT: I want to go to the issues around the job subsidies. Have you as a provider been given any detail as to how that will operate?

Mr Hobday: No, not at a lot of detail. There was a conference, a get-together of CDP providers, in June this year, which the minister attended. There was a presentation on the targeted compliance framework. The department presented on their initial thoughts around how the subsidies would operate, and we are awaiting further detail now.

Senator McCARTHY: Where was that?

Mr Hobday: In Adelaide.

Senator SIEWERT: Can I quickly go back to the suspensions. How many of those were overturned? We heard earlier that 40 to 50 per cent of decisions by providers have been overturned by the department. How many of yours were overturned by the department?

Mr Hobday: My figures are a significant number. I will give you the exact percentage if that is okay—to get it right.

Senator SIEWERT: There are those that were overturned and there are those that were given waivers. Could you give us the details so that I can get an understanding of that. Thank you. Have you been given a time line for when you will be given more detail on the subsidy process?

Mr Hobday: We have been told that there will be documentation out before the end of September.

Senator SIEWERT: In terms of the comment you made about the harsher process and what happens if there are three days of no show, have you raised that with the department or the government? If so, what response have you got?

Mr Hobday: Yes. I have to say that the department are listening. They are intent on gathering data so that they can make the right choices. We are having regular conversations about this. As a jobactive provider now as well, I have the pleasure of sitting with some of our staff in Melbourne yesterday asking them about the targeted compliance framework and how it is being applied in jobactive. That started on 1 July this year, so there is three months worth of data. I found some interesting comments coming back about that. One comment was that it places the emphasis more on the employment consultant to determine what is right and wrong in some of these cases. To a certain extent, they are replacing Centrelink until it is actually preferred. So they have to determine that you did not go to your activity and press the button for breach No. 1. That is the employment consultants. In the past, that was done but the department or Centrelink. One very interesting comment of a positive nature was that my staff have found that the level of engagement as a result of the TCF has increased. Jobseekers are finding that they know what the ramifications will be, and my staff said the level of engagement has increased to an amount that they have noticed it. I will have to qualify that by saying these sites are not remote, they are in metropolitan Melbourne. I have been one of the strongest advocates saying there is a big difference between metropolitan, regional and rural, and there is a very big difference from remote which I truly don't believe is being understood.

Senator SIEWERT: Why would there be a new level of engagement with this new process? The rules have been there before. Surely, your providers knew the rules and jobseekers knew the rules?

Mr Hobday: I can only say what I've been told. I believe the people are somewhat more incentivised to do what they are required to do and not play the game, if I can put it that way.

Senator McCARTHY: Because the TCF is in place?

Mr Hobday: Yes. That's what I've been told by staff at the front line. These are employment consultants and we have 90 of them in 12 sites in Melbourne.

Senator SIEWERT: How many in that situation have already got to point 5, where they have lost a week?

Mr Hobday: I couldn't tell you. I will find out for you.

Senator SIEWERT: Could you take that on notice?

Mr Hobday: Absolutely.

Senator SIEWERT: That would be appreciated. Can I go back to the comment you made that you think people in remote communities are going to get to that point faster because they will lose a number of points faster. Have you raised that with the government?

Mr Hobday: Yes.

Senator SIEWERT: What has the response been?

Mr Hobday: They are looking into it and they are going to come back to us. In my opening statement, I said that we understand the 'what, but 'how' this is going to be implemented for remote localities is the most important thing. We think that is the next level of detail that should be coming out from the department.

Senator SIEWERT: Can I go back to the issues around job subsidies. I have heard what you said—that you don't know a lot of information yet. In terms of the five regions where you are delivering, what, in your opinion, is the availability of jobs and businesses that can take up those subsidies?

Mr Hobday: Very, very limited. And if there is a rule that local councils can't have application to the wage subsidy, that is going to severely restrict the number of subsidies we could apply. The biggest employers in our regions are local councils. There are some private sector organisations that come out and do work. There is building, housing, construction—those issues. But, again, people need to have the appropriate certificates—white cards, blue cards, ORCA cards—and a lot of our jobseekers don't have them. So it is limited. We love the concept that, finally, we get access to a wage subsidy that we can use—and, over time, I think it will be well received—but, at the moment, there is not a huge number of jobs.

Senator LINES: Mr Hobday, you have given evidence to us before in Queensland.

Mr Hobday: Correct.

Senator LINES: I think you are one of the larger CDP providers and you are a private, for-profit provider.

Mr Hobday: Yes.

Senator LINES: Will the proposed new program increase the profits of your company, with more money being available?

Mr Hobday: I wouldn't have thought so.

Senator LINES: But won't you receive more funds?

Mr Hobday: Are you talking about the targeted compliance framework or the new payment model?

Senator LINES: Both.

Mr Hobday: Our modelling is that it will be around 10 per cent less

Senator LINES: That you'll lose money?

Mr Hobday: Yes.

Senator LINES: How have you arrived at that?

Mr Hobday: We did our sums based on what we have been given so far by the department and how we currently operate.

Senator LINES: Have you raised that with the department?

Mr Hobday: Yes, we have.

Senator LINES: What has their response been?

Mr Hobday: It was only last week. They have taken it on notice and they are looking at the process. They haven't yet come out with much of the detail around the new payment model, and that is obviously the one most people are affected by. And they are doing their own modelling as well. So, at the moment, it is a work in progress. We are told that within the next four to six weeks they should have a position on it.

Senator LINES: In the document, they talk about a business incubation model. Do you have any information about that?

Mr Hobday: We do. In fact, we are holding a workshop with the mayors and CEOs of our CDP regions in Sydney on 4 and 5 October to talk about that exact thing. Our chairman, Nyunggai Warren Mundine, has been an advocate of how these incubators and micro-economic development can actually work. We believe it is an essential part of job creation and, without that, these jobs are not going to be there. We are talking about simple things—lawn mowing, aged care and cleaning businesses. Those sorts of things should be available for local Indigenous and remote people.

Senator LINES: Does the business incubation model provide opportunities for the Angus Knight Group to further use some of your companies to support that business incubation model?

Mr Hobday: It could. If you are asking whether there is an opportunity to make even more money—

Senator LINES: I am!

Mr Hobday: If you came and sat down with us and saw what we did, you could see how we put that money back into community projects and where the outcomes are actually laid. I am a businessman and, of course, we always want to improve our margins and our revenue. We don't walk away from that. But, at the end of the day, we are also marked on how we perform by the local communities and by the department. So it is a balancing act.

Senator LINES: Okay, but there is potentially an opportunity for your company, or Angus Knight, to be involved in the incubation model set-ups?

Mr Hobday: There is potential to be involved, correct.

Senator DODSON: Mr Hobday, what hourly rates do you pay people?

Mr Hobday: Can I take that on notice, Senator?

Senator DODSON: I thought you said you were a businessman.

Mr Hobday: I certainly am, but we have part-time, we have casual—

Senator DODSON: You can tell me the categories, and I'd like to know the hourly rates.

Mr Hobday: They'd be well above minimum award wage.

Senator DODSON: So above the \$20.

Mr Hobday: Yes.

Senator DODSON: Do you have an idea what that might be?

Mr Hobday: No. I'll take that and give you the detail.

Senator DODSON: How to manage to do that?

Mr Hobday: How do we manage to do what?

Senator DODSON: How you manage to pay them above the award wage?

Mr Hobday: The award wage is not the normal rate that people are paid in remote communities during our work.

Senator DODSON: I know it's not. That's why I'm asking you. You're paying above that rate.

Mr Hobday: We are.

Senator DODSON: So how are you doing it?

Mr Hobday: Well, we can afford to do it.

Senator DODSON: You still haven't answered how. You can afford to do it. What I'm asking is: how can you afford to do it?

Mr Hobday: We operate the model as it's meant to operate.

Senator DODSON: So you generate a profit.

Mr Hobday: Yes, of course.

Senator DODSON: That's what I wanted to know.

Mr Hobday: Sorry.

Senator McCARTHY: Mr Hobday, could you provide your organisation's view on the operation of the current program and comment on the high breach rates for the program overall when compared with jobactive.

Mr Hobday: Yes, I can. We believe that the CDP program as its currently constructed is working as well as it possibly can, given the evidence of the number of people placed, the number of people in activities—

Senator McCARTHY: How many is that?

Mr Hobday: Senator Scullion tabled documentation, I think in the May budget and more recently.

Senator McCARTHY: No, how many in RISE?

Mr Hobday: In RISE that are—

Senator McCARTHY: You're saying that it's successful and participants are placed, so how many of your participants are successful?

Mr Hobday: There are five regions and there's all different numbers. If I gave you an average across our five regions, of the 2,200 we would place into a job, on a monthly basis, somewhere between 70 and 90 people.

Senator McCARTHY: Seventy to 90 per cent or 70 to 90 people?

Mr Hobday: People—out of the 2,200.

Senator McCARTHY: Out of 2,200 into jobs across those five regions. And what jobs would they be?

Mr Hobday: Look, again, they could be doing cattle station work, basic labouring work, aged care, home care or council work, as I mentioned before. The council's a significant player.

Senator McCARTHY: Could you get a precise description of those 70 to 90 people and those jobs for us on notice.

Mr Hobday: Absolutely. My pleasure.

Senator McCARTHY: Does this reform fix the design and operational flaws identified in the Senate inquiry of last year?

Mr Hobday: I would say not.

Senator McCARTHY: It doesn't.

Mr Hobday: No.

Senator McCARTHY: In what way does it not?

Mr Hobday: I would say this reform is about wage subsidies and then bringing the CDP program into a national compliance level, if I could put it that way, around what the government wants around the targeted compliance framework. This reform, this legislation, is taking a look at what other programs provide and bringing CDP into that, I suppose, array of changes.

Senator SIEWERT: Could I jump in. Mr Hobday, I heard what you just said. Given that the program is so different, how does that work, in your opinion? They're bringing in the TCF—you were here earlier, and I'm sure you're aware of the differences between CDP and other programs. In your opinion, how does that fit, given they're using basically the same framework for a very different program?

Mr Hobday: It's a very good question. I don't think it does fit. I don't think you can bring CDP into alignment with the other programs. We see it every single day, where you have to have the flexibility locally to deliver services. It's not the same as jobactive and it's not the same as disability employment.

Senator SIEWERT: Thanks. Sorry for interrupting, Senator McCarthy.

Senator McCARTHY: The TCF was rolled out in the 2017-18 budget to all other income support recipients, and it was estimated to generate \$632 million over five years for the government. Do you expect that the implementation of TCF in remote Australia will generate similar savings for the government, given the current breach rate?

Mr Hobday: I don't expect it would but, then again, I'm not government. I don't have access to that data, I'm sorry.

Senator McCARTHY: Is it likely that the three-strike rule for non-compliance and a four-week cancellation penalty without waiver operating under the TCF is most likely to be the outcome for CDP participants in remote Australia or certainly in RISE?

Mr Hobday: As we've spoken to the department and as we know the legislation, what we're waiting for is the detailed guidelines that go with that. One of the questions we've asked is: what flexibility or discretion will we be given in determining how we might apply the TCF?

Senator McCARTHY: But you haven't received that information?

Mr Hobday: We haven't received that yet.

Senator McCARTHY: The compliance framework is to assist participants to transfer from welfare to work and stop participants from reapplying for another position for six months if they leave or are sacked from a wage subsidised position. This is to prevent participants from regularly cycling through subsidised job opportunities. Would you like to comment on that?

Mr Hobday: I would like to recommend that that be re-looked at. I think that's somewhat harsh in these circumstances. Again, being a provider in remote localities, having to provide these services in these areas, you look at all the conditions that exist. It could be a matter of a week when another, better job comes up and someone could actually do it and do it better, and all of a sudden you don't have that access to incentivise an employer to give that person a job. I personally think that should be re-looked at.

Senator McCARTHY: Would you like to comment on the split of program funding—mutual obligation versus wage subsidy, with only two-year wage subsidised positions—of around \$156 million from a total funding envelope of \$1.1 billion as of February next year?

Mr Hobday: I don't really have a view, Senator, except to say that one of the things that we would be submitting to you today is the amount of change that CDP providers and job seekers are facing over the next 12 months. If the terms and conditions continue to change, that will have a flow-on effect for the people in local communities. These changes are not small changes. We'll go out and tell people, 'Rightio, the hours drop from 25 to 20.' I don't think that'll cause a big hoo-ha. That we're able to access local health professionals to provide better assessment won't be too much as well. But then there are the new rules that are being brought in around the targeted compliance framework. It's my estimation that it takes 12 months to two years to implement a new policy in remote just by way of needing to explain and interpret these rules at a local level; it is a lot more difficult than in regional or metropolitan areas.

Senator McCARTHY: To clarify regarding the question from Senator Dodson: you say that you pay your participants above the national minimum wage, per hour?

Mr Hobday: I misunderstood that. We pay our staff.

Senator McCARTHY: Your staff, not the CDP participants?

Mr Hobday: Yes.

Senator DODSON: You did misunderstand me then.

Mr Hobday: I did. I'm very apologetic.

Senator McCARTHY: I was going to say that you've got a great system if you're paying above the award wage for CDP participants.

Mr Hobday: We do not pay the participants.

Senator McCARTHY: You do pay them but not above the award wage.

Mr Hobday: No.

Senator McCARTHY: Do you know how much you pay them?

Mr Hobday: Depending upon the circumstances that apply—I don't know. I would have to check.

Senator McCARTHY: Would you like to that question on notice?

Mr Hobday: Yes.

Senator McCARTHY: Your contract is with Prime Minister and Cabinet.

Mr Hobday: Yes.

Senator McCARTHY: How much is that worth and over what period?

Mr Hobday: Senator, with respect, I think they are commercial issues, and I would like to take that on notice and look at that answer.

Senator McCARTHY: If you could come back to the committee, that would be great.

CHAIR: Are there any other questions?

Senator DODSON: I have one.

CHAIR: Go for it.

Senator DODSON: Given that you've mistaken my question, I was going to follow up and ask what other benefits do you provide to the workers.

Mr Hobday: To the participants?

Senator DODSON: Yes. Do you pay them superannuation? Do you pay them holiday leave? What do you do?

Mr Hobday: Can you define the worker for me? Do you mean the job seeker or our staff?

Senator DODSON: These are job seekers. These are people dependent upon this draconian system.

Mr Hobday: We don't pay them—

Senator DODSON: I understand that. You're administering it.

Mr Hobday: We administer it. We provide them with training, equipment, personal clothing, transport, food and any assistance and counselling that's appropriate at the time. We do do a lot.

Senator DODSON: Is that provided out of your earnings or is that provided because the government is providing the money?

Mr Hobday: As you may know, Senator, the model is that the government pay us an amount when a jobseeker turns up. That comes out of that amount.

Senator DODSON: So it is not coming out of your profit margin?

Mr Hobday: No.

ACTING CHAIR: Mr Hobday, did I hear you correctly in your earlier evidence that you doubted or were unsure about whether or not the subsidised wage part of the program would be available to local governments?

Mr Hobday: Yes.

ACTING CHAIR: I think the answer to that is actually in the minister's second reading speech. My interpretation of what he said in the second reading speech is that local government workers would be part of the eligible pool, which goes to your point, because there's such a significant part of—

Mr Hobday: They are the major employer.

ACTING CHAIR: Exactly. So that can be found in the second reading speech. There being no other questions, thank you very much for your evidence today.

COOPER, Dr David, Manager of Policy and Research, Aboriginal Medical Services Alliance Northern Territory

DOUGLAS, Dr Josie, Policy Officer, Central Land Council

FOWKES, Ms Lisa, Private capacity; and Aboriginal Peak Organisations Northern Territory

PATERSON, Mr John, Member, Aboriginal Peak Organisations Northern Territory

[09:36]

ACTING CHAIR: I welcome representatives from the Aboriginal Peak Organisations of the Northern Territory. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. For the *Hansard* record could you please state the capacity in which you appear today?

Mr Paterson: I'm the chief executive for the Aboriginal Medical Services Alliance Northern Territory but I appear here today as a member of the Aboriginal Peak Organisations Northern Territory.

Dr Cooper: I'm the research and policy manager with AMSANT in the Northern Territory, and I appear here today with the APO NT delegation.

Dr Douglas: I'm the manager of policy at the Central Land Council and I'm also appearing here today as part of the Aboriginal Peak Organisations Northern Territory.

Ms Fowkes: I'm appearing here with APO NT but I've also made a submission on my own behalf, which I think the committee has.

ACTING CHAIR: Thank you very much. The committee has your submissions. I now invite you to make a short opening statement and, at the conclusion of your remarks, I'll invite members of the committee to put the questions to you. Would you like to make an opening statement, Mr Paterson?

Mr Paterson: Yes; thank you, Mr Chairman. I'll make a statement and then Ms Fowkes will follow. We're more than happy to take questions after those two statements. Good morning. I'd like to thank the Senate committee for allowing us to come and present to you guys on a very important matter which we see is impacting on Aboriginal communities on a day-to-day basis. I'd firstly like to acknowledge the traditional owners of the land on which we're meeting, the Ngunnawal people, their elders and leaders past, present and future. I'm the CEO of the Aboriginal Medical Services Alliance Northern Territory, as mentioned previously, and also a member of the CEOs group of the Aboriginal Peak Organisations Northern Territory, which is the capacity in which I am appearing here today.

APO Northern Territory—and I'll refer to the peak organisation as APO NT from hereon—comprises AMSANT, the Northern Land Council and the Central Land Council. We are not here because we claim to be experts in the intricacies of the social security rules. We are here because our member organisations—that is, members of the land councils and the Aboriginal organisations providing health services across the Northern Territory—have demanded that we do something about the terrible policy that is the CDP, or Community Development Program. I'll refer to that from now on as 'CDP'. They have told us about the effect of penalties in their communities, about people going hungry and about the stress it puts on families. They have told us how the CDP has shifted control out of communities; how, even if there is a local organisation delivering the program, they are just doing what the government tells them to do; and how, even if these Aboriginal organisations think it is wrong to make people work for the dole every day of the week, they cannot change this stupidity. They have to penalise people even when they think it is wrong.

Since December 2016, we have been working with a national alliance of organisations trying to speak up for communities and trying to come up with positive alternatives to this broken, dysfunctional and punitive scheme. We put forward our proposals to government last year. We made a submission to the government CDP review and heard the government promise to consult about the program reform. We also heard them say that they would be leaving remote communities out of the new targeted compliance framework, or TCF, 'so that the government can work out, with communities, what will work best for remote Australia'. That quote is from the budget announcement in 2018. Well, we've been waiting in vain to have these discussions. Now we are here, having rushed down to Canberra, because of a government bill that was developed without our input and that we think will make things worse.

Here is why we think it'll make these things worse. Firstly, the TCF is designed to make things easier for people who miss the occasional appointment or day or Work for the Dole, and to increase the level of punishment of those who do this more often. CDP participants are the only people in the income support system who have to

attend Work for the Dole every day. They have to do more, so they miss more. Already they get more penalties than anyone else. The TCF is designed to increase penalties for people like them.

Secondly, CDP participants have received 80 per cent of all eight-week penalties since the CDP began, even though there are only 30,000 of them and more than 600,000 in other programs, but they have been able to reduce some of the impact of this by taking up the option of returning to Work for the Dole and getting their payments restarted. The TCF will take this level of personal control away.

Thirdly, we have been told that there will be new checks in the system so that providers and DHS can make sure people have the capacity to meet their obligations. At AMSANT, we know more than most how great the level of unidentified and unaddressed mental illness and cognitive and other impairment is. Providing a culturally appropriate and effective assessment process is really hard. It is not rational to think that this problem will be fixed overnight. Where is the evidence that these new checks will be better than what we have now? Who have they talked to about culturally appropriate assessment? Certainly not us.

Fourthly, under the TCF, people will be not just penalised but cut off and will have to reapply. In remote communities, this could be devastating.

I also want to touch on the government's proposal for subsidised employment. The minister often talks about wanting to bring back the best things about CDEP. When we saw the budget announcement of 6,000 jobs, we thought that this might be a start, but this is nothing like CDEP. This wage subsidy will not be going to remote community organisations so that they can build new projects or lead social innovation, as they did when they created the ranger programs or night patrols. This subsidy will be going to the employers, who already have money, so they can employ people they probably would have employed anyway. Many Aboriginal community organisations will not be able to afford to access these subsidies. The worst off will be those in very small, remote communities who need jobs the most.

Our survey of employers suggests that the government's proposal is likely to work—than a mainstream wage subsidy, which pays only half as much. I wouldn't be so upset if I weren't aware that the funding for the subsidies will be coming out of the Indigenous affairs budget. That money should be going to Indigenous organisations to pursue their objectives, and to employ people who really need the work. We shouldn't be risking throwing this money at private companies that aren't based in communities and will simply take their profits elsewhere.

I urge the committee to reject this bill. We think it'll make things worse for people who are already being punished by the discriminatory CDP scheme. We hope that you will hold the government to account for its repeated failure to properly negotiate and consult with First Nations people over this critical policy area.

ACTING CHAIR: Ms Fowkes, did you want to make an opening statement?

Ms Fowkes: I'll be brief. One of the things that's really clear is how confusing this policy area is. I've been listening and everyone here is stumbling around trying to figure out what the TCF will mean. I think that is something the committee should consider when it considers the timing of this bill, because it feels like it is being rushed through, and its consequences are quite significant. For the past few years I've been trying to look at penalties that have emerged in remote communities. If you have my submission in front of you, on the second page you will see figure 2, which tells the story of the CDP. Figure 2 shows that—and the red arrow shows this—from the quarter where the CDP was introduced, penalties applied to Indigenous people have exceeded penalties applied to non-Indigenous people across the country. That shows you 10 years. In that 10-year period this has never been the case before.

The TCF is aimed at punishing people who miss obligations more often. Only CDP participants have an obligation every day. If you're in the mainstream system, your obligation for the first year is to look for work and to attend monthly appointments. So your ability to rack up penalties is much, much less and it will be a lot slower. You can already see what the TCF is likely to do if you look at figure 1, which is the first graph on that page. The top line there, the orange line, is the percentage of penalties under the existing system for people who are persistently and wilfully noncompliant. You can see that 80 per cent of those penalties now, today, go to people in the CDP. The objective of the TCF is to make things harder for those people—that is, the people in the CDP—and, in fact, to eventually cancel their payments. The cancellation of payments, in the context of a program where people are walking away and the caseload is already declining is potentially devastating.

Senator DODSON: Ms Fowkes, are you aware of a body called the National Centre for Social and Economic Modelling?

Ms Fowkes: Yes.

Senator DODSON: What does it do?

Ms Fowkes: It is a specialist organisation that looks at the impact of government policy, particularly on the tax and welfare payments system.

Senator DODSON: Are you aware of it having done any baseline study or data studies in these remote area communities, specifically towards CDP?

Ms Fowkes: APO NT commissioned NATSEM to look at what the impact would be of APO NT's approach to job creation in remote communities. It commissioned NATSEM to do that. In order to do that, they needed to do a lot of work because the population in remote communities is very different. They have produced a report that describes both the cost and the potential benefits of the scheme that is the APO NT proposed model for an alternative to CDP.

Senator DODSON: It would be a sensible thing if we relied upon the data you're producing having some factual basis?

Ms Fowkes: NATSEM is a very credible organisation. It's used by government. It's widely understood to be very good at modelling specific impacts of tax and welfare policies.

Senator DODSON: Are you aware if it's been commissioned to do any study on the new framework that's been proposed by the government?

Ms Fowkes: As far as I know, it hasn't. But I don't know that.

Senator LINES: Thank you all for coming along today. We certainly appreciate the work that you do and continue to do. It informs our knowledge a great deal. Ms Fowkes, in your statement to the committee you revised some figures following information from the government. On page 4 you've amended the sentence to say, 'The government's modelling show that on a per capita basis the TCF would have around four times the impact on CDP participants as on other job seekers', and then on page 11, 'the TCF would have a harsher impact on CDP job seekers than others'. Can you enlighten the committee or do you have a view as to why a government would introduce a system that, by its own admission, is going to be much harsher on CDP participants than on other participants?

Ms Fowkes: I wish I could. Unfortunately, as you know, when the TCF was introduced to the mainstream, the government excluded consideration of remote areas. And at the time, it was already clear that the TCF would more harshly impact on Indigenous job seekers in the mainstream system. Had CDP participants been included at that point, I think discussion about the TCF would have been very, very different. But as to why they have reversed their position, and reversed it only six weeks after the bill passed, I have no idea. What it does do in the mainstream system is save a lot of money in income support. That may be part of the motivation, but I don't know.

Senator LINES: Mr Paterson, can you shed any light on why a government would pursue a regime that it admits will be a harsher penalty for those on CDP?

Mr Paterson: I agree with Ms Fowkes. I don't know what their intention is in broadening it to remote communities. It's difficult enough, with the lack of housing, the lack of education, the lack of employment, the lack of connectivity to even communicate with the Department of Human Services, which administers this program. I had an anecdotal bit of information come to me just the other week about an individual—remote—who was obviously a participant. The person was asked to call the 1300 or 1800 number, and I'm assuming it was the department number, because they wanted to have a conversation with this individual. For this individual, English is probably his third or fourth language and he was finding it very difficult to understand what the bureaucrat was trying to convey to him. The participant sought approval to hand the phone to a relative who would be able to be the interpreter on the occasion, and the response was, 'No, you need to answer these questions that I'm asking you yourself. You're not to give the phone to anybody else.' The participant just hung up in frustration—I would have done the same thing. He was then asked to ring back. He phoned back and was on the waiting line for about an hour and a half—that was the time that was conveyed to me. If government is going to implement and force these severe and punitive measures on participants in remote locations, then I think we'll find the breaching numbers will just skyrocket.

Senator LINES: I think you say in your submission that you weren't consulted with by the government and that in fact, at your request, you had a 30-minute meeting? But they haven't talked to you at all?

Mr Paterson: Not about the bill that's currently before parliament. You can see from our submission we've written numerous letters and got some responses. But no actual meeting that I've been part of—I thought there would have been a meeting organised with the chief executives of the Aboriginal peak organisations and government for us to go through the proposed changes and the new piece of legislation that they wanted to introduce. I haven't been privy to any of those discussions.

Senator LINES: Just one more question—perhaps to you, Ms Fowkes, and maybe you don't have the response. Have there been any studies done on, or is there any information about, the amount of profit that private providers are making out of these schemes?

Ms Fowkes: I have done some survey work on profitability of the program, and it's variable. In the last survey that I conducted, most providers were at least breaking even and some of them were generating reasonable surpluses. But my observation of providers is: they are investing very heavily in back-office functions that are essentially about reporting and submitting penalties. I think you'd find most of the providers here, if you asked them, would have a few people who simply do that—that's what they do.

Senator LINES: And that was evidence we received last time. Will this compliance framework increase that accountability?

Ms Fowkes: No. I think it will probably create more work for providers. Because CDP participants can essentially burn through their first three demerits within a week, within a couple of weeks of introducing the new scheme, there will be huge numbers of capability interviews. So it's going to increase the load significantly in that area. But some of the providers will be able to—

Senator LINES: And potentially the sorts of issues that Mr Paterson just identified?

Ms Fowkes: Yes.

Senator DODSON: Mr Paterson or Dr Douglas, you might want to answer these questions—or anyone else, but certainly you two. What detox facilities are available in these locations where this scheme operates?

Mr Paterson: There are very few service providers that offer that sort of service. In particular, the more remote you go, the less those services are available. In Darwin, Alice Springs and Tennant Creek, you'll find service providers in those locations. So, for any participant that is requiring any health and wellbeing apart from primary health care, which is predominantly the major service that's provided to remote communities in the NT, there are very few of those specialist services available in the more remote communities. I'm not sure whether the Central Land Council—

Dr Douglas: Certainly in the Central Land Council region, which is the southern half of the Northern Territory, there are very limited, if any, services in remote communities for mental health, detox, drug and alcohol dependency. Those services just are not there. People are not able to access services for those needs. There are services in Alice Springs, but they're small. Those services are really struggling to cope with the demand just from the Alice Springs population, let alone a dispersed, remote population with different needs, where English is a second or third language and where there are cultural differences. So the service provision for remote communities, not just for mental health, detox, drug and alcohol, is very, very limited.

Senator DODSON: Who do you see, under the scheme, counselling or advising someone who's breached on the first occasion, the second occasion or the third occasion? Who does this counselling and helping of persons to change their ways or seek the help that they need? Who does this?

Dr Douglas: That's the issue. At the moment, I think there's a lot of emphasis being placed on local community health services and health workers, but we know these services are already stretched in providing their core business. It goes unattended to, and then the consequence is that families suffer, because a person within a family in an overcrowded house is not receiving the support that they need. And then you put in the CDP regime over the top of already overcrowded houses, families who are struggling, mental health issues, chronic disease and general health issues, and it's just a recipe for disaster.

This CDP model is contributing to devastation within our remote communities. It's not helping. The policy of 'do no harm' and the Australian notion of fairness are completely lacking with this model for remote communities. And it's going to get worse, because the new TCF is designed to be harsher, and we know that 90 per cent of people in that non-compliant group are Indigenous. So things are going to get much, much worse.

Senator DODSON: Is that your take on this as well, Mr Paterson?

Mr Paterson: Until we get a program that is designed, developed—and, when I say 'designed', that is co-designed, and I believe we've got the expert key stakeholders that would assist us, including government. I'm going to include government in that process. What is lacking with this new program is the inclusion of the Aboriginal leadership in this sector. Until we get to the stage where government genuinely engages with the Aboriginal leadership who have the expertise in this space, we're going to have a failed program.

The Aboriginal leadership is looking for engagement, active participation and genuine involvement in the co-design, co-development, implementation, monitoring and review of this whole program. I must say that it has been very disappointing under this current government that we've been left outside that whole process. This is

evidenced by the top-down program and policy. This has all been designed somewhere here in Canberra and then forced down. It's one size fits all. There's no flexibility for local communities to design and develop the program.

There are plenty of opportunities out there—let me assure the senators—that can empower and involve local Aboriginal people, communities, to come up with really great initiatives that will really, I believe, get Aboriginal people who want to participate again in the workforce area doing meaningful things. One of those meaningful programs that has really set the example is the Indigenous rangers program. That has been one of the most effective programs. The land council are responsible for driving that, and it's been one of the most successful. The people get up daily, before sunlight, and they want to get out there on country and work. So there are the rangers.

Another one has been around night patrol. I'm not advocating for CDP participants to be engaged and be the bulk of the workforce in the child protection and youth justice space, but there are opportunities there that governments need to consider. There's a real workforce need in that space as well, given the recent royal commission in the Northern Territory and, preferably, the engagement and—again—active participation of Aboriginal people in those processes when it comes to the youth justice and youth and child protection issues.

Senator DODSON: Ms Fowkes or Dr Cooper, either of you two may want to answer this. What percentage of the 6,000 subsidised jobs would you see being adopted in the Northern Territory, or has there been any indication if there would be any apportioned to the Northern Territory areas?

Ms Fowkes: We had the opportunity to have a half-hour meeting with PM&C where they talked about their current state of thinking on those subsidised jobs. Our understanding from that is that it will be up to the employers to put up their hands for the jobs. Those employers will need to stump up 80 per cent of the wage costs over the two years, obviously, but then they will have the option of employing whoever they like, Indigenous, non-Indigenous, short-term unemployed or long-term unemployed. What that conversation confirmed was a concern that we had about where this money, Indigenous affairs money, was going to be spent, because it seems from the current architecture of that employment program that it will go to the places where there are already cashed-up employers, and they will use it to employ people they would have employed anyway. The concern that we have is that particularly the smaller communities and the arts organisations, the clinics, the ranger programs, the media organisations—those small Aboriginal community organisations or just the communities—won't have the capacity to take up the subsidies. So, in terms of how much of it will go to the Territory, who knows? At least in the early stages, our understanding is that it will be rolled out to those employers who want to take up the jobs, and we've always thought that there's a fair risk that they may not get taken up.

Senator DODSON: Dr Cooper?

Dr Cooper: I think there's also the issue of how this aligns with current policy in the Northern Territory government but also in the Commonwealth about increasing the number of Aboriginal organisations that are delivering services, increasing the number of Aboriginal organisations and enterprises. That's building from a fairly low base at the present time. Those organisations are likely to be able to benefit from a fully subsidised part-time position but, as Lisa says, find it difficult to provide the resources to support a full-time job with all the on-costs. So that flexibility is needed in terms of that objective to build new Aboriginal organisations, service delivery and enterprises, particularly in remote communities.

Senator SIEWERT: Can I take up where we just left off. It's your understanding that that flexibility isn't going to be there in the program to, say, maybe even have two subsidised part-time jobs to equate? Is that your understanding?

Ms Fowkes: It's not clear, but I think that there is some capacity to have part-time jobs but with a lesser subsidy, so it doesn't quite address the problem.

Senator SIEWERT: Yes, it doesn't get over the issue of not being able to afford the wage in the first place, so that's going to be a problem. But, if they could fix that issue, somebody could perhaps stitch together two part-time jobs?

Ms Fowkes: Part of the challenge here is that the legislation simply has a provision that says there will be this new category of job, so we're all struggling to understand exactly what it might mean. I guess the issue is that, as John said, this is in a context of scarce resources. The biggest risk in wage subsidies is deadweight cost—that you pay people to do things that they would have been doing anyway. At the moment, that risk seems really stark here. With the Indigenous affairs budget, I think that we'd be worried that it might be misused—not misused in a pernicious way, but not spent wisely.

Senator SIEWERT: I want to go back to the issue around consultation, because I very clearly remember sitting in estimates and asking about consultation, subsequent to the minister's announcement at Garma around the new CDP and community wages, and I got told that in the process there was a lot of consultation going on et

cetera. I have already heard that APO NT wasn't consulted. Are you aware of who was consulted through this process of consultation that went on following the announcement at Garma?

Dr Douglas: I'm not aware of any consultation that's happened in Central Australia. I've been at two meetings with the minister, very brief meetings. That's not consultation. There's been little or no consultation. Who the minister and the departments have been consulting with is not clear. We've been calling for transparency and time frames around consultations. From a land council point of view—we caucus with the three other NT land councils—there's been very little consultation, if at all. There was one meeting with Minister Scullion before the Barunga meeting this year—

Senator SIEWERT: Just in June?

Dr Douglas: just in June—where there was a discussion about CDP, but it was extremely brief. That's not consultation.

Senator SIEWERT: Can I ask about the timing of this. When did you know about this particular approach—the changes for TCF and the subsidised wage program?

Ms Fowkes: Clearly, there was a budget announcement, and that said there would be consultation. And then we knew, when it appeared on the *Notice Paper* for the Senate, that there was going to be a bill. It was literally out of the blue that there was going to be a bill.

Senator SIEWERT: Ms Fowkes, you touched on a point a little bit earlier, and I want to follow that up because it relates to the issue that people will go through the TCF process; they will come out; and, if they keep getting penalties, they will then get kicked off, lose their payment, and have to reapply. My understanding of a comment you just made, but also in looking at some of the data, is that there are a cohort of people who seem to have disappeared from the books. Could you just expand on that a little bit. What is the issue here?

Ms Fowkes: Since the CDP started—I think there were about 36,000 people on the case load when it started in mid-2015. And the latest case load figure I've seen is just over 30,000. So there are 6,000 people approximately—the case load has declined. I've also looked at the figures for the age cohorts in 2017 and in 2015, and you can clearly see there that the biggest decline is in the under-35s. I think it's around 3,000—I'd have to go back and find the specific statistics, but around 3,000—under-35s. That's where the big drop has come. There's actually been a slight increase in some of the older age groups. It's that prime working-age group that has declined. I also then looked at the age of the people who have received job outcomes, and that is less than the 3,000. So what we know from the data that's been released by government, generally through estimates, is that there has been a big decline in the case load. The biggest decline is in the younger age group, and you couldn't explain that by saying that people have moved into work.

Senator SIEWERT: That was going to be my instant response: well, they've got jobs!

Ms Fowkes: No, you can't explain that by people going into work. In any case, case loads in these areas get refilled. Each year, kids leave school and they come on to the case load. Generally, unless there's a major economic change, the case load should stay roughly the same. That's not what we're seeing in CDP.

Senator SIEWERT: Would it be fair to speculate—which is why I want to know about people reapplying—that people are dropping out of the system?

Ms Fowkes: We can't prove that. No-one seems to track it. As far as I can tell, the government isn't looking at it. Anecdotally, everyone can go out and say, 'I can go out and I can find 50 people in the community who aren't on any form of income support.' There's a significant issue. Certainly, recently I have heard that providers are really worried, even from a business point of view, about this decline in their case loads. It appears to be particularly younger people relying on families or presumably some of them are finding other ways of trying to support themselves.

Senator SIEWERT: I want to go to an area, Ms Fowkes, that I know you have done work in and others have worked in too. We keep hearing that this program is generating jobs. We have just discussed the group that aren't. I will expand this to everyone, not just Ms Fowkes: what is your take on the reality of what jobs have been generated and had people moved into them and where those jobs are being generated?

Ms Fowkes: I suppose, again, the thing that could you say of any employment program is that every day people move in and out of work. Most employment programs don't make a big impact on who that occurs for. What you can see in this program is, to the extent that outcomes are being claimed, more jobs have been claimed for non-Indigenous people than their representation on the case load and a significant number of the jobs that have been claimed are for short-term people, so people who have been unemployed for less than six months. That makes a lot of sense. If you go to remote communities, you see that there is quite a lot of contract work. There are

a lot of very employable people sitting on the CDP case load. If someone comes into town and they are doing a contract, they will get a job. That group keep churning through jobs. They will turn through contract jobs, and they will pick up jobs here and there.

I couldn't give you an overview of where I think the jobs are. But what I would say is that there isn't evidence that this is really making a difference to who is getting jobs and how many people are getting the jobs available in communities. In fact, even if you look at the CDP providers themselves, my observation of the sites that I have visited over several years is that in their offices they have tended to end up with more non-Indigenous people and non-local people, as penalties escalate and as the complexity of the program has got harder. What I'm saying is I don't think this program is having a net impact or making a net improvement in jobs. That is because it's focused on short-term jobs and there's no requirement to really look at trying to change the net impact, if that makes sense.

Senator SIEWERT: Yes. Mr Paterson, did you want to add to that?

Mr Paterson: I was thinking this would be a good research project: when service providers say they have gotten employment or gotten jobs for participants, I'd like to know whether they're seasonal, whether they're part time, whether they're full time, whether they're being paid sick leave, whether they're able to accrue long-service leave and whether they're getting their superannuation paid. That is what APO NT is seeking. APO NT wants a workforce model that is going to provide all of those conditions that every other Australian that goes and does a day's work is entitled to. We're all able to accrue sick leave, recreational leave, personal leave and superannuation, and we all have every other condition that comes with employing somebody to do a day's work. We believe the current program is discriminatory and racist because it doesn't provide those conditions to the Aboriginal people participating in this program.

Dr Douglas: We strongly believe, as well, that if opportunities are provided to local Aboriginal organisations, there will be a creation of social enterprises and work that's locally valued and people will readily engage in. That's if the opportunities are given to local organisations to control what's happening in their own communities. That's what people have lost. People are feeling really powerless, voiceless and like they have no control over what's happening in their community. People are desperate to have some control back and some control can be created locally if this CDP program is reformed and takes on the reforms that we're recommending.

Senator SIEWERT: That actually takes me to my next question. What has been articulated in particularly the Fair Work and Stronger Communities process—and the nature of where you can generate jobs and how that would look—doesn't look, to me, anything like what we've got with the subsidies that are now going to be in place, as to the nature of that program. Is my interpretation correct, or can you articulate how that process should be changed to fit in more with what your vision is?

Dr Douglas: There should be more than 6,000 subsidised jobs. In our submission, we scored 10,500 subsidised jobs, as well as subsidised positions for young people. We know that's an area that has been left out of the whole equation. We're actually asking for 12,000 subsidised positions.

Ms Fowkes: As you know, it's quite a long proposal. But one of the critical things too—and you will see in the APO NT submission that we did a brief survey of employers—is that the employers that are precisely the organisations that, under the Fair Work proposal, would be supported to create jobs are the ones that are saying, 'We would love to create jobs, but we cannot afford it.' They are the ones that are getting stretched and have uncertain short-term contracts. Under the APO NT proposal and under the Fair Work proposal, they would be given money to create jobs in their communities, doing things that are important for them. It's partly about where the money goes. The Fair Work proposal says, 'Actually, let's put it in the weakest labour markets, where people need it the most.' Whereas under the government's proposal, it appears that those investments will be predominately in the stronger labour markets to employ the most employable people. That's a very big distinction. The other critical distinction, as John said, is top-down versus bottom-up. The Fair Work and Stronger Communities proposal says this program should be led by an Indigenous organisation and, when it's put in place, it should be put in place with the involvement, control and say of local communities.

Senator SIEWERT: Thank you.

ACTING CHAIR: I just want to return to the point of consultation, because I always get a little bit anxious when I hear people say they've not been consulted by government. Exactly when was the Central Land Council and Northern Land Council consulted? Let's start with any meetings with the minister.

Dr Douglas: I can take on notice the exact date of the meeting. The four NT land councils met with Minister Scullion maybe two weeks before the Barunga Festival, which is in early June. There were a lot of agenda items that we discussed and one of them was the CDP. It was a very, very brief discussion in a busy meeting of other items that we also had before us to discuss with the minister. That's not consultation.

Senator SIEWERT: Was that at the forum at the beginning of Barunga?

Dr Douglas: No, this was a separate meeting in an office in Darwin.

ACTING CHAIR: Perhaps take it on notice, just to make sure that your evidence is correct, and if you need to change the evidence then you can just advise us. My question was: when was the last time the Central Land Council and the Northern Land Council met with Minister Scullion? I just want to go back to the point about meeting with the department. I thought, Ms Fowkes, that you mentioned you met with the department last week?

Ms Fowkes: Yes. APONT requested a briefing from the department on this proposal. We met with them. They gave us half an hour last week.

ACTING CHAIR: So you met with them last week?

Ms Fowkes: Yes.

ACTING CHAIR: So the peak organisation met with the Department of Prime Minister and Cabinet last week?

Ms Fowkes: Yes.

ACTING CHAIR: And it was with regard to your proposal to the CDP reforms?

Ms Fowkes: No. The only information available to APONT has been what is on the website, so essentially what is publicly available. It was an attempt to understand the job site, particularly the employment subsidy proposal.

ACTING CHAIR: Again just for clarity on my part, it says here on the front page that the Aboriginal Peak Organisations Northern Territory is an alliance of the CLC, NLC, CAALAS, NAAJA and AMSANT. Is that still correct?

Mr Paterson: No.

ACTING CHAIR: So what are the bodies that make up the Aboriginal Peak Organisations Northern Territory?

Mr Paterson: Currently it's the Central Land Council, Northern Land Council and AMSANT.

ACTING CHAIR: Right. So the Northern Australia Aboriginal Justice Agency is no longer a member?

Mr Paterson: No.

ACTING CHAIR: Why is that?

Mr Paterson: It's a long story.

ACTING CHAIR: I've got the time; abbreviate it, Mr Paterson.

Senator DODSON: They're appearing later, aren't they?

ACTING CHAIR: Yes. It will be an opportunity to reconcile the stories.

Mr Paterson: There were different opinions and views on issues and policies. It was the choice of the NAAJA board to sever their partnership with the Aboriginal Peak Organisations Northern Territory.

ACTING CHAIR: And was it a difference of opinion over this?

Mr Paterson: No. We deal with a number of issues.

ACTING CHAIR: And the Central Australian Aboriginal Legal Aid Service, they're no longer a member?

Mr Paterson: No. There's been some reform in the Aboriginal legal aid sector. I don't know whether CAALAS were defunded, but they put it out to tender and NAAJA was the successful applicant to take the funding on for the Central Australian Aboriginal Legal Aid Service.

ACTING CHAIR: In May 2017 the Aboriginal Peak Organisations Northern Territory comprised five organisations, because that's what is on the front page?

Mr Paterson: At the time of that submission, yes.

ACTING CHAIR: And now it comprises three?

Mr Paterson: Correct.

ACTING CHAIR: And to be clear: the Central Land Council, the Northern Land Council, and the Aboriginal Medical Services Alliance Northern Territory support your view on this issue?

Mr Paterson: Absolutely.

ACTING CHAIR: Absolutely? The Northern Land Council supports your position on this?

Mr Paterson: Yes.

ACTING CHAIR: I just want to go to the issue, Ms Fowkes, about people falling off the case load list. Could it be that they're actually in employment and that's why they've fallen off the case load list?

Ms Fowkes: As I said, I've looked at the age analysis in particular. The first thing to say is that these are growing communities and generally, if you look across employment services, unless there's a big change in the labour market, the case load tends to be replenished. I did the analysis on the age cohorts, and it's clear that the drop in case load is in a younger group and that the number of jobs that went to that younger group is not enough to cover that. Even if you assume that no-one ever left school or no-one ever came onto the case load in remote communities, it's very clear that decline can't be accounted for by jobs. And certainly the ANAO, when they looked at CDP, also cited internal evidence within the department that said that as well, that it couldn't be accounted for by people moving into work.

ACTING CHAIR: Right, okay. What's your association with the Centre for Aboriginal Economic Policy Research?

Ms Fowkes: I'm employed there as a researcher. I have just submitted a PhD which looks at the CDP, so I'm working there as a researcher.

ACTING CHAIR: So are you aware that Mr Dillon has remarked on the CDP?

Ms Fowkes: Yes.

ACTING CHAIR: I thought he said that these reforms 'move in the right direction'.

Ms Fowkes: What you're referring to is a topical issue, which was a quick analysis of the budget after it was announced. What it said was, 'It appears that there could be some positive things,' particularly around the 6,000 jobs, but it was based on the information at that time. I have spoken to the two authors of that report since, and I know that that analysis wouldn't be the same if they were asked again.

ACTING CHAIR: Mr Dillon has changed his position?

Ms Fowkes: I know that if they looked at the evidence that we've now seen, particularly the government modelling, which was only tabled—

ACTING CHAIR: So you can't say that Mr Dillon has changed his position?

Ms Fowkes: How about I go back and ask him to present something to this committee?

ACTING CHAIR: Great. It was an ANU document done on the implications of the budget at that time around Indigenous programs.

Ms Fowkes: It was; that's right.

Senator SIEWERT: But the understanding then was the TCF was in or out when he made that analysis?

Ms Fowkes: TCF was in.

Senator SIEWERT: Into CDP?

Ms Fowkes: It was immediately after the budget announcement that the TCF would be applied to CDP.

ACTING CHAIR: Do we support the idea of the subsidised wage element of the reforms, Mr Paterson?

Mr Paterson: No, not in this form.

ACTING CHAIR: I thought I heard Dr Douglas talk about how the subsidised wage element of the program, if it was increased to 12,000, would be a good thing and how, if the subsidised wage element of the program was made available to Indigenous organisations, that would be a good thing. So do we support the subsidised wage element of the program or not?

Dr Douglas: Not in its current form.

ACTING CHAIR: Not in its current form. Right. So you don't support the principle?

Dr Douglas: We've certainly made it known that we welcomed the announcement that there was a step towards wage subsidy.

ACTING CHAIR: So using Mr Dillon's words, 'a move in the right direction'?

Dr Douglas: But there needs to be more movement in the right direction.

ACTING CHAIR: Right, but this is progress then?

Ms Fowkes: I think that the—

ACTING CHAIR: No, my question was to Dr Douglas.

Ms Fowkes: Yes, sure.

Dr Douglas: In its current form, it is a step in the right direction.

ACTING CHAIR: But it can be improved even further?

Dr Douglas: It needs to be improved, because improvements won't be there unless further changes are made.

ACTING CHAIR: Do you dispute the comment by the minister in the opening of his second reading speech that about 8,800 jobs have been created, that 8,800 people have been able to access a job for at least a six-month period? Do you dispute that figure, Ms Fowkes?

Ms Fowkes: I've got no basis to dispute it. The only information we have available about jobs is what the minister releases. But I guess, the—

ACTING CHAIR: So the program does create jobs?

Ms Fowkes: No. There's a difference between claiming an outcome for a job and creating a job. The question would be: of what percentage and compared to what? As I said, job programs, and this is true of any job program, pay providers to claim outcomes. A lot of those jobs will be jobs that people would have got by themselves anyway, and maybe did get by themselves, but providers get paid on the basis of tracking that and then claiming it. It's not a criticism; it's the way it works. The issue is to what extent are you showing a net impact?

One of the things that is helpful in other employment programs is to know what the denominator is: what percentage of people are getting jobs; what types of jobs—are they casual, full time; and who's getting the jobs? People who are unemployed short term get jobs themselves all the time. That's why I point to the fact there's a substantial proportion of those people who get those jobs who are unemployed for less than six months. Those people would have got their own jobs anyway. They're the classic churn type people. We have no evidence; we get no comparisons; we get no percentages. The government has abandoned the sorts of impact data that are used in the mainstream program when it looks at this program. We haven't seen the evaluation of this program.

Senator SIEWERT: They're supposed to be doing one though, aren't they?

Ms Fowkes: I understand it's complete.

Senator SIEWERT: It's done?

Ms Fowkes: That's what I've heard.

Senator SIEWERT: But not released?

Ms Fowkes: As far as I'm aware, no. I mean, it would be interesting to know to what extent the evaluation has been used to inform this current approach or how it relates to it.

ACTING CHAIR: Okay. Thank you very much for giving evidence this morning. We do appreciate it. Thank you very much.

Mr Paterson: Thank you.

FLANAGAN, Mr Liam, General Manager Community Services, Arnhem Land Progress Aboriginal Corporation

JACKMAN, Mr Mark, General Manager, Regional Anangu Services Aboriginal Corporation

LEONTIOS, Ms Victoria, Communications Coordinator, Regional Anangu Services Aboriginal Corporation

LITTLE, Mr Rod, Co-Chair, National Congress of Australia's First Peoples

MURPHY, Mrs Susan, Chief Executive Officer, Winun Ngari Aboriginal Corporation

TOMES, Ms Madonna, Workforce Development Coordinator, Regional Anangu Services Aboriginal Corporation

[10:45]

Evidence from Mr Jackman, Ms Leontios, Mrs Murphy and Ms Tomes was taken via teleconference—

ACTING CHAIR: Welcome. For the *Hansard* record, would you please confirm that the information on parliamentary privilege and the protection of witnesses and evidence has been provided to you.

Mr Little: First of all, can I acknowledge country and pay my respects to all in the room and this country we're meeting on. I have received the parliamentary requirements.

Mr Flanagan: Yes, I've been provided all necessary documentation.

Mrs Murphy: Yes, I have been provided with all appropriate documentation for this hearing.

Mr Jackman: I also have been provided with that documentation.

Ms Tomes: I've also been provided with all relevant documentation regarding the proceedings.

Ms Leontios: I've also been provided with the documentation.

ACTING CHAIR: Thank you very much. Would you like to make brief opening statements before I invite members of the committee to put questions to you? Mr Little, would you like to make an opening statement?

Mr Little: If I could, please. The National Congress of Australia's First Peoples has made its submission. We strongly advocate on behalf of and for the rights of self-determination and equality of our members and, more broadly, First Peoples across Australia. Explicitly, congress is committed, capacity permitting, to analysing program, policy and legislation that is intended to benefit our peoples. However, it is apparent that the First Peoples have not been duly involved in the crafting of bills or policy that affect them. Simple interpretation of consultation is insufficient from our perspective. The most likelihood of agreed outcomes will derive from joint development, implementation and measuring of life-changing impacts for the intended beneficiaries. A major aspect of the resulting factors of the non-compliant penalising regime is essentially further pressing jobseekers into poverty, compounding health problems and heightening risks of incarceration and breaking down of families.

At the end of the day, the objective is assisting peoples to enjoy the freedom to gain employment to provide for their families as other Australians do. Obviously, we look at those kind of things to support other organisations and other communities in pursuit of providing for their families, particularly on this matter with CDP. Thank you.

ACTING CHAIR: Thank you. Mr Flanagan.

Mr Flanagan: First of all, I would like to extend thanks from our board of directors that I've been able to come down here and represent their views to the committee. They apologise that someone couldn't be here with me. We had our AGM out on Milingimbi Island yesterday afternoon, so it precluded being able to come down and be present. One of the key points for our board with the legislative amendment that we're here is that it's really hard to consider that in isolation from the broader reforms, because so much of the policy that sits underneath it will influence the severity of the impact that that policy would have if it were adopted. I think the board were also surprised that in the explanatory memorandum it seems like some of the motivation for the TCF being brought across is to bring equity or parity. They feel that a one-size-fits-all approach doesn't really do that when you take into context how unique the circumstances are in many of the regions in which CDP operates.

The board do feel, though, that change is necessary, and they welcome the government and everyone who's involved being open to that and that there is a reform process being undertaken. They feel that there are too many penalties at the moment and they think that the fact that we're seeing a declining case load nationally shows that there are changes that need to be made. Without more information on exactly how the legislative amendment, if it came in, would be implemented at a policy level, the board feel like it's really difficult to make a decision on whether this would be a step forward or a step backwards. They see some risks but, at the same time, they see

some really strong potential opportunities, but they need more detail and they haven't had the time to consider it fully at this point.

They're optimistic that things could change, but they think there are some key elements of the current program that would need to change for this legislation to have any chance of being successful. The primary part around that is the way that mutual obligation is run currently, where people have to come for such proscriptive times five days a week. They believe that there is an opportunity for people to still uphold mutual obligation. They're strong believers in mutual obligation as a principle—they don't like the idea of passive welfare at all—but what they would like to see is people being empowered through this process. Instead of being dictated to about when they must come and often being put in a position where they have to make a discrete choice between family or cultural obligations that aren't always recognised by the program, they would like them to have the opportunity to do both. People could across a fortnightly or monthly period meet those mutual obligation hours, flexing up and down with the other obligations in their lives, still meeting their obligations, still with the same responsibilities but adjusting the power imbalance that they see in the way the contract between the participants and the Commonwealth operates at the moment. They would like to see consideration given to that.

They also think that there should be increased respect and recognition of traditional values and cultures. They see that that's something that's been thought about in the policy and design, but they still think that, at times, there's some mystification around that and a lack of understanding. They think that, again, more flexibility and perhaps an opportunity to rely more on local traditional governance structures and for them to have a loud voice in implementation could address that. They also think that reduced interactions with Centrelink will be key to this working. The element of the TCF sees some of the initial demerits working more closely at provider discretion, providers having a stronger say in that and participants working directly with providers as an opportunity, but, again, at this point they're not sure about the detail in what level of discretion is there, what flexibility and how the provider can work to support them through that process.

Overall, they would like to see less of a focus on compliance and more in actually increasing the value proposition for provider, giving them a real reason to be there. It is not necessarily financial incentivisation but perhaps more of a long-term vision for the program in line with community development methodology and more of a focus on long-term economic development. At the moment, the program really looks at rolling, six-month chunks. There's not much carry-on from one to the other and there's not much long-term planning. They see that as an opportunity for employment. They do recognise that there have been some shifts towards that, and they're really grateful for them. An example of that is the business incubator hubs. We're involved in that. The board think it's a great initiative. We're really excited about the opportunity to be able to support the development of more small and micro businesses. We think that's really important to sustainable economies out there that will, hopefully, see growth in the labour markets in our regions.

Moving away from the TCF to some of the other points in the legislative amendment, the board are really happy there's increased scope for medical evidence from Indigenous health practitioners and registered nurses who live in the communities. They have been concerned about assessments in the past, and they're happy that there's been positive movement to more real evidence from out on the ground being given through that process. The board, particularly our chairman, the Reverend Dr Djinyini Gondarra, asked me to extend an invitation to anyone from the committee or to the policymakers who have an interest in getting a better understanding of how this policy could interact with Yolngu culture, Yolngu values and Yolngu society. We are very happy to host anyone, take them out, show them our program, and introduce them to our communities and what daily life looks like for our participants.

ACTING CHAIR: Thank you. Mrs Murphy, did you want to make an opening statement for the Winun Ngari Aboriginal Corporation?

Mrs Murphy: I'm the CEO of the Winun Ngari Aboriginal Corporation, and with my board we deliver the CDP program. We deliver that across 12 remote Aboriginal communities and five town based locations. Our case load is 860, of which 400 are Work for the Dole, and 275 of those 400 are living within the 12 Aboriginal remote communities. This is one of three Commonwealth programs that we deliver. Regarding the reforms, we are actually welcoming most of the reforms. The new incentives supporting 600 subsidised jobs are one of the main goals that Winun Ngari has been arguing for for some time, and the wage subsidies are another. Economic development within the Kimberleys has been very, very low over a number of years, and this is due to a number of things, native title being one of them. To actually provide good, valuable jobs for our Work for the Dole participants, we've had to go out and set up good partnerships with state and local governments and businesses to provide pathways into jobs. We think the support for remote business development is a great thing, although \$2 million of capital investment is not a lot, across Australia. You really have to work out how much you're actually

going to get. Reducing your participants' hours to 20 hours in remote Australia is good. But, coming to that forum, one of the things my board has requested is that all drug and alcohol testing is put in place, because we have a high percentage of cannabis within our remote communities, and we also have very high alcohol intake. The Derby-West Kimberley Shire, to give you some stats, is 32 per cent higher than the state average in domestic violence, and 99 per cent of that is Aboriginal and Torres Strait Islander.

We actually welcome the enhanced health assessment process. That's a must. We already do that. But to actually have that enshrined in this actually helps the case officers and Centrelink to make good judgements and right judgements on the Work for the Dole participants that can and cannot go to work or actually turn up for their meetings.

I don't have anything else much to say. I would really like to hear from the others. Thank you.

ACTING CHAIR: Excellent, thank you, Mrs Murphy. Mr Jackman, would you like to make an opening statement on behalf of the Regional Anangu Services Aboriginal Corporation?

Mr Jackman: I do; thank you for the opportunity. I will just hand over to Madonna, who will read out our opening statement.

Ms Tomes: Thank you, Senators, for this opportunity to present from Regional Anangu Services. Our organisation commenced delivery of CDP in region 19 on 1 July 2018. Region 19 covers the APY Lands in South Australia, and although we have only recently taken on delivery of the CDP, our organisation has a long history on the APY Lands, delivering government services and employing local Anangu workers. We are an Anangu owned and governed not-for-profit organisation. We currently have a case load of around 550 participants who are spread across the 103,000 square kilometres of the APY Lands. Our services are delivered from six very remote small communities and a number of small homeland communities.

We provide the following feedback on the proposed amendments for the inquiry's consideration. The proposed amendments note the unique social and labour market conditions found in remote Australia. The impact and extent of these conditions need to be considered deeply. Most of the basic assumptions about daily life and social conditions of CDP participants that unconsciously sit behind the compliance framework are challenged in remote areas. For example, basic assumptions around the availability of Centrelink offices and services, comprehensive health service, banks, household mail services, post offices, phones, internet, adequate housing and sleeping arrangements, and even shopping and transport, to name a few, don't stand up. Similarly, assumptions around English language literacy and the lack of understanding around the very complex social and cultural norms in remote areas mean that standard compliance requirements can become onerous for Indigenous welfare recipients in communities such as the APY Lands. These factors contribute to increased levels of noncompliance in remote communities. In our experience, the majority of noncompliance is not wilful, but rather often reflects the impacts of multiple challenges and barriers that individuals face.

Also, when talking about the labour market conditions in remote Australia, it's important to remember that in the remote areas like the APY Lands there are very few economic drivers in the economy or employment drivers in the economy. On the APY Lands, the only real private employers are the art centres and community stores, and a small amount of short-term project based employment around maintenance and roads. Unlike Top End remote communities, for example, there's no seasonal employment related to primary industries. There are no mining or wealth creation industries. In the main, economies on the lands are supported by government service delivery and welfare payments. The usual first employers found in non-remote communities, such as the large retail and grocery chains, cafes and hospitality outlets, don't exist. The types of jobs that most of us would have had at school or after school as entry points to the labour market don't exist.

With regard to the payment cancellation periods proposed in the new model, we support the reduction in the payment cancellation periods, as the previous eight-week cancellation period had devastating effects on livelihoods of families on the APY Lands. We can see that in the proposed model there's a series of steps before progressive penalties are applied. This can potentially be an improvement on the current arrangements. In saying that, it's important to note that any cancellation of payments in remote communities can have far-reaching consequences other than the primary intended consequence of motivating participants to re-engage. In many cases, loss of income can lead to increased financial and social burden on family members who have non-activity-tested welfare payments, such as age pension, parenting payments or disability payments. In addition, loss of income can impact the welfare of children, contribute to breakdown in family relationships and to family violence incidents, exacerbate poor health outcomes and increase crime and social unrest. The result can be that the pursuit of a policy objective around mutual obligation can undermine other policy objectives around family safety, school attendance, Indigenous health, and community development. In addition, it's well-known that the cost of living in remote areas, where CDP operates, is significantly higher than in non-remote areas. A cost-of-living survey in

remote areas could be used to inform future modelling of CDP, and perhaps APY Lands would be a good pilot for such a study.

We support the relaxation of the penalties for one-off breaches. As we understand the new arrangements, a noncompliance event would trigger a suspension of payments, prompting CDP participants to re-engage with their provider. Providers would then have the opportunity to discuss the circumstances of noncompliance with CDP participants, before determining whether demerits would apply. We support this approach. The demerits system is cumulative and triggers various re-engagement compliance actions. We have concerns around the life of demerit points, which we understand will persist on a client record for six months, even if they've re-engaged. We believe this has the potential to become demotivating for CDP participants who genuinely attempt to re-engage and improve their compliance. We'd like consideration to be given to cancelling demerits after a shorter time period—for example, three months. In addition, we have concerns that the demerits system may be difficult for participants to understand and monitor. It appears that there's a need for participants to actively use the dashboard via jobactive, or maybe a CDP website or app. This presents a major barrier to participants in our area as English is a second, third or fourth language, and the use of mobile apps is limited, considering that mobile coverage has only been rolled out on the APY Lands this year, and there are still many areas and homelands without coverage. I might just play you a short audio track.

An audio track in language was then played—

Ms Tomes: Were you able to hear that?

Senator SIEWERT: Yes.

ACTING CHAIR: Yes.

Ms Tomes: I wonder how much of it you were able to understand.

ACTING CHAIR: None of it. I could hear it, but I could understand none of it.

Ms Tomes: You were being told what you have to do in the current system if you can't attend your mutual obligation appointment. I think it highlights the difficulty for people on the APY Lands, for whom Pitjantjatjara is the main language and English is not a language that they speak amongst themselves or in communities. The concepts that are involved in the new model will be very hard to explain and will be another change that people are going to have to deal with. So a lot of thought needs to go into how this is rolled out and the time frames in which people have to change.

We support the change to the 20 hours per week mutual obligation requirements and request consideration be given to enabling CDP participants to complete their hours over a period of time—for example, over a fortnight rather than in a strictly daily commitment. This would enable some flexibility about the nature of activities that can be provided. For example, some worthwhile activities in remote areas don't fit neatly into a four- or five-hour framework. It also enables participants to have flexibility around their personal commitments.

Enabling CDP participants to access timely and thorough capacity assessments through the increased role of local health service providers would be good, but it is a challenge on the APY Lands. In theory, the intent is good—however, in the context of APY Lands, there is only one health provider across the land, which operates with FIFO medical practitioners who live at the six main clinics on the lands on a roster basis only. Health services are prioritised for essential Anangu health requirements and triaged accordingly. There are no allied health providers operating on the APY Lands. Health service providers support local CDP participants to the best of their capacity. We feel that there may be very limited capacity for additional assessments to be undertaken by them within their current operations.

In addition, Centrelink remote assessment services operate on an infrequent visiting basis only on the lands, often with only a few weeks notice and limited capacity to see all CDP participants who require assessment. The proper assessment of CDP participants' capacity therefore remains a significant challenge for CDP operations on the lands. The lack of appropriate and adequate capacity assessments can contribute to participants having more onerous mutual obligation requirements imposed on them than they should have and therefore a higher propensity to have a pattern of noncompliance, resulting in financial penalties.

We welcome the potential for subsidised positions to be provided to local employers to encourage job creation in remote areas. We do, however, have some concerns that the effectiveness on the lands may be limited, as employers still have to contribute significantly to the cost of the new positions. We'd also recommend that the six-month exclusion of CDP participants who leave a subsidised position be relaxed and that a level of provider discretion be included in the referral of a CDP participant to further subsidised positions if there is a genuine, valid reason for that participant leaving a position. We'd also recommend that providers be supported to provide the same level of postplacement support for non-subsidised positions as for subsidised positions.

With regard to overall funding for the program, in remote areas like the APY Lands there's very limited capacity to source funds within communities to pay for progressive community development projects, which could be delivered through CDP. Many worthwhile community projects would incur significant capital or material costs. In the previous program, RJCP, project funds could be sourced through a community development fund, and we'd ask the Senate to commit to considering including such a fund in the proposed changes. Thank you, Senators.

ACTING CHAIR: Excellent. Thank you very much. We'll move to questions. Who would like to begin? Senator Dodson?

Senator DODSON: This is a question to all of you. Mr Little, it may not strictly apply to you but you may have some views on it. What statistics are you all required to maintain or submit to the department?

Mr Flanagan: The main base for the statistics that the department gather from us is what we enter in daily through the portal that we use, the CDP online platform. With every single participant in the program, every single day, their attendance—start time, finish time—is put into the activity diary. We also enter any time that someone's placed into a job as well as any time that someone attends an appointment.

Senator DODSON: Do you get feedback from the department on this?

Mr Flanagan: We can access it all through a reporting suite, yes, though not all the information, not all interpretations of it. There are some preset reports that we have access to as providers.

Senator DODSON: Does anyone on the phone wish to comment? Mrs Murphy?

Ms Tomes: We agree the daily reporting is very detailed and requires a lot of accuracy and input time. There's a lot of effort from providers in making sure that the data is entered accurately every day for each jobseeker.

Senator DODSON: Mr Jackman, do you want to make a comment?

Mr Jackman: Madonna pretty well made our comment on behalf of Regional Anangu Services.

Senator DODSON: What's the rate of breaches that you record in your various domains? Maybe if I start with you, Mr Flanagan.

Mr Flanagan: I know through analysis against the national case load that particularly in our region 39, Ramingining-Milingimbi, we have one of the highest rates of penalties per person.

Senator McCARTHY: How much?

Mr Flanagan: I don't have an exact number off the top of my head. I apologise.

Senator McCARTHY: Would you like to take that question on notice?

Mr Flanagan: Yes, that would be great. Thank you.

Senator DODSON: Mrs Murphy, would you like to comment on the number of breaches that occur in your region? She may not be able to hear us. Have we lost you, Mrs Murphy? Well, maybe Mr Jackman.

Mr Jackman: We are happy to take that on notice. We'll present our opening statement to you in paper form. We'll also answer that question on notice when we supply that paperwork.

Senator DODSON: Mr Little, did you want to comment on that?

Mr Little: Yes, if I could. Thanks very much for the question. Whilst the congress isn't exactly providing these kinds of services, we are more interested in the results of the participation of participants in the program, whether their lives have changed, and their participation in employment, and whether their rights have been upheld and they've enjoyed them.

In hearing some of other speakers on the line, particularly around language misunderstanding, or inability to communicate in language about these responsibilities and the capturing of information, I would like to refer the committee to the ACT Human Rights Act section 27(2), which recognises First Peoples' cultural rights:

(2) Aboriginal and Torres Strait Islander peoples hold distinct cultural rights and must not be denied the right—

(a) to maintain, control, protect and develop their—

- (i) cultural heritage and distinctive spiritual practices, observances, beliefs and teachings; and
- (ii) languages and knowledge; and
- (iii) kinship ties; and

(b) to have their material and economic relationships with the land and waters and other resources with which they have a connection under traditional laws and customs recognised and valued.

The imposing of this legislation, and some of the parts of the practices of the program, denies First People some of those rights in terms of employment on their lands, and compliance with a system that is not part of their

system, to enable them to freely work and enjoy economic outcomes from their lands and their waters other than through a government imposed program.

I guess the congress itself made a number of recommendations in our submission. Whilst we welcome any kinds of changes towards this, in terms of the incidents recording, they are incidents which are recorded between a contractor and the government and not necessarily disclosed to the public. Congress itself is exploring an incident process, or breaches, not necessarily on this but simply on their own day-to-day lives, so that our peoples can tell their own stories about what problems they are experiencing with services like this, any other services or programs, or legislation of government that governments have imposed. I want to add those kinds of comments. Whilst we're not directly involved in recording incidents and breaches within this program, we're certainly more interested in all kinds of breaches and incidents of our peoples.

Senator DODSON: I will also ask about the three strikes rule under the new scheme. What are your views about that in terms of the most likely outcomes for these CDP participants?

Mr Little: Firstly, as I said in my opening statement, the non-compliance regime has the potential to further compound poverty and the other matters of health, risks of incarceration and breaking down of families. With this three strikes rule I am not of the understanding of where this is applied across any other mainstream program, or employment, where it is specifically involving First Peoples on this, and I think that is totally unfair.

Senator DODSON: Thank you, Mr Flanagan.

Mr Flanagan: I think it's a similar position that we talked about in the opening statement. Whether that demerit system is an improvement or makes things worse is going to be determined on how it's applied and how it's implemented. Our board feel really strongly that there's an opportunity for it to be beneficial if it reduces the number of things that are referred through to DHS and if providers are empowered to work with community governance structures and with participants to identify the reasons that people aren't able to engage at those times, and to make determinations based on that. But it's going to depend on how much trust and how much flexibility there is in providers being able to work with communities to make those determinations. And, at the moment, I don't think there's clarity around that.

Senator DODSON: I think it's three strikes and you're out, basically. There's not much flexibility in it. Ms Murphy, are you back on the phone?

Mrs Murphy: I am, Senator Dodson. Sorry, we keep dropping in and out; we don't have very good reception here. The penalty, I think, is a bit harsh. And I agree with the others: it will create poverty. Some of our participants have already gone underground, so they have actually gone off the system and are not back on the system and have chosen not to come back on the system. We have already participants, Aboriginal people, that are not on the dole, at all, or on any benefits and that actually live off their family, which is creating hardship for them.

On another point, I can tell you that Broome jobactive have had this process in place since March this year. They have a case load of 750. Five out of six on this case load are in the yellow zone, with the opportunity to re-engage. That's shown us that it can work, but it requires a lot of work behind the scenes in the administration and in your case officers. And it also requires a lot of commitment, not just from your providers but from Centrelink. It has to be a two-way street. It can't just be the providers that are delivering the services, if you don't have Centrelink coming to the table also.

Senator DODSON: What happens in the smaller communities? Derby may have some facilities, but what happens up the Gibb River Road?

Mrs Murphy: Up the Gibb River Road is harder. As I said, economic development—we don't have it. For us, there's a change where they don't have to report every fortnight; they only have to report every quarter. That's been a very good plus for us. It's been very frustrating for our participants—and I can tell you; I've actually seen it myself—where we've had two participants that have been on the phone to Centrelink to let them know what's happening with their personal circumstances for up to seven hours, and they still haven't got through. So there are concerns there. But we need to sit down and work through them. I don't think we need to squash it altogether. I think there is room for improvement and I think there's room for renegotiation.

Senator DODSON: Mr Jackman, did you want to make any comments?

Mr Jackman: Thank you for the opportunity again. I largely agree with Mr Flanagan's comments, and some of the comments from Susan as well. I guess we're viewing this as an improvement. There is a lot of involvement by providers working with jobseekers. With us on the APY Lands, Centrelink being on the APY Lands is one of our biggest problems, along with working with the bottom 20 per cent that are very disengaged on the APY

Lands. We've made our views known in our opening speech about consideration to reduce that traffic light period to a three-month period. That's really all I've got to say on that one.

Senator DODSON: Maybe my question is more directed to you, Mr Jackman, or someone on your team. Given the graphic way you have highlighted the need for interpreters, has that been taken on board by the department and have there been any remedies in relation to that?

Mr Jackman: It's up to providers. Part of our history with this program is we got advised that we were winning the program 4½ weeks before it came to fruition. We've been operating for nine weeks. But, prior to commencing operation on 1 July, like other core parts of our other businesses, we saw that language was probably our most key tool that we had to work on. We had all of this stuff arranged by the time we rolled out on 1 July. It has made one hell of a difference to many of our participants.

Senator SIEWERT: Picking up on that issue that Mrs Murphy raised in terms of people being off the books, I'm pretty certain, Mr Flanagan, and Mr Little, you were in the room when we were talking earlier about this issue. Mr Little, I will ask you for any understanding you have of this issue. Do you also have people who have just come off the books and are not seeking any level of income support?

Mr Flanagan: I can say definitively that we do in our regions in Arnhem Land. I don't have the exact number now—I can get it on notice—but I'd estimate that we're down about 25 per cent on our total case load numbers from when CDP commenced in July 2015. Similar to some of the points made earlier in the day, if you're modelling against demographic and population data, we would expect that you would have an increasing case load. We've got a very young population in our region, so we would have expected more people coming onto the caseload than going off it. We've got a fairly limited labour market as well, so the fact that there is that decline demonstrates that there is a clear issue there.

Senator SIEWERT: Okay. Mr Little?

Mr Little: In the formation of our submission, we have heard those stories and we continue to hear those stories when our office is called. Participants are saying, 'Well, it's not worth the problems to go through this program.' It's too much of a humbug for them.

Senator SIEWERT: Okay, thank you. Mr Jackman?

Mr Jackman: From our perspective, because we're only a new operator, we haven't got the historical figures to use as a base for what we feel. We feel that there is a reasonable level of disengagement and we see it when we're out there, but it's very hard for us to put a number on that.

Senator SIEWERT: Okay, thank you. In terms of the framework that is proposed around the wage subsidies, how do you think that is going to play out in each of your services in terms of useability and accessibility and whether the jobs are there under that framework?

Mr Flanagan: I'm happy to go first. I think any investment in jobs is good when you've got static labour markets. I think the missed opportunity potentially in this is that, with a reduced investment that is spread over two years, obviously there's a much larger investment that needs to be made by the person who is doing the employment. So, when you've got quite thin margins or small businesses or you're trying to get innovation and growth start-ups, it's a lot of risk to bring on those sorts of overheads in terms of full-time jobs. So people having the confidence to make the investment to take up the jobs is probably the challenge. And also when the packages were initially talked about, the large focus of it was stimulating areas that had the weakest labour markets, where there weren't opportunities for people. Under this model, it probably means that that will be more challenging.

Senator SIEWERT: In the weaker labour markets?

Mr Flanagan: Yes.

Senator SIEWERT: Do I interpret that to mean that, in some of the bigger regions, or where there's other economic activity, it'll go there; it's more attractive there?

Mr Flanagan: I think what this policy will do in its current frame is make it much easier for people to take up and realise existing opportunities rather than create new ones.

Mr Little: The national congress supports the creation of subsidised employment opportunities as a means for participants to find a pathway to unsubsidised full-time employment. However, we feel that the current proposal is relatively vague and uninformed, and that may be in terms of how those opportunities are communicated to participants, how they're marketed to them and in language.

Ms Tomes: With regard to the wage subsidy, we agree that it will be difficult in a limited market such as APY Lands. Most employment there is based around grant funded government service delivery, which operate on pretty tight budgets already. There is probably limited scope for additional new jobs, and I think any job creation

will require quite a lot of effort from the provider to get out and work with the small number of employers in these communities to try to convince them and help them to see ways of creating additional jobs, rather than our approach which is about us trying to fill their existing positions.

Mrs Murphy: I actually work on the wage subsidy. When we had our RJCP, we had wage subsidies then, and they worked very well. Small businesses—I'm not talking about big ones; I'm talking about small ones—really want to take on participants and give them the work, but they don't have the financial backing to actually pay them a full-time wage under an award. For me, wage subsidies actually help those small businesses get our clients into work, which also helps them to build their business to actually become a lot more financial so that they can then pay these people full-time wages under a proper award when the subsidy is no longer available. It has worked previously for us, so we welcome it. Big businesses like the mining companies, no. They have the money to pay the wages so, I as far as I'm concerned, they don't get the subsidies.

Senator SIEWERT: You mentioned RJCP. Are you able to provide us on notice examples of where that has worked?

Mrs Murphy: Yes, I can do that.

Senator SIEWERT: Thank you.

Senator LINES: Mr Flanagan, you said that you thought there was about a 25 per cent differential between young people not taking up CDP. Could you, on notice, tell us the numbers of your community and what percentage are young people so that we can get a sense of the kids who aren't moving anywhere?

Mr Flanagan: Yes.

Senator LINES: Thanks.

Senator McCARTHY: Mr Flanagan, I want to go to your opening statement. You made the comment about the representation from the board—that the board feels there are too many penalties and that you need to see less of the overall compliance and move on a long-term vision for the program. Would you like to just explain to the committee what you mean by that?

Mr Flanagan: Yes. Every region is different, but in Arnhem Land cultural practices and traditional lifestyle are maintained at a very high level, which don't necessarily align with the rigidity of the current CDP, particularly the compliance framework. Despite the fact that we have two out of 60 regions in our part, there have been periods where we've been up to 30 per cent of the national use of the did-not-attend discretionary function, which is where we choose not to put any compliance action against participants.

Senator McCARTHY: How many participants does ALPA have?

Mr Flanagan: At the moment, I believe it's about 980 across two regions, one being region 40, which is Galiwin'ku and its homelands, and the other being Ramingining, Milingimbi and its homelands.

Senator McCARTHY: When the board say they feel there are too many penalties, what's going to be the impact in relation to the penalties that the board is concerned about?

Mr Flanagan: In terms of moving forward to the TCF? It goes back to what I was speaking about with the demerits. It's going to come down to, particularly in the first three demerits, the relationship between the provider and them being able to make those decisions in concert with the participant, and also the strength that we've got when we're doing that first capability assessment after the three. Conversations that we've had with the department and with the minister's office have certainly implied that we'll be in a position to take into account a broad range of social and economic impacts on people, such as overcrowding and cultural obligations, and that'll give us the ability to waive those three penalties, and they basically go back to the start in the green zone. I think it's going to be down to what breadth there is in the guidelines, what are recognised as reasonable excuses and how we're empowered to make those determinations case by case in our communities.

Senator McCARTHY: Have you received information as to what those guidelines might be?

Mr Flanagan: No. We're in an ongoing dialogue, but there's not solid advice on that currently.

ACTING CHAIR: Mr Flanagan, under the reforms as they're proposed, do you expect that to provide for more local control?

Mr Flanagan: Yes. For us, I think that's something that's currently built into our service delivery model, to be honest. The board of directors of ALPA are local TOs and local owners from each community. We've got local staff employed in key positions, such as employment consultants, activity coordinators and activity supervisors. The development of each individual activity is done based on community consultation involving clan leaders and participants. For us, we've got that in how we can run activities. Where we don't necessarily have it currently is in

how we make decisions around whether penalties are applied—not necessarily that we make decisions. We do it and DHS make the decision. On which evidence is accepted by DHS, I think there's an opportunity for improvement moving into this.

ACTING CHAIR: Is it correct to say that the local control makes the program more likely to be successful?

Mr Flanagan: Yes.

ACTING CHAIR: It does? I can see you nodding, Mr Little, so you agree? I understand your position in regard to the program generally, but you'd agree that the element around local control is a positive initiative reform?

Mr Little: Absolutely. As I said in my opening statement, involvement in the development, design, implementation and measurement of the impacts of programs is critical. We did say in our submission, at recommendation 7, that the Closing the Gap Refresh target is to eliminate the employment gap between our First Peoples and non-indigenous peoples by 2040 and continue measuring employment outcomes to facilitate the development and reform of programs such as CDP. I've heard some complications from some providers here, and we've heard our own stories from beneficiaries of the program. We would encourage that continuing involvement with the development, design and reform of the program is going to deliver success.

ACTING CHAIR: Thank you.

Senator SIEWERT: Mr Flanagan, you may need to take this on notice. I think you were here when we were talking about the number of decisions overturned by the department in terms of the sanctioning process or the compliance process. How many of yours have been overturned? I'm trying to get a feel for how many are being overturned.

Mr Flanagan: A high proportion. I can't give you an exact figure on that. Feedback that we've consistently given is that there's some ambiguity between exactly what we should be determining as valid or invalid nonattendance at a community level versus how DHS assess them when it gets to them. If we applied the same thinking based on the feedback that we get from them, we would consistently have more people that we're marking as did not attend valid. But then you get feedback, potentially, through contract managers or other people who will not look at them as individual data, and when it all aggregates up say, 'You've got far too many people that you're marking as did not attend valid.' People tend to look at the aggregated data for that rather than breaking it down and looking at individual decisions being made on merit and in line with the circumstances that pertain to that individual.

Senator SIEWERT: Going back to your point about then taking that compliance process over a period of time: that would enable you to get a more accurate picture of people's ability to comply and take on board all the other things that they've got cultural requirements for et cetera—is that your point?

Mr Flanagan: Yes.

Senator SIEWERT: Okay. Thank you.

Senator DODSON: I wouldn't mind a comment from any of you on the framework as it applies from welfare-to-work arrangements. If someone were to leave employment, they're barred from reapplying for six months. Have you got any comments to make about that? Mr Flanagan? Unfortunately, you're the only one I can see in the room at the moment apart from Mr Little!

Mr Flanagan: Yes, I can speak to that. Not being able to do it for six months is challenging. I think it's also not consistent with some of the language in the explanatory memorandum around the motivation for excluding those positions from the TCF. The start of the explanation we were given about why the subsidised jobs didn't have the TCF applied to them was about not penalising people for not taking up jobs that might be suitable when they're moving into things in the labour market. If all of those things are given consideration in terms of whether compliance should be applied to them, why then should they be disadvantaged for making that decision, in terms of being able to move into other positions if they were more suitable or more attractive to them, if they were available and they were well placed to be successful in that role?

Senator DODSON: Mrs Murphy, would you like to make a comment?

Mrs Murphy: I agree with Mr Flanagan's response. Why should they be punished? Why should they be penalised? They're trying to do the right thing.

Senator DODSON: Mr Jackman?

Mr Jackman: I'm in agreement with those comments as well. There's not really much more I can add in this instance.

Senator DODSON: For completion, Mr Little?

Mr Little: No comment.

ACTING CHAIR: Thank you very much for making yourselves available to give evidence today. We appreciate that.

Mrs Murphy: Thank you, Senator Smith, Senator Dodson and everybody else.

ACTING CHAIR: Thank you.

Senator DODSON: Thank you.

AHFAT, Mr Jamie, Private capacity

DERRIG, Mr Matthew, Senior Solicitor, North Australian Aboriginal Justice Agency

RAWNSLEY, Mr John, Manager, Law and Justice, North Australian Aboriginal Justice Agency

STOBART, Ms Nicole, Solicitor, North Australian Aboriginal Justice Agency

WALTERS, Adrienne, Senior Lawyer, Human Rights Law Centre

[11:43]

Evidence from Mr Ahfat, Mr Derrig, Mr Rawnsley and Ms Stobart was taken via teleconference—

ACTING CHAIR: I welcome representatives from the Human Rights Law Centre and, via teleconference, the North Australian Aboriginal Justice Agency. Could you please confirm that information on parliamentary privilege and the protection of witnesses and evidence has been provided to you?

Adrienne Walters: Yes, it has.

Mr Derrig: Yes.

Ms Stobart: Yes.

ACTING CHAIR: Ms Walters, we invite you to make an opening statement.

Adrienne Walters: Firstly, thank you for inviting us to appear today. I want to acknowledge that we're sitting on unceded land of the Ngunnawal people and I pay my respects to their elders, past and present, and to other Aboriginal leaders in the room today. All Australians should receive fair payment for work and should be treated compassionately by our government in times of need. But these basics are being denied to remote Aboriginal and Torres Strait Islander communities under the federal government's remote Community Development Program, the CDP. The bill today, we think, is going to make the situation worse.

The CDP already takes control away from remote Aboriginal and Torres Strait Islander communities. It subjects them to the indignity of having to work more for less, with money taken away from those struggling to keep up. Since CDP was introduced, financial penalties have soared from around 6,000 per quarter to over 45,000 per quarter. There have been reports of parents struggling to put food on the table for their kids and of less money being spent on fresh food. 2016 census data demonstrates growing poverty rates in remote communities and an increased gap in employment rates in remote communities between Indigenous and non-Indigenous people.

This bill forms part of the government's CDP reforms, but it fails to address the key drivers of this overpenalisation of Aboriginal people, who make up over 80 per cent of those covered by CDP. In particular, it retains discriminatory and inflexible requirements that are not imposed on people under the jobactive program, most of whom are non-Indigenous. CDP and jobactive participants receive the same basic social security payment, but CDP participants have to work more hours and comply with more rigid program rules. This not only is racially discriminatory but also places them at greater risk of being penalised because they can't keep up with the rules. Even with the government's commitment to reduce work requirements from February 2019, CDP workers would still have to work 270 hours more per year and will still have inflexible daily participation requirements.

Rather than address this unfairness, this bill would introduce a new penalty system, the TCF. While there are considerable problems with the current compliance framework and the high rate of penalties, the TCF threatens to make things worse because of a lack of safeguards to protect people from administrative errors, because of one-, two- and four-week payment penalties that cannot be waived for serious financial hardship and because people will be cut off Centrelink altogether. The Parliamentary Joint Committee on Human Rights just yesterday expressed concern that the TCF is inconsistent with human rights, in particular because vulnerable people won't have the option of having a penalty waived for serious financial hardship. They could be left without money for food, rent, medicines and other basic life necessities for up to four weeks. The Human Rights Law Centre shares the deep concerns of organisations like NAAJA and APO NT, with whom we work closely. We join them in opposing the expansion of TCF to CDP regions.

The government's commitment to addressing the lack of jobs in remote communities through the jobs subsidy program is a welcome development. The bill would see CDP participants who secure one of the 6,000 subsidised jobs protected from the TCF through an exemption. However, the majority of people under CDP who either can't get a job or are in unsubsidised work would be left to struggle under the TCF. It is unclear why creating a subsidised employment program needs to be made conditional on the introduction of a harsh new penalty system. Such an approach is not only inappropriate and unnecessary; it's also unjust. There is simply not a need to

introduce the TCF into remote communities. In fact, there is a real need to exempt remote communities from penalties and address the factors that are driving high penalty rates, such as more onerous work obligations and barriers to accessing support.

The Human Rights Law Centre supports the development of Aboriginal-led programs and institutions that promote self-determination, fair and just conditions of work and dignified support for those who need it, as reflected in the fair work and strong communities proposal that the committee has heard APO NT talk about today. Compliance measures and changes to compliance frameworks can form part of developing such a program and are more likely to be effective if designed by and for the unique circumstances of remote communities. Such a model remains entirely feasible to a government that is genuinely committed to implementing its stated commitment to the UN Declaration on the Rights of Indigenous Peoples. The CDP, even with the government's subsidised jobs program, falls far short of this, in our view.

ACTING CHAIR: Thank you, Ms Walters. Would the North Australian Aboriginal Justice Agency like to make an opening statement?

Ms Stobart: Yes, thank you. I'm a civil lawyer at NAAJA, the North Australian Aboriginal Justice Agency, based in Katherine. NAAJA provides legal aid and justice agency services for Aboriginal people across the Northern Territory. We have the authority of an Aboriginal community controlled board, comprising senior Aboriginal people across the territory. We're joined today by a community leader from Barunga in Mr Jamie Ahfat. Many of NAAJA's clients in remote communities are CDP participants. Our work with CDP participants has given us significant insights into the impact of CDP and the likely impact of the bill. We will speak about this insight today and also hear from Mr Ahfat, who has been directly affected by CDP. After hearing from Mr Ahfat, my colleague Mr Derrig would like to address the senators on NAAJA's position regarding the subsidised positions that the government has announced.

NAAJA strongly opposes the bill's introduction of the targeted compliance framework, the TCF, for those subject to CDP. We would like to address the senators on three main points. First, our clients face many barriers that must be considered by any legislation regarding Centrelink benefits. Second, there are significant issues with the CDP model as it stands. Third, we have grave concerns about the targeted compliance framework.

On our first point that our clients face barriers to engaging with the Centrelink system, we can list many examples that show access to Centrelink is difficult. For example, many remote communities in the NT do not have a Centrelink agent. Some remote communities do not even have mobile phone reception or internet access. Waiting times to speak to Centrelink on the phone can be hours. There are also communication difficulties. A large number of diverse, Aboriginal languages are spoken in the NT. Many people speak English as a second, third or fourth language. There are low rates of English literacy and numeracy. There have also been frequent changes to the remote Work for the Dole system. We see very limited understanding of how CDP operates. For example, we have clients who do not know that their payments could be reduced or suspended if they do not attend activities, clients who do not know what their obligations are and others who do not know what reasons for missing activities are considered valid. There are high rates of illness and disability in remote communities. Many clients have significant caring responsibilities. Our clients often have cultural obligations that arise, such as attending ceremonies, attending funerals and participating in sorry business. Senators, these challenges must be considered in any legislation that impacts on Centrelink benefits.

We ask that you keep these challenges in mind as we address you on our next point, which is that there are already major issues with the CDP model as it stands. The existing significant issues with CDP include the fact that it is discriminatory and disproportionately affects Aboriginal and Torres Strait Islander people—83 per cent of CDP participants are Indigenous. This feeds into the systemic discrimination, which NAAJA has raised in various submissions, that appears to be embedded across many areas of our public policy system. CDP participants do not get a fair wage. They are required to do the full number of hours and are essentially working for \$11.20 per hour. This is \$7 below the minimum wage. CDP does not take into account barriers to engaging with Centrelink that we outlined earlier. The processes for determining appropriate obligations are not working. Because of this we see people having inappropriate obligations. We have clients meant to be doing activities that they are not well enough to do. We have clients who supposedly have to choose between taking enough care of a family member and getting their full Centrelink benefit. The penalties are unreasonably harsh, leading to the ultimate outcome of CDP, which is that it further entrenches poverty.

This brings us to our final point. We have grave concerns about the targeted compliance framework, which is harsher than the current system. We expect that it will exacerbate harms experienced by those subject to CDP. For the reasons we have discussed, people in remote communities are likely to enter the penalty zone very quickly. Senators, this is what the TCF is likely to mean for our clients, who make up a significant portion of CDP

participants: our clients are going to experience even greater financial hardship and live in deeper poverty. This is because they will face greater and harsher penalties. They may also disengage from income support altogether because reconnecting with payments or dealing with Centrelink may be difficult. We already see this happening in the current system. This means they will struggle to purchase essential items. Communities have already recorded a decrease in food sales under the current system. We may see spikes in family violence, criminal offending and children being removed because of protection concerns relating to failure to thrive and neglect. Aboriginal Territorians will continue to be discriminated against by virtue of their more oppressive obligations and the system's failure to take into account their circumstances, despite Aboriginal Territorians being the main stakeholder in this reform. I would now like to refer you to Mr Ahfat to provide a statement.

ACTING CHAIR: Before you make a contribution, I'd just like to confirm that information on parliamentary privilege and the protection of witnesses and evidence has been provided to you?

Mr Ahfat: Yes. I'm Jamie Ahfat. I'm a 43-year-old Jawoyn man. I'm from the Barunga community, which has a population of about 300 and is a one-hour drive from Katherine in the Northern Territory. I've been doing CDP since 2016. Before that I was employed as a night patroller. I have to do activities every day from eight to one. These activities include gardening, picking up rubbish and furniture making. I always wanted to get a proper job and not be on Centrelink, but there are no jobs up here. I'm a cultural elder and teacher. I've done courses in building and construction, and I'm a didgeridoo maker.

My CDP supervisor has told me over the years that they will find me a job, but it never happens. I've always tried to do the right thing in CDP, but, despite this, there have been times when I have been penalised. There was one time when I had to rush to Darwin to look after my mum, who had cancer. Because I didn't tell them, I got penalised—\$50 was taken out of my pay. I was cut off altogether from my payments in the middle of last year. My CDP supervisor appointed me as a mentor and promised to top up my payments, but I never got the top-up. Therefore, I stopped doing my activities altogether. Because of this, I didn't get Centrelink for about six months and, in that time, I had to rely on my partner's pension. This was hard for us.

I think the system is discriminatory. It is unfair. We have to do twice as many hours on activities as people on Newstart in the cities. The CDP system is also confusing. Things are not properly explained to us, and it's hard to see the point. The activities don't help us get jobs. Lots of people get penalties up here, and I think it's really wrong that people are penalised and cut off from Centrelink. It makes life a lot harder for people. Centrelink is already not enough money let alone people are getting penalised. I don't think penalties make people do the activities and get a job.

Ms Stobart: I would now like to refer you to my colleague Mr Derrig.

ACTING CHAIR: I don't mean to be rude, but the longer the opening statements the less opportunity there is for senators to ask their specific questions of witnesses. Mr Derrig, is your further contribution absolutely critical or would you like to make it available to the committee in written form so that it can reflect on it later?

Mr Derrig: If I can, Senator, I'll be extremely brief, because I do think it's quite critical.

ACTING CHAIR: That's your judgement call, Mr Derrig. Over to you.

Mr Derrig: Thank you very much. The positive part of this bill is that it does pave way for 6,000 jobs by providing an exemption from the TCF. Whether or not the TCF is implemented, we'd request that these exemptions for subsidised positions be exempt from the compliance framework so that jobseekers can concentrate on the main goal of maintaining paid employment. The bill in itself, however, does not provide any further detail of how the program of subsidised positions will operate. But the positive aspects that we've heard from the government so far are that these positions will be open for two years, meaning that the jobseekers will have financial stability and meaning they'll also be able to benefit from what meaningful employment provides to their mental health and physical health. It will also provide for the full range of benefits of regular employment, including superannuation. The fact that it's voluntary in nature means that individuals have choice, hopefully leading to better buy-in and better productivity in their work.

The issues are, however, that due to the lack of detail there are some questions that need to be answered. Those are: With this program how will jobseekers maintain their employment after the two years? How will this bill ensure that positions go to communities that need it? How will jobs go to people suffering from disabilities and youth—that is, other jobseekers with greater barriers to employment—and not just people who are the most employable per se? How will the subsidised positions be set up so that the subsidies and the benefits of those subsidies aren't absorbed by larger, non-Indigenous organisations?

To be brief, the overall point is that there is a way this can be achieved. That's if the subsidised positions are rolled out in the way that APO NT has previously provided under its alternative model to CDP. The reason we

believe this will work is APO NT proposes that an investment fund be created that would fund local Indigenous organisations to provide services to strengthen economic, social and cultural aspects of the community, similar to the way that the old CDEP was able to do, and to generate the night patrol industry as well as Indigenous rangers. These kinds of projects will create new opportunities for longer-term employment and not just for the life span of those two years currently forecast. They will also ensure that poorer and smaller communities can be appropriately prioritised for these subsidies. Further, by funding projects of local Indigenous corporations the benefits will stay entirely within the community.

The other major aspect of APO NT's model is that it proposes a reform to the CDP providers to become remote job centres, where there would be a major emphasis on case management. Currently, case management does not exist in the CDP; however, it is notably available for people under the Work for Dole program. Case management would be particularly helpful in ensuring that people in the subsidised jobs maintain their positions and would also help them transition out of subsidised positions into regular employment. It will also ensure that these jobseekers with additional barriers such as disabilities and youth are able to take advantage of these subsidised positions and eventually also get into regular employment, ensuring that the jobs do not just go to people who happen to be the most employable people.

Additionally, the beauty of the APO NT model is that it is a system designed by Aboriginal organisations which creates a framework to empower local Indigenous people to better develop their labour markets. APO NT consulted widely through communities and organisations to develop this model and, by adopting this model, this parliament has the opportunity to maximise the value of the 6,000 positions and empower remote Aboriginal people to exercise their right to self-determination. That's my point on that point.

ACTING CHAIR: Thank you. We'll proceed to questions.

Senator LINES: Senator Dodson had to leave because he had another engagement, but he wanted me to start by asking the group what legal remedies are available either domestically or internationally for individuals or organisations to take actions about this regime. The second part of that question is: is any action contemplated? Maybe we can start with you, Ms Walters.

Adrienne Walters: Sure. I understand that question to be about the CDP system as a whole rather than the penalty system.

Senator LINES: Yes.

Adrienne Walters: Our view is that the CDP is inconsistent with Australia's Racial Discrimination Act, and there are options through the RDA, the Racial Discrimination Act, for people to make complaints to the Australian Human Rights Commission or even to file proceedings in the Federal Court. There are also international remedies through the Committee on the Elimination of Racial Discrimination. We think that CDP is definitely inconsistent with the International Convention on the Elimination of All Forms of Racial Discrimination. Those avenues are open, but they don't always result in any meaningful change on the ground without additional advocacy alongside. So there are avenues available. There's a complaint in the Australian Human Rights Commission at the moment lodged by the Shire of Ngaanyatjarraku, I think, around 18 months ago. My understanding is that that complaint is still ongoing.

Senator LINES: Thank you. Is there any comment from the North Australian Aboriginal Justice Agency?

Mr Derrig: We have no further comments other than what Ms Walters has provided.

Senator LINES: Great. Mr Ahfat, thank you very much for giving your evidence as a CDP participant. You said you lived for six months on your partner's income. What sort of income was it? Was she on a pension? What sort of income was your partner on?

Mr Ahfat: Disability.

Senator LINES: It must have been very difficult for you to survive on that benefit.

Mr Ahfat: Yes, it was.

Senator LINES: Have you had a look at the new penalty regime under the new compliance framework?

Ms Stobart: No, that hasn't been discussed with Mr Ahfat.

Senator LINES: Okay. Just thinking about that generally, given that the department has said itself that it expects four times as many breaches as on Newstart, what impact do you think that will have for people that you represent?

Ms Stobart: Is that question directed to Mr Ahfat?

Senator LINES: No, I thought you said Mr Ahfat wasn't aware of the new regime. So it is to your group.

Ms Stobart: We think that it would be further entrenching poverty. We feel that our clients will experience even greater financial hardship under the new regime because we see that they're going to be entering the penalty zone a lot quicker than anticipated. That would result in them, perhaps, disengaging from Centrelink altogether, because in reconnecting with their payments they've made it too difficult. We already see this happening under the current regime. We may see spikes in family violence or criminal offending and children being removed, because of protection concerns relating to the inability to thrive and neglect. And we see that Aboriginal Territorians will continue to be discriminated against by virtue of their more oppressive obligations—

Senator LINES: Just sticking with the Aboriginal Justice Agency, a number of groups have told us today that they weren't consulted with by the minister or the department. Was your agency consulted with over the changes to CDP and, if so, when?

Mr Rawnsley: I'm not aware that we have been but I think we should take that question on notice, if that's okay?

Senator LINES: Sure. Ms Walters, has the Human Rights Law Centre been consulted, about these changes, from the minister or the department?

Adrienne Walters: No, we haven't.

Senator SIEWERT: Ms Stobart, in earlier evidence you said—I think it was you—that you've had many clients who are on CDP. Are they your clients because of issues associated with CDP?

Ms Stobart: That's correct. We also have clients who are on CDP and are clients for other reasons.

Senator SIEWERT: For the clients you've got because of CDP—I'm not asking you to go into specific clients' details—could you tell us the nature of issues you are dealing with for your clients?

Ms Stobart: We're often dealing with people who have suffered penalties or have been cut off from their payments altogether and are really suffering under the regime. There are different approaches we sometimes take, which can include making a complaint to the Commonwealth Ombudsman or reviewing the penalties and seeking an internal review of those penalties. That is a significant part of our case load or, at least, of some people's case loads.

Senator SIEWERT: Did you say it takes up a significant—

Ms Stobart: Of some people. Some people have more than others. With some people, it does form a large part of their file load.

Senator SIEWERT: In your estimation, how do you think this new process is going to affect people and what effect do you think it will have on your case load?

Ms Stobart: We think it's going to be exacerbating the issue. We don't see the causes for noncompliance being addressed. We see the current issues to be significantly a result of the barriers that our clients face to engaging with Centrelink along with the actual model of Centrelink, and we don't see those two areas being addressed within these reforms. All we're seeing is a new penalty framework that is only harsher than the current framework.

Adrienne Walters: Can I add something?

Senator SIEWERT: Yes.

Adrienne Walters: I think it's important to note that the purpose of this bill isn't to alleviate the massive overpenalisation of Aboriginal and Torres Strait Islander people in remote communities, it's to put in place a new penalty system. The causes of the overpenalisation largely, as Nicole just said, relate to the barriers in terms of accessing Centrelink but also the fact that if you're in a CDP area you have to work more hours, and you have less flexibility in how you do those hours. You have to do work activities every single day, and that puts you at greater risk of not keeping up with the rules. That's not going to change with this bill.

Senator SIEWERT: That just triggered a question for me. I'm not sure if you were in the room when we were talking a bit earlier about allowing more flexibility—in other words, being able to work around cultural requirements and to work the time when it fits into other obligations that you have. Can I ask both of your organisations whether you think that that could be a bit of a way forward?

Adrienne Walters: That sounds like something we'd support, but we'd be guided by Aboriginal and partner organisations that we work with and who work with people who are affected on the ground. So I'll refer to NAAJA to answer that question.

Ms Stobart: Sorry—I missed the last part of that question.

Senator SIEWERT: We were talking a bit earlier about removing the requirement. Let's just assume the 20 hours—and, believe me, I understand the argument around the 20 hours. If that 20 hours is maintained, what has been put to us earlier is to at least make that more flexible so you could work that around your other cultural obligations, your other business, in a way that meets your needs. So you've still got that requirement but not the harsh way it has to be applied now.

Mr Rawnsley: In terms of our recommendation for our submission and also future options, we would defer to the APO NT model. We've made that recommendation in the past and will continue to do so. The main reason is the extensive work that they've done in developing that model.

Senator SIEWERT: Ms Walters, I think you said earlier that you support that model as well?

Adrienne Walters: Yes. We absolutely support that model. My understanding is: that model certainly has flexibility and has greater community control and say, in terms of what activities are appropriate for the community. They're embedded in the model.

Senator SIEWERT: Can I go back to NAAJA. In the cases that you've been dealing with, how successful have you been in addressing the issues around overturning the penalties and people being cut off?

Ms Stobart: If people are being penalised and also have been cut off from their payments, we would seek that information and review it. We're guided by the pretty strict current compliance framework. We'll look at that compliance framework and assess the merits in accordance with that and seek a review of the penalties or the suspensions based on our assessment of merit. When we do so, we do have success—not always, but we do have some success sometimes in seeking back payment or for someone's pay to be reinstated. At other times, when we don't think we can assist someone due to the fact that the current framework is so strict and so harsh, we will assist them in making a complaint to the Ombudsman. We did have a recent example where someone came to us and said that they were really struggling to comply with their obligations due to personal circumstances. They were on the 50-hour requirement. We put in a complaint to the Commonwealth Ombudsman, and it basically resulted in their requirements being reduced by about 50 per cent and all the penalties that that person had suffered being waived.

We have another client who, since the very beginning of his time on Centrelink, had suffered significant numbers of penalties, including being cut off from his payments for about five months at one point. We sought a review recently when he came and spoke to us about his difficulties in engaging with Centrelink. We sought a review of all those penalties. The internal review officer actually found that all those penalties had been incorrectly applied, on the basis that the client wasn't capable of complying with his mutual obligation requirements due to medical conditions. The issue is that the client hasn't been able to receive any back pay for all those payments because of a 13-week limitation period, so he still suffered significantly, financially, including that, for the time that he was cut off for five months, he wasn't able to seek any kind of financial remedy, despite the officer finding that that was incorrect.

Senator SIEWERT: That takes me to my last question, around the ability, as part of the assessment process, to get the input of the local health services. In the circumstance that you just talked about, would that have helped when you got to that point of looking at the barriers to employment?

Ms Stobart: Possibly. We have concerns around the government potentially not considering what actual supports are available in communities to assist with addressing these issues and whether they're going to be supporting healthcare providers in providing, potentially, a more active role with CDP providers and participants. We've got an example to highlight this issue. I will just read it out: 'Our client instructs that, when he did attempt to discuss his concerns with a doctor in the community, he was told that he was fine to work; he just had to lose weight and not be around smokes. There was no consideration of what supports were available to our client within his community to assist him to lose weight, nor any consideration of what activities may and may not be appropriate for him in light of his present physical limitations.' As I said, it would, of course, I think, be beneficial for health providers to be more involved, but there are some concerns as to how that's going to practically play out.

Senator SIEWERT: I take your point.

ACTING CHAIR: Thank you very much for giving evidence to the committee today. There are no other additional comments anyone would like to make? There being none, thank you very much for your evidence. The committee will take a short suspension.

Proceedings suspended from 12:23 to 12:36

CLARKE, Mr Matthew, Deputy Chief Executive Office, National Employment Services Association

DEFTEROS, Mr Peter, Policy Analyst, Jobs Australia

HARVEY, Mrs Maria, Chief Executive Officer, Tiwi Islands Training and Employment, Jobs Australia

WEIDERMAN, Ms Alicia, Advisor, National Employment Services Association

ACTING CHAIR: I welcome representatives from Jobs Australia and the National Employment Services Association. Could you please confirm that information on parliamentary privilege and the protection of witnesses and evidence has been provided to you?

Mr Clarke: I can confirm that all documentation has been received.

Ms Weiderman: I can confirm we have received all information.

Mr Defteros: I have received all information.

ACTING CHAIR: I'll now invite you to make a short opening statement. At the conclusion of your remarks, I'll invite questions from senators. Let's begin with Jobs Australia.

Mr Defteros: I'd like to acknowledge the Ngunawal people as the traditional owners of the land on which we meet today and pay my respects to leaders, past, future and present. I'll try and keep my remarks brief. Jobs Australia, for those of you who don't know, is the national peak body of not-for-profit employment service providers that help unemployed people get jobs.

To begin with, with relation to the bill, Jobs Australia recommends that the committee rejects the bill. We think CDP is an unfair and punitive program. It disproportionately penalises participants through unreasonable and inflexible participation requirements. We think those requirements need to be aligned with the requirements in programs in non-remote areas like jobactive. We think applying the TCF to CDP is going to make a bad situation even worse because it's going to increase the number of job seekers that are subject to penalties for persistent non-compliance.

We think that the TCF is not tailored to the needs of remote communities and that the decision to apply the TCF to CDP did not involve adequate consultation with providers and did not reflect their views at the time. We think that the TCF is going to remove the ability for people to have their penalties waived if they re-engage. We think there is a real risk there that people will be trapped indefinitely in a cycle of penalties, because they're going to have to be compliant for three months, once they hit the penalty zone, in order to get out of that cycle. We think that people should be able to have their penalties waived when they re-engage, as they are now. In fact, that is used by the minister at the moment as a defence of the current arrangements—that penalties can be waived.

We also think that the TCF is going to reduce the amount of scrutiny by DHS or Centrelink of the decisions by providers that job seekers are non-compliant. We think that that's going to remove some protections for job seekers. It also risks exposing providers to more frequent instances of threatening, aggressive and violent behaviour, because they will be seen more, by participants, as responsible for the application of penalties and demerits.

We think that exempting subsidised workers from the TCF is going to create different rules for different types of income support recipients and for different workers, and we think it is going to create inconsistencies and doesn't appear to be very well thought through. Some of the CDP reforms may make some difference to the application of penalties. We also understand that the application of the TCF is going to be modified slightly in its application in remote areas. But, overall, we don't think that there will be a significant reduction in the number of penalties being applied or the quantum of penalties because the fundamental requirement to participate daily, in an inflexible way, will remain, even though it has been reduced from five to four hours.

We think there needs to be more genuine consultation with Indigenous communities to strengthen and empower them to create more meaningful opportunities for participation and paid employment. Finally, Jobs Australia endorses the Fair Work and the Stronger Communities scheme—or the APO NT model, which shifts the focus from penalising people to investing in job creation and long-term employment outcomes. Thank you.

ACTING CHAIR: Thank you. The National Employment Services Association, would you like to make an opening statement?

Mr Clarke: Thank you, Chair. As a proud Ngunawal man myself, I'd like to pay respect to the traditional owners of the land we meet on today, the Ngunawal people. I also pay my respects to elders past, present and emerging.

NESA is a peak body for all Australian contract and employment services which provide labour-market assistance to improve opportunities and outcomes for jobseekers and employers. Our members include not-for-profit and for-profit organisations that have coverage across the Community Development Program, jobactive and the Disability Employment Services, and other complementary programs like Transition to Work.

We are committed to the delivery of quality employment and participation services in remote Australia. Our CDP membership currently stands at 60 per cent of all CDP regions nationally. We have members in each of the states that CDP currently delivers in. I'm joined today by my colleague Alicia Weiderman, who will also work with me today in responding to questions from the Senate.

Our response to the legislation is that we are firmly of the view that changes are required to the compliance arrangements within remote Australia. We hold this view based on feedback from our members, who believe that current compliance arrangements are, unfortunately, having a detrimental impact on community, resulting in disengagement from the program. Considering the current legislation, NESA have sought to approach this with a constructive view. We have a focus on considering what would be required to work across and within remote Australia.

Our key observation in regard to the legislation currently before the House is as follows. For government policy to be effective, it must be designed with the relevant communities and the target group in mind. If we retrace our program history in terms of RJCP and, subsequently, CDP, we understand that both were introduced in recognition that the government at the time understood that mainstream employment programs were not meeting the unique needs and requirements of remote communities. We note that the targeted compliance framework, as it is shaped, was not designed to operate across remote Australia. As such, we agree that there needs to be a timely and adequate process to determine the extent to which it would be effective in remote communities. While the high level outline of how the framework is intended to operate in remote areas exists, there remains considerable policy and program design work to be done to determine if the model will support greater engagement and participation in remote locations, as well as what modifications would be required to embrace mutual obligation.

The design of the compliance framework cannot be considered outside other issues such as mutual obligation requirements; community characteristics; jobseeker characteristics; contracting service designs, payments and performance measures; and, critically, the accessibility to local support and health services within communities. These issues need time to be considered prior to moving into a new legislative framework.

While we applaud the move by government to focus more on more jobseeker capacity—which we've advocated strongly—and we also applaud the proposed new evidence requirements as well as the strong investment in case management, we still come back to the core, fundamental issue of daily participation and the guidelines that underpin this. CDP, as you've heard today, requires daily participation by jobseekers across the year, which we understand was a strategy initially to respond to the limited labour markets within remote communities, as well as trying to create a work-like culture. However, these arrangements mean that jobseekers in remote Australia will have the potential to interact with the compliance system at a far greater rate than non-remote jobseekers. You've heard comparisons of that today. Community issues and cultural obligations also increase the likelihood of interaction with the TCF.

It is important to note that we have received informal feedback from our non-remote members that they've experienced a greater level of critical incidence within their offices since the introduction of the TCF. In response to these issues, we would advocate the need for more flexible arrangements for jobseekers to meet the participation requirements, including the opportunity to bank hours across weeks as opposed to the current daily structure. In addition to this, in the operation policy, service providers must be given significant discretion, flexibility and program support to determine what constitutes reasonable excuses within a remote and community context. If issues such as this are not considered as part of the review, it is our view that, under the TCF, remote participants will reach either the third or fourth demerit point more rapidly than those in non-remote Australia and potentially move off benefits or completely disengage from the program. Again, we've heard that a number of times today. We would support that.

Time lines as currently proposed will present significant challenges in the effective rollout of the new compliance framework. While the legislation provides some flexibility on the commencement date for the program, the current proposed date of 1 February 2019 is considered too soon by our members, particularly when you take into account other changes to the program that are occurring. These include the introduction of a new payment model, contract variations and extending contracts. Then we look at the environmental factors across remote Australia—we've got wet season and low seasons, and the shutdown over Christmas. Those are all significant issues that will have an impact on that time line.

We applaud the job creation package. We believe any step to look at subsidising employment across remote Australia, understanding the labour market, is a positive step forward. Exemptions to aspects of the TCF are provided within the job creation package. Employment aspects of the legislation are positive and provide choice and control to jobseekers in remote locations where there are limited employment opportunities. We believe in recognition of the labour markets in which all jobseekers find work in remote Australia. There is an opportunity to extend these provisions to all CDP jobseekers placed in work.

In closing, NESA is pleased that alternative arrangements for addressing compliance issues in remote Australia are being considered. In my statement I have attempted to highlight some of the areas that we believe require attention before implementing the TCF in remote Australia. As you can see, it's complex and it is interconnected. To explore these things in necessary detail, we are of the view that further time is required to ensure that whatever framework is introduced responds to the needs of remote communities.

ACTING CHAIR: Thank you.

Senator SIEWERT: Mrs Harvey, can I ask for your views on the bill and the implementation of the TCF?

Mrs Harvey: Certainly. What I want to bring up with the committee is that this bill came out of nowhere. There was no inkling right across our industry that there was about to be a bill introduced. We had an industry provider meeting, and there was nothing brought up about it. It feels like I blinked my eye and, suddenly, submissions were due in. The time was very, very quick. The environment we're in means that every single CDP has to perform or they're out—the minister is going to advise providers in December, I believe, if they will continue past February or not. I would pretty much have to support most of the commentary around the TCF. By week one or two, everyone will hit that penalty zone.

There are so many things that are out of an average jobseeker's control. To give you an idea, I've been working on the Tiwi Islands for about 13 months. In that 13 months there have only been five free weeks from funeral and sorry business. That's five weeks in almost a 2½- to three-year period where people have not had to stop what they're doing to attend somebody's funeral. I think that sometimes there isn't enough emphasis on the mortality rate in remote areas and the value system in which it has to be lived out. Whether it's in black and white or not, a lot of people do have an obligation to take time out, in particular for sorry business.

I would agree with most of what the other stakeholders have said today. I also wanted to bring to the committee's attention the lack of consultation. Some of us in this room have been in the industry for a very long time. It's taken us weeks to get our heads across this demerit system, and we are people who are educated and can read, write and conceptualise. The average jobseeker is not going to understand. They're all going to be lining up back at NAAJA and they're going to say, 'What happened?', because, after this many years, they're just getting used to—

Senator SIEWERT: The current one.

Mrs Harvey: The current one. This is what's happened every three years. They're like: 'What do you mean? The rules I actually understand don't apply anymore?' I think there'd be a fair bit of that. There's always an emphasis on people 'doing things with, not to', except it seems to be more of a cliché than something that gets lived out.

Senator SIEWERT: Have you had the experience where people are actually dropping out of the system, so that they're not in the caseload anymore? Have you had that same experience on Tiwi?

Mrs Harvey: Yes, we have. We've had lots of people. In fact, I've addressed the full Tiwi Land Council on two occasions to make them understand that, when people on Newstart allowance don't claim anymore, it's three groups—aged pensioners, children on ABSTUDY and anybody who hopes to keep some of their wages from their paid job—who have to bear the brunt of half of their family not bringing in money.

Senator SIEWERT: So that then plays out in the community? Okay. Can you give us any information on the size of that group that you think is missing or is—

Mrs Harvey: I will do a conservative estimate. On the Tiwi Islands, anywhere between one and 300 people would be a fair estimate.

Senator SIEWERT: I think you were in the room when Ms Fowkes was talking about this issue. Is it, by and large, that same group?

Mrs Harvey: I think it is. I think one of the things that makes it difficult for this particular age group to re-engage is that most people under 35 have grown up in a very different era to their grandparents and their parents. They've grown up in what I call the 'sit down' era. They have less education than their parents and their grandparents. They have less westernised understanding, especially if they haven't left their community much. It

gets so difficult for these guys to apply and come up with all the things that they have to come up with to get a claim granted. A lot of them just say, 'You know what; it's too hard.' In a lot of cases I know people go hunting because they're just not getting money. They go hunting or go fishing, and then, of course, there's illegal activity as well. People start doing that because it's just a lot easier than filling in the forms.

Senator SIEWERT: I've had it said to me that there's been an increase in break-ins, for example, particularly among quite young people, including children.

Mrs Harvey: Yes, and the break-ins are not for money and not for any modern commodities; they're actually for food. It's been the same thing in many of the education houses, where teachers live. If people know the teachers have gone into Darwin for the weekend, that house gets hit. They're not taking stuff; they're taking food. It's usually children and young people that are breaking in, because they're hungry.

Senator SIEWERT: Thank you. Can I go back to both Jobs Australia and the National Employment Services Association and ask you about the level of consultation with your organisations—whoever wants to go first.

Mr Clarke: We've had good consultation with the department. I think since the legislation was announced—

Senator SIEWERT: Hang on. I'll take you back to before it was announced, in the formation of the program, and then we'll come to what's happened since.

Mr Clarke: Some of the feedback that we have given the department with the formation of the program is that there was a need for greater consultation. Our experience since we provided that feedback is that consultation has improved in everything we see with provider business forums. We as a department have regularly had our special interest group with all our CDP members. They come to that almost every quarter and provide feedback to our members. They've attended other events outside of that, like our national conference, to give an overview of CDP. We're in regular dialogue with the department—I'd say weekly to fortnightly.

Senator SIEWERT: Was there consultation with you in the development of this approach?

Mr Clarke: No.

Ms Weiderman: To answer your question, we were not aware that the TCF and its framework were going to be part of the budget announcement, so we're certainly not familiar with that as a strategy to address compliance issues under the program. But certainly, since it's been announced, we've been contacting the department regularly for feedback around what its rollout might look like.

Senator SIEWERT: Thank you.

Mr Defteros: It was our understanding back in May 2017, when the TCF was first announced, that it wasn't going to be applied to CDP.

Senator SIEWERT: That's what's in the act at the moment.

Mr Defteros: Yes. The minister at the time described it in a speech at one of the provider forums as extremely draconian. There was a consultation workshop that was held with providers. There was very strong consensus in the room between government and providers that the TCF would be sort of catastrophic and that people would very rapidly progress towards the intensive compliance zone, as I think it was called at the time; it's now the penalty zone. There was a discussion paper on the future of remote employment and participation which was released last year in December, and there was no reference at all to that. So, when it came about in May, it was a total surprise to everybody. After that, yes, we had a number of questions, because there was a lack of detail, and we organised a teleconference with the department. They gave us answers that they could provide. Since then, there hasn't been a lot of engagement regarding the development of the TCF and its application to remote areas that's involved Jobs Australia. There hasn't been much involvement at all.

Senator SIEWERT: So it sounds like you haven't been consulted as much as employment—

Ms Weiderman: We're fairly persistent in our engagement. As Peter does with his members, we look to get advice from members around their questions and what it could look like, and we regularly put those forward.

CHAIR: Can I ask both of you: with your members, I'm presuming—

Ms Weiderman: There's crossover.

Senator SIEWERT: There's crossover—okay. The views you're expressing now are views that you have consulted your members about—would that be accurate?

Mr Clarke: Yes.

Senator SIEWERT: So it would be fair to say there are concerns amongst providers around the application of the TCF?

Ms Weiderman: Yes.

Senator SIEWERT: Mr Clarke, I think you were talking about critical incidents.

Mr Clarke: Yes.

Senator SIEWERT: Can you take me through that, please.

Mr Clarke: Definitely. As I said in the opening statement, this is really quite anecdotal. There was a CEO forum with our non-remote members for jobactive. Some of the feedback that came out of that was that CEOs were talking about the sense that critical incidents were increasing in their sites

Senator SIEWERT: Critical incidents, just for the record and so that I understand—

Mr Clarke: Everything from verbal abuse to physical assaults. A number of those CEOs have talked about how there seems to be a lot more agitation with rolling this out, with jobseekers.

Senator SIEWERT: Have they described the circumstances of that? Why are people getting upset?

Mr Clarke: I think it's part of that transition of introducing a new framework. I think it is because under the previous framework you used to be able to triangulate a breach. As a provider, you used to be able to say, 'You've done the breach but the decision, or the action, sits with DHS.' Whereas now providers are having a bigger role. Jobseekers are now seeing the provider as not only the person issuing it but the person acting on it, so it's more personal.

Senator SIEWERT: Is that affecting the trust between the jobseeker and the provider? I'll ask both of your organisations.

Mr Clarke: It would be varied. Like any transition or any change management process there is that issue of trust. Previously in those situations a lot of the angst would have been aimed at DHS and now it is put back on the provider, so it is impacting the issue of trust. I guess that's one of the concerns that we have in remote communities, knowing that the communities are a lot smaller. If you're non-remote, you tend to work in an office where you don't generally live. You don't generally run into a jobseeker while you're shopping. In remote communities it's a completely different environment. You're living beside a person who is a jobseeker. That's one of the major concerns.

Ms Weiderman: One of the things that CEOs have commented on, in terms of that rollout in non-remote communities, has been the role of really good communication around policy changes like this. I don't think that we can apply everything that is happening in non-remote to a remote context, but we can apply that underpinning conversation around what does really good communication look like and how do we make sure that jobseekers understand? If a lot of the angst here is coming from trying to understand a new framework that has personal impacts on you I think we can learn something. How do we make sure that we're communicating that really well to the people it's impacting on?

Mr Defteros: I'm sure that Maria can elaborate on this point a lot more than I can, but there is already high level of strained relations between providers and jobseekers in relation to penalties. Last week, a provider said to me that one of the jobseekers threatened to cut their supervisor's throat, so they had to go into damage control and take great care of that supervisor and make sure that they were safe. I'm aware, Maria—

Ms Harvey: Absolutely. I have canvassed it to Jobs Australia in the past, leading up to Christmas. There seem to be hotspot areas where people get more agitated. There have been quite a lot. In our community that has had the most assaults it is, because they know that they can hit somebody there and there's no police, there's no-one to ring. It will take them a day to get there. We can't attract staff. We have to make sure that we put really resilient people in that particular site, people that the community already know and people who already know the police that are 100-odd kays away. The incidents are extremely high.

I've been to our land council twice and said, 'We will not lie. Whether the staff are Tiwi or whether they're non-Tiwi we will not lie.' If someone doesn't turn up, we have to do that. Part of the agitation, even though they know that Centrelink is paying them, is that ultimately we have to say, 'Joe Blogs didn't come.' We can't apologise for that either. That's what we signed up for. We try to articulate that in service appointments and stuff.

Senator SIEWERT: I'd like to clarify the flexibility around the 20 hours. I will ask all of you: do you think that if people could do it around their obligations—Ms Harvey, in particular you talked about sorry business—that it would help in dealing with this issue? If there were that flexibility do you think that would ease the issue around the TCF's implementation and the critical incidents?

Ms Harvey: I think it would. I think the jobseekers, the people who are going to be the recipients of this policy, need to be the first ones that get told. It needs to be unpacked properly. There's a lack of informed decisions. For an Aboriginal remote person, whether they're a jobseeker or not, all they know is they rock up and

they get told, 'No, go here, go do that, do that and do that,' just to navigate the system to get something they need or want at that particular time. That's what bothers me. All this time later—we're way past the 1970s now—there's still misinformation taking place. People just get stuff and they don't understand how to use it to their benefit or what to do if they're in a crisis.

Mr Clarke: I would say 100 per cent. Since day one our members have advocated quite strongly for more flexible delivery. I think it acknowledges and respects the unique conditions of remote communities. I think it respects culture. We know that jobseekers or community members are frustrated in the sense that they're torn between choosing culture and cultural protocols and attending daily. As I said in the opening statement, I think it's fundamental. I think if more flexibility and more power were given back to providers to deliver activities in response to what a community wanted, I think a lot of the concerns we hear in the TCF would decrease. I think the jobseeker experience—it would become a jobseeker experience and not a mandated experience—would improve greatly.

Mr Defteros: I think the minister has the view that working every day is a more work-like kind of situation. But it's interesting that full-time employment is actually less common these days than it's ever been, and working part time or casually is much more—

Senator SIEWERT: The gig economy.

Mr Defteros: Yes, the gig economy. So full-time employment, or working every day, is just not as common as it used to be.

Senator SIEWERT: The other issue is, if that's what your community is doing, surely we should be looking at a system that works in the community in which you live.

Mr Clarke: Can I say that it wasn't a major point at our last special interest group with our CDP members. We talked a lot about the profile of employment in Australia. As employers ourselves, we're offering casual and part-time employment, trying to be a more family friendly employer. Yet across a program setting, we're saying it has to be five days a week. That's just not the profile of jobs going forward.

Senator SIEWERT: Thank you.

Senator LINES: I think, Mr Clarke and Ms Weiderman, you advised you'd had quite a lot of consultation with the government. Did you initiate that, or did they initiate that?

Mr Clarke: I would say we initiated it initially, but since the announcement of the TCF it's been both ways. We've had the department reach out to us a number of times to come to Canberra and sit down with their policy team to get feedback from our members.

Senator LINES: Have you got any idea as to why the government has now introduced the TCF? That goes for Jobs Australia too.

Ms Weiderman: No, Senator.

Senator LINES: You said you had a lot of—did you ask them why? Every indication was that this wasn't part of the planning, including this document which was published last year as the discussion document. So there was no opportunity for you to comment on the TCF, because it wasn't in here. Have you had the opportunity to ask them where it's come from and why?

Ms Weiderman: I would say, from the feedback or the conversations we have had, there is a recognition, certainly by the department, that something needs to change in the compliance arrangements within remote Australia. I think the issues that providers, Jobs Australia and NESAs have raised around disengagement and parity, et cetera, have been heard in that context. Our understanding is that TCF is seen as a response to that. I think there is a belief that it will provide the sort of flexibility that is described in the explanatory memorandum.

You'll see from some of our comments, though, the concerns we have with it at the moment. Without understanding what the operational policy looks like underneath it, it offers the potential to address some of the compliance concerns. While we have daily participation requirements within the program and we are advocating for high levels of discretion for providers and communities around what is an acceptable reason for participation versus non-participation, it's difficult to understand if that will play out in its most positive sense.

Senator LINES: It's also worrying because the other evidence is that, where providers under the current system have made decisions, 46 per cent of them have been overturned by the department. Is that something you have raised with the department as well?

Mr Clarke: Yes.

Senator LINES: Jobs Australia, do you know why the TCF is being included, when it hasn't been discussed by the minister or in that discussion paper?

Mr Deferos: It certainly wasn't clear to us around the time of the budget, when it was announced. I understand that there's a view that it will change people's behaviour, that it's targeted at the most wilfully and persistently noncompliant jobseekers, and that it will more effectively change the way they think and behave and get them participating more. I think that's the sort of philosophy behind the model.

Senator LINES: Is there any evidence of that? Have any studies been done to show that?

Mr Deferos: I would only say the very high rate of penalties that we already see in CDP is not necessarily correlating to a high level of attendance, and we're likely to see even more penalties under the TCF. There isn't evidence that it will necessarily improve attendance further.

Senator LINES: So there isn't evidence?

Mr Deferos: Not that I'm aware of.

Senator LINES: Ms Harvey, when you came to our Queensland consultation the last time we did a CDP inquiry, I think you said that your organisation really puts a lot of emphasis on trying to prevent breaching. I think that's the evidence you gave us previously. Will this new regime be more onerous than what you're currently doing or will it be easier for you? What do you think?

Ms Harvey: It will probably take resources, the same way this one does, but perhaps in a different way.

Senator LINES: How do you think in a different way?

Ms Harvey: The TCF is more reliant on self-service. It's more reliant on the jobseeker knowing everything that helps them to comply, and a lot of our jobseekers don't consciously live that out.

Senator LINES: You made that point earlier.

Ms Harvey: Yes. There's not enough detail in anything that we've received to date to help us work out what the whole thing looks like. Every little action, whether it's compliance, a job placement or an exemption, causes a reaction for that person and also for your case load. Without the devil in the detail—without any of that—we can't give a committee like yourselves an informed response.

Senator LINES: In Ms Fowkes's submission to the committee this morning—she gave us an updated submission because she had responses from the government around the TCF—she said that the 'government's modelling shows that on a per capita basis the TCF would have around four times the impact on CDP participants as on other jobseekers.' She then went on to say—again, a response from the government—that the 'TCF would have a harsher impact on CDP jobseekers than others.' What does that mean to you, Ms Harvey? Does that mean people being breached sooner? What does it mean?

Ms Harvey: I think it will. Depending on how many people are not coming, I've got three to four people processing and doing all the compliance actions required for the case load. So, I would say that we probably would need to increase that resource at the start. You are trying to learn the process and be compliant, as well as give the best service to the job seeker. So, I reckon we would have to consider increasing our compliance team, even just for transition, to measure and see how we're going three months in.

Senator LINES: What do you think it means for the CDP participants? In your view, does it mean there'll be more breaches?

Ms Harvey: I can only talk about the local caseloads I work with. In the Tiwi Islands, our charter is to employ as many Tiwi, and the capacity is quite high. I would say it would actually cause some personal conflict problems for a lot of the Tiwi people who work for us.

Senator LINES: Because they're breaching family members?

Ms Harvey: They're breaching family members. Even if they're not, it's that perception that that is what you do now.

Senator SIEWERT: Can I ask both Jobs Australia and the National Employment Services Association if you have looked at the delegated instruments: the Social Security (Administration) (Reasonable Excuse—Participation Payments) Determination 2018 and also the Social Security (Administration) (Job Search Efforts) Determination 2018? Could you take on notice to give us your feedback on that. It seems to me that both of those instruments interact with this, so I would very much appreciate your thoughts on that.

Ms Harvey: We're happy to answer.

ACTING CHAIR: How significant is the reform initiative that gives local providers much greater opportunity to assess the application of the demerits? How significant is that in terms of managing or changing people's behaviour or providing for a more responsive program? Anyone can go first.

Mr Deferos: I'm happy to respond to that. I just want to make it clear that under the TCF the ability for providers to exercise discretion is removed. They're not able to make a determination not to use the compliance framework as the best way to engage someone. That is removed by the TCF. Under the TCF there's a list of valid reasons and a list of invalid reasons and you either fall on one side or the other. It's kind of like a drop-down system. So, there's not a lot of local input or discretion into the decisions that are being taken. If the person doesn't attend and they don't have a valid reason, according to this very prescriptive list the demerit is applied and they continue to accumulate in that way. So, I'm not sure that there is much more community or local input or discretion. There's actually less in the new model.

ACTING CHAIR: NESAs, what is your attitude?

Ms Weiderman: That is where our interest is in terms of what it looks like operationally and how it can be modified for remote Australia. We agree that if that is the way it will be applied we would have concerns around that. We would hope through this process that there would be an opportunity to really influence what that does look like in remote Australia.

ACTING CHAIR: In the conversations that NESAs has been having with the department, is this still an open issue?

Ms Weiderman: Yes, I would say it is. Even reflecting on our meeting last week with the department around what—yes, acknowledging the discretionary element has been removed—would reasonably constitute valid participation in a community and what would constitute invalid participation. We would be very concerned if the framework that operates in non-remote Australia were applied. We will be continuing to prosecute one that guarantees provider discretion but takes into consideration what community expectation considers to be reasonable, to be sensible, within the context of the application of the program. We think that if those things can be achieved, that would be a positive.

ACTING CHAIR: So your approach hasn't been ruled out yet. It's still a point of discussion between the providers and the department.

Ms Weiderman: Yes, I think that's accurate.

ACTING CHAIR: How would you characterise the department's attitude to your preferred approach?

Ms Weiderman: I would say, at the moment, even off the back of last week, it is: 'Please, give us the feedback of your members on what would make sense then.'

ACTING CHAIR: Thank you. On that point, the program should have that sort of capacity for that local discretion?

Ms Weiderman: Yes.

ACTING CHAIR: And you would agree with that as well, Jobs Australia?

Mr Deferos: Yes.

ACTING CHAIR: We thank you very much for giving evidence this afternoon. Thank you very much for your time.

BIRD, Ms Chloe, Assistant Secretary, Community and Economic Development Division, CDP Strategy, Department of the Prime Minister and Cabinet

DEININGER, Ms Rosemary, Acting Deputy Secretary, Programme Design, Department of Human Services

DENNY, Mr Paul, Assistant Secretary, Community and Economic Development Division, CDP Operations, Department of the Prime Minister and Cabinet

HINCHCLIFFE, Ms Jaala, Acting Ombudsman, Office of the Commonwealth Ombudsman

LEWIS, Ms Deb, First Assistant Secretary, Community and Economic Development Division, Department of the Prime Minister and Cabinet

SAWYERS, Ms Fiona, Senior Assistant Ombudsman, Strategy Branch, Office of the Commonwealth Ombudsman

STANION, Ms Joanna, National Manager, Job Seeker, Department of Human Services

[13:21]

ACTING CHAIR: Welcome. Could you please confirm that information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Is there anyone that it hasn't been provided to? There being no-one, thank you. I remind witnesses that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

I now invite each of you to make a short opening statement and, at the conclusion of your remarks, I will invite members of the committee to put questions to you. Would the Commonwealth Ombudsman like to make an opening statement?

Ms Hinchcliffe: We don't have an opening statement. Thank you, Senator.

ACTING CHAIR: Department of the Prime Minister and Cabinet?

Ms Lewis: I have a short statement. Thank you. I would like to acknowledge the traditional custodians of the land we are gathering on today, the Ngunawal people, and pay my respects to their elders past and present, and also extend that respect to all Aboriginal and Torres Strait Islander peoples here today.

Since its introduction in July 2015, the Community Development Program, or the CDP, as it's known, has been an essential part of the Australian government's plan for increasing employment for people in remote Australia. As at 31 August 2018, the CDP has supported remote jobseekers into more than 26,960 jobs on more than 9,067 occasions. People have stayed in jobs for at least six months. Engagement rates have been over 70 per cent, up from seven per cent when CDP replaced the RJCP. While the CDP has been successful in moving jobseekers off welfare and into work, in May this year the government announced a reform package to increase participation through greater community engagement, more pathways to employment and increased support for vulnerable jobseekers. The government also confirmed a commitment to one compliance framework for all jobseekers, through the targeted compliance framework, or TCF.

The Social Security Legislation Amendment (Community Development Program) Bill 2018 will do two things. Firstly, it will amend social security law to support the introduction of the TCF in remote Australia from February 2019. This will ensure that all jobseekers across Australia are subject to a nationally consistent compliance framework. Secondly, it will create exemptions for CDP participants in subsidised jobs, allowing them to focus on their new roles and on staying in these positions. The aim of the TCF is to support vulnerable participants through increased support and reduced interactions with Centrelink and to provide more checking points with service providers, so that all jobseekers have every opportunity to meet their mutual obligations. Local CDP providers, almost all of whom are now Indigenous organisations, will work with CDP participants and their communities in the application of the TCF. As a package, the reforms will reduce the number of penalties applied to CDP jobseekers, and the introduction of the TCF will remove penalties for one-off breaches of mutual obligation requirements, and financial penalties will focus on people who were persistently and wilfully non-compliant. From February 2019, the broader reform package will also support 6,000 jobs in remote Australia for CDP participants, reduce income reporting requirements to Centrelink for some jobseekers, introduce an

improved capacity-assessment process and allow for medical evidence from local health providers to inform the assessment, and reduce mutual obligation hours from up to 25 hours a week to up to 20 hours a week.

The Department of the Prime Minister and Cabinet has established a formal government structure with the Department of Jobs and Small Business, the Department of Human Services, the Department of Social Services and the Department of Health to ensure a smooth implementation of the reforms. Consultation on implementation of the reforms is critical. PM&C undertook consultation at a business provider meeting in Adelaide in June this year and continued to engage with key stakeholders, including peak bodies and community leaders. Over the next period the engagement will ramp up significantly. We're happy to talk more about that in the questions that I'm sure you will ask us. Thank you for your time.

ACTING CHAIR: Would the Department of Human Services like to make an opening statement?

Ms Deininger: No, we will not, thank you.

ACTING CHAIR: We'll proceed to questions.

Senator SIEWERT: Has the evaluation of CDP that I understand has been undertaken been finalised?

Ms Lewis: I understand the evaluation is in its final stages. In terms of process, I understand that the evaluation will be finalised in the coming weeks and then presented to the minister.

Senator SIEWERT: Is it anticipated that that evaluation will be made public before we are asked to debate this bill?

Ms Lewis: I can't comment on that—it's not in my area of responsibility—but I can take that on notice.

Senator SIEWERT: Does anybody else know about that? Could you take that on notice and get back to us. Is it possible that someone could check that while we're here?

Ms Lewis: We can check that. I don't know that we'll be able to get an answer this afternoon.

Senator McCARTHY: Actually, Senator, maybe the question is: when will the evaluation be completed?

Senator SIEWERT: Within weeks, she said.

Senator McCARTHY: A date.

Ms Lewis: I don't have an answer to that.

Senator SIEWERT: Perhaps that could be part of the question that you take up now.

Ms Lewis: Yes.

Senator SIEWERT: I'm interested in the comment about the TCF being applied so that it applies to all jobseekers, when the requirements on jobseekers are different. What's the logic of applying the same framework to circumstances where jobseekers are not all being treated the same.

Ms Lewis: Senator, as you would be aware, before the introduction of the TCF in July this year, jobactive and CDP participants came under the same compliance framework.

Senator SIEWERT: Which a number of us thought was unfair in the first place.

Ms Lewis: In the minister's many consultations and conversations with people, it was one of the things that was consistently raised—that the current framework does not support jobseekers in the way that communities and participants feel it should. So the move of CDP participants into the TCF is seen as being fairer and simpler. It reduces administration and focuses support on the most vulnerable jobseekers, particularly that cohort who have a zero- to 14-hour obligation.

Senator SIEWERT: The feedback we've had today is that it's not going to be simpler or fairer. In fact, the evidence we've received today is that people will accumulate demerit points pretty quickly and will end up in the yellow zone more quickly or just as quickly.

Ms Lewis: So do you have a question or would you—

Senator SIEWERT: How's that fairer, and how's that simpler?

Ms Lewis: It might be useful if I get Ms Bird to talk you through how we see the application of the TCF occurring, and I'll jump in as needed.

Ms Bird: Under the current compliance framework, the no-show no-pay penalties are applied. If someone doesn't attend one day they get a no-show no-pay financial penalty that day. Under the new framework, if a person doesn't attend, a financial penalty is not going to apply for some period.

Senator SIEWERT: I understand that.

Ms Bird: In that sense it's fairer. They're actually going to get a chance to discuss with their provider the circumstances that might have led to them not, for instance, attending their activity. The provider will then have an opportunity to talk to that person, understand the circumstances that led to them not being able to attend that activity and consider whether there was a reasonable excuse with reference to a number of different things which are similar to what are in place at the moment. Only if the provider assesses that the individual didn't actually have a reason for not being able to comply with that requirement—should have and couldn't have—do they apply demerit, and the demerit doesn't result in a financial penalty. There's also the possibility that they'll look at that and consider that the person actually had a good reason for not being able to attend and they won't apply a demerit in that circumstance. So what's happening in this situation is that there are more formalised opportunities for the local Indigenous providers to talk to the individual jobseeker to see what's happening in their life before they actually apply any demerits, and that will happen each time a potential non-compliance event has occurred.

Senator SIEWERT: If I didn't turn up for three days, what does that count as?

Ms Bird: If you don't turn up for three days what will happen is that the provider will know that you haven't turned up, obviously. They'll be seeking to engage with you to discuss the circumstances for why you didn't turn up day 1, day 2 and day 3. They'll take a look at day 1 and consider why that didn't occur. They may or may not apply a demerit depending on the circumstances. That will happen again for day 2 and again for day 3. So three instances of not turning up to an activity may not result in three demerits; it may result in one or two or three or none.

Senator SIEWERT: But it could result in three.

Ms Bird: It could result in three, yes.

Senator SIEWERT: So I'm right up there in the capacity review process?

Ms Bird: The capability interview process, yes.

Senator SIEWERT: In one go.

Ms Bird: Potentially, yes, although not more than three demerits would accrue. You can never have more than three instances of noncompliance occurring before a capability interview has to happen.

Senator SIEWERT: Sorry?

Ms Bird: The capability interview has to happen at the point at which three demerits are accrued, so you can't continue to accrue without having had an interview with your provider.

Senator SIEWERT: So, if the incident was four or five days, you'd still reach three and have your capability interview with the provider?

Ms Bird: Yes.

Senator SIEWERT: I think you were probably in the room when we had that discussion about discretion. Some evidence has already come in—and I presume that you heard the evidence we got from the non-remote instances—that for some places there's an increase in critical incidents where people feel like that discretion isn't there. So, in terms of the discretion for CDP, where are you up to in the consideration of whether there's going to be more discretion on the part of the providers? We heard about the drop box—this counts; this doesn't count. Where are you up to with that consideration in terms of providing more discretion for the providers to make that assessment?

Ms Bird: When the provider is determining whether to apply a demerit or not there are a long list of reasons that could be accepted. Issues could include, for example, caring or family reasons that were unforeseeable, cultural business, or instability issues around housing. There are a range of existing reasons that are acceptable for not attending an activity, for example. What we're doing and what we'll be doing in consultation with providers is developing guidelines that kind of sit around that and which will be relevant to the circumstances. But those kinds of opportunities already exist, I suppose, in the existing framework. So it will still be a nationally consistent framework, but we are looking at how it applies through the guidelines and specific to a particular circumstance that might arise on particular occasions.

Senator SIEWERT: I know that we're moving from 25 to 20, but it's still very different to requirements for other job seekers who aren't living in the areas covered by CDP. Do you appreciate the argument that there are more circumstances where people could potentially be non-compliant—that here is an increased likelihood of non-compliance because of those extra requirements through mutual obligation that are required for CDP participants?

Ms Bird: There are. There are daily participation requirements—there's a broad and general principle for the program. Obviously, there is some discretion within the guidelines as to whether that has to happen in every case.

As you were saying, if someone doesn't attend day 1 and day 2, then, yes, that does provide a circumstance where the provider needs to consider a demerit. But I think the point we would make is that introduction of the TCF is not being done in isolation of the broader reforms that are happening to CDP. You mentioned the reduction of 25 to 20 hours, but we're also looking at moving to a lot more local Indigenous providers as well as looking to increase community participation in CDP in the way that activities are designed through starting to work and looking at community boards. There's a range of other programs, the improvements to the ESA process and opening up more opportunities to provide different types of evidence. All of this, we think, will increase engagement and compliance with the program overall. So, we'd look at it as a contextualised piece of policy.

Senator SIEWERT: Did I hear you say community boards?

Ms Bird: Yes.

Senator SIEWERT: Could you expand on that.

Ms Bird: Part of the government's intention with the reforms is to really continue to imbed the greater community control of CDP that the minister has initiated with the movement to a greater number of Indigenous local providers running or delivering the program. Part of the government's announcements and reforms was to move toward a situation where, in local communities, we'd be asking providers to work with community boards if they already exist or to work with other, I guess, established processes that they might seek to establish if they don't already exist to help ensure that the communities are actually able to provide more input into the way that CDP is managed and run. We think that's already beginning to see dividends, just through having a lot more local providers who are part of the community as well.

Senator SIEWERT: How is it envisaged that they would engage with the providers?

Mr Denny: Some of that detail will be subject to further consultation, so that's one of the things we want to come and talk to communities and stakeholders about: what would be the best way for those community boards to operate? But the sort of thing we're thinking about is that the community boards would have a say in what sorts of activities are delivered by the provider in that community to make sure that those activities actually meet the needs of the community and also the local labour market. But they would also be working with providers and employers on the subsidised jobs to identify employment and economic development opportunities and also generally advising providers and working with providers and the community in the general running of the CDP.

Ms Bird: I would expect it will be different in different communities based on interaction with those communities about how they would like to see that work.

Mr Denny: In the last six months or so some of those have started to emerge anyway. It's one of the requirements that we put on some providers to getting an extension this financial year. We've asked them to set up some formal consultation mechanisms and we've also in the last six months put some more specific measures into the way we assess a provider's performance. We'll explicitly be looking at the extent to which they've engaged with the community in the design of those activities. We know that our performance framework does drive provider behaviour, so that's one of the strongest elements we can do. That's already in the framework, and we're about to finish our first six-month assessments under that new framework.

Senator SIEWERT: When you say 'about', when will they be available? Will the assessments be made publicly available?

Mr Denny: No. We haven't publicly released performance results, but this performance period finishes at the end of September.

Senator SIEWERT: I was particularly focused on whether there is going to be any public evaluation of the interaction with the boards that you were just talking about with the framework that you've put in place.

Mr Denny: Obviously the boards haven't formally been introduced yet as part of the reforms. But in terms of the—

Senator SIEWERT: I thought you'd said you were requiring them to be put in place for some of the providers already.

Mr Denny: Yes.

Senator SIEWERT: I took that to mean that part of the evaluation would have included that, where the boards have been put in place.

Mr Denny: Part of our performance assessment as opposed to the evaluation—I guess I'm making a distinction about the evaluation you asked about earlier.

Senator SIEWERT: Yes, okay.

Mr Denny: This is our ongoing performance monitoring process. We'll be looking at those boards or those groups that have been established—and they are more early days, but we would look at that sort of thing as part of our performance assessment.

Senator SIEWERT: But you haven't yet?

Mr Denny: No.

Senator SIEWERT: I took the meaning to be that, given that you've already established some, some of those were being included in the existing performance or the next round of performance.

Mr Denny: Where they already exist, they'll be factored into our assessment to determine how well they're working, that sort of thing, yes.

Senator SIEWERT: I want to ask about the exemption of people that are working from the process, from mutual obligation—some of those requirements. Can you just take me through how that's going to work? If you do manage to get a full-time job through the subsidised process, are you then counted as employed and you come off the system?

Ms Bird: For the subsidised jobs?

Senator SIEWERT: Yes.

Ms Bird: To be eligible for a subsidised job, you need to be a CDP participant. If you commence a subsidised job, you may well be in a situation where you don't continue to receive income support. In those circumstances, they will potentially come off the case load, but they'll retain a connection with the CDP provider, if that makes sense, so they won't have a formal reporting requirement, but in the first month in particular the CDP provider would have an ongoing role with support to help the person settle into the job and provide that ongoing support. Should they, for instance, leave that job for some reason, they'll maintain a connection with the CDP program so that they can immediately reconnect with it, rather than—

Senator McCARTHY: Are they still considered CDP though, statistically, in terms of your data collection?

Ms Bird: They'll be considered as part of the broad program. We'll be able to keep track of them. There'll be CDP—

Senator McCARTHY: But you haven't answered my question. Will they still be identified as CDP participants on your books?

Ms Bird: I'd have to have a look at the statistical reporting data.

Senator McCARTHY: Just take it on notice.

Ms Bird: I think we are looking at them in jobs creation as opposed to CDP.

Senator SIEWERT: So I've got a job through the subsidised process. I'm working full time. I'm not receiving income support. Why am I not then just a member of the community?

Mr Denny: You are; you're free from having any mutual obligation requirements, in the same way as if you got a job that paid enough to take you off income support, in an unsubsidised position or a subsidised position. That's the best-case scenario. If someone achieves that, that's fantastic. You don't have to—

Ms Bird: It's more of a safety net, I think. In a circumstance where they don't continue in the subsidised job for whatever reason, they're able to reconnect quite quickly with the program.

Senator SIEWERT: Wouldn't I then just reapply for income support?

Ms Bird: No, they would be able to reconnect with the program.

Senator SIEWERT: They'd be able to reconnect straightaway—they don't have to then apply again?

Ms Bird: Yes.

Senator LINES: I'm just looking at this document. Those penalty points—I note that DHS comes in at the first, second and third penalty. With respect to the first five demerit points, is it fair to say that they're not considered decisions under social security law?

Ms Bird: In terms of reviewable decisions, no, they're not decisions under social security law.

Senator LINES: So the first five demerit points are not decisions under social security?

Ms Bird: No. That's right.

Senator LINES: They're considered administrative mechanisms?

Ms Bird: Yes.

Senator LINES: They're at the complete discretion of the CDP worker and administrator?

Ms Bird: They're subject to guidelines which exist, which are issued by the various departments responsible.

Senator LINES: Yes, but my question is: are they at the discretion of the CDP provider?

Ms Bird: A discretion exists within each demerit as to whether it should be applied or not, within the guidelines.

Senator LINES: But there's no appeal mechanism beyond that for the participant?

Ms Bird: There's a complaints process that we require CDP providers, as part of their contractual arrangements, to have. There's a national complaints line that can happen. But, because no financial penalties are applied during that amber zone, there's not a review process there. The review process occurs when financial penalties are applied.

Senator LINES: But once you're in that demerit system it's pretty hard to get out.

Ms Bird: In the demerit system or the—

Senator LINES: Yes, demerits.

Ms Bird: There's a capability interview at the third demerit.

Senator LINES: Yes, I know that.

Ms Bird: And that can result in those three demerits being completely wiped and returning to the green zone.

Senator LINES: But, again, that's all within the discretion of the CDP provider.

Ms Bird: Yes. There's a local Indigenous provider, who'd be working very closely with the participant, looking at their personal circumstances so they have that level of discretion to enable them to look at the individual.

Senator LINES: Given that, under the current system, 46 per cent of decisions have been overturned, how can people have confidence in this model?

Ms Bird: Forty-six per cent of which decisions?

Senator LINES: Decisions made by providers.

Ms Bird: I may be confused about which decisions, but in terms of looking at the different framework—with the current framework, there are no-show no-pay penalties and then there are the serious failures. The serious failures are the ones where there's a high degree of waiver. But the no-show no-pay penalties account for the vast majority of penalties, and they're going to be removed completely from the framework.

Senator LINES: Yes. But, given that 50 per cent of decisions are reviewed or changed, how can we have confidence that these are being applied properly when there's no oversight by DHS?

Ms Bird: I think there is oversight by DHS, and the oversight that happens is the capability assessment process. Perhaps I can defer to my DHS colleagues.

Ms Deninger: I might talk briefly about the capability interview. It is an opportunity for the jobseeker to have that engagement with the Department of Human Services and to look at whether an ESA, an employment services assessment, might be needed or whether job plan changes might be needed. What that is designed to do is effectively review, if you like, the participant's circumstances and the things that have contributed to their inability to go to their appointments or attend activities, and then take into account whether any job plan changes and mutual obligation changes might be needed.

Senator LINES: So at that point the officer can overturn all three demerit points?

Mr Denny: Yes, all five.

Ms Deninger: Yes, I believe so.

Ms Bird: At any point in the amber zone, which is that middle bit, if the provider at the capability interview, or DHS at the capability assessment, determines that the job plan's inappropriate, that the person was unable to comply with their requirements, that their circumstances have changed, which might require an ESA or reassessment of their JSCI, they can have all of their demerits completely wiped. It can be all five of them or all three of them, depending on which part of the process they're in. They can then return to the green zone and have a fresh slate, which is reflective of the situation where we're trying to make sure, through this policy, that there's greater engagement and looking at individual circumstances.

Ms Lewis: Under the current system, we know that in the December quarter there were more than 46,000 financial penalties applied to 11,000 jobseekers and more than 38,000 of those were for people who had a no show, no pay or an appointment nonattendance. That's about \$55 per instance per person. One of the key

differences is that people will not lose the money that they are currently losing immediately it's decided that they didn't attend an activity or didn't show up for an appointment.

Senator LINES: Whilst you basically implied in your opening statement that it's like for like, it's applied to everyone, the compliance obligations for someone on CDP are greater than those for a jobseeker. So you could amass these points more quickly.

Ms Deininger: I might make a general point to build on something that Ms Lewis mentioned earlier. The jobseekers that are in tier 2 are not subject to the targeted compliance framework. Similarly, those jobseekers with a mutual obligation of between zero and 14 hours a week are not subject to the targeted compliance framework. The targeted compliance framework, of course, applies to other jobseekers, but there are those two cohorts—those with zero to 14 hours of mutual obligations and those in the other tier—who aren't subject to the targeted compliance framework. I just wanted to mention that. I know Ms Lewis mentioned it earlier.

Senator LINES: You have, but it's been given in evidence today by most people here that you could actually get to the demerit points more quickly. Will the capability interviews be face to face?

Ms Deininger: As we've indicated at other hearings, we seek to have face-to-face interviews where we can and interviews for ESAs and that kind of thing, but it depends on the circumstances of the jobseeker. We may not be able to do that face to face. It will depend on the—

Senator LINES: What about in remote locations?

Ms Deininger: It will depend on the particular circumstances.

Senator LINES: You can't guarantee that?

Ms Deininger: That's right; I can't guarantee.

Senator LINES: Right. Will you be using interpreters?

Ms Deininger: Again, our interpreter services are available for those jobseekers in our remote areas.

Senator LINES: If it's not a face-to-face interview, if it's over the phone, the interpreter will be there as well?

Ms Deininger: We seek to have interpreters available where they're necessary.

Senator LINES: What does that mean—that sometimes they're not? Who determines whether they're necessary?

Ms Deininger: There's a discussion with the jobseeker in relation to the support they may need, and that could be a participant in CDP who—

Senator LINES: If the jobseeker doesn't speak English, how do you ascertain their need for an interpreter?

Ms Deininger: We can see on the jobseeker's record, for example, their previous interactions with the department. I'm happy to take on notice particular questions—

Senator LINES: Whose decision is it as to whether an interpreter's needed? If I ring up and get my friend to say I need an interpreter, is that accepted?

Mr Denny: This is where our providers can also assist—working with DHS to make sure the provider's aware an interpreter is required. They're required, under our funding agreement, to offer an interpreter.

Senator LINES: If the provider's aware?

Mr Denny: The provider is required, under our funding agreement, to offer interpreter services, and if they don't they're required to report to us.

Senator LINES: Who reports to you?

Mr Denny: The provider. If one's not offered or accepted, they're required to report to us.

Senator LINES: We've heard evidence today that interpreters aren't available.

Ms Deininger: I'm happy to take on notice the decision tree, if you like, and the practical steps we take to make sure that interpreters are available for our customers. It's a potential issue for our Indigenous customers and we also have interpreters—

Senator LINES: I don't think you've answered my question. If I don't speak English or I don't believe my English is good enough to make myself understood and I get my friend, partner or relative to ring up, is it acceptable that this person asks for an interpreter?

Ms Deininger: As I mentioned, I'm happy to take on notice the specific steps we take. I'm not responsible for—

Senator LINES: I'm asking you that question—

Ms Deininger: Excuse me, I'm trying to answer the question but I keep being interpreted. I'm sorry, but I'm trying to answer your question.

Senator LINES: I'd just like you to answer the question I asked, in relation to a friend or relative making the request for an interpreter on my behalf. Is that acceptable? It's just yes or no.

Ms Deininger: I am not responsible for the service delivery operations in the department and I am not personally in a position to indicate a yes or no answer to your question. However, as I indicated earlier, I'm happy to take on notice and provide to the committee the kinds of steps and practical steps we take to assist people who need interpreter services. As I've indicated—

Senator LINES: You have a lot of people in the room, there, behind you. Can they answer the question?

Ms Deininger: No. The staff who are here today are not responsible for this particular aspect of our servicing. As I've indicated, our interpreter services are available for our Indigenous customers but they are also available—

Senator LINES: Right. So you said you don't know and you're going to take it on notice.

ACTING CHAIR: Let the official finish her—

Senator LINES: No, she said she doesn't know. She can't answer the question I've asked.

ACTING CHAIR: Senator Lines, let the official finish her answer.

Senator LINES: I'm not interested in hearing any more. Thank you. She's taking it on notice.

ACTING CHAIR: No, you don't have the discretion to interrupt.

Senator LINES: I think I do.

ACTING CHAIR: Please finish your answer to Senator Lines.

Ms Deininger: Thank you, Chair. We offer an interpreter service for our Indigenous customers but also for customers who have other languages as their first language. This is a very practical thing we do to assist customers. As I said, I'm happy to provide the response on notice.

Senator LINES: And I want a response to the actual question I asked.

Ms Deininger: Yes, Senator.

Senator LINES: So we're clear on that. The example I've given, I want an answer to.

Ms Deininger: Certainly, Senator.

Senator LINES: Senator McCarthy?

Ms Bird: May I clarify? I think—

ACTING CHAIR: Ms Bird did you want to—

Ms Bird: I just want to clarify about the capability interview versus assessment. DHS conduct the assessment after the fifth demerit but the local provider conducts the interview after the third demerit. They'd be drawing on the interpreters locally. They also require that providers enter a lot of information into the system, like vulnerability indicators, which would include commentary too about those sorts of needs.

Senator McCARTHY: Can I go to Ms Hinchcliffe, please?

ACTING CHAIR: Is this a separate topic, Senator McCarthy?

Senator McCARTHY: Yes, it is.

Senator SIEWERT: In terms of the three, you can't then knock off the three—if it's just the provider doing that assessment they don't go back to zero; it's only when they get to five.

Ms Bird: Absolutely. They go to zero by the provider.

Senator SIEWERT: So the provider can knock off the three as well.

Ms Bird: Yes.

Mr Denny: Correct.

ACTING CHAIR: Senator McCarthy?

Senator McCARTHY: Ms Hinchcliffe, I'm just looking at the submission you put in. It's in submission 3, page 1. You make reference to your Indigenous strategy team implementing an engagement strategy aimed at ensuring services are accessible to Indigenous Australians. Is that correct?

Ms Sawyers: Senator, yes, it is. We're in the very early stages of developing an Indigenous engagement strategy in response to some work that we've done recently as part of an accessibility review into the services of the office.

Senator McCARTHY: You've conducted a number of outreach activities to remote communities, have you?

Ms Sawyers: We have, over the year. The last time we did outreach was about 10 months ago.

Senator McCARTHY: And are you aware of concerns about the CDP program in your outreach activities?

Ms Sawyers: We have had concerns raised with us about CDP programs as part of our outreach activities, yes.

Senator McCARTHY: What were those concerns?

Ms Sawyers: The concerns ranged through a number of issues, including around compliance.

Senator McCARTHY: What about compliance?

Ms Sawyers: Challenges with the high levels of penalties that were applied to people, people's difficulty getting medical evidence, if they were requiring some sort of assessment to look at reduced capacity. I'm just trying to find my notes. I might have to take the rest of that on notice.

Ms Hinchcliffe: We also received a theme of complaints around participation solution teams wait times—the waiting times on the phone to engage through to that service.

Senator McCARTHY: What are the complaints around the participation solution teams?

Ms Hinchcliffe: To do with the wait times on the phone for that service.

Ms Sawyers: And the fact that it was taking people quite a long time. Some of the feedback we had was that it could lead to disengagement. We also had feedback from providers that participants could miss activities because they were waiting on the PST lines.

Senator McCARTHY: And what did you do with that information that you received?

Ms Sawyers: We looked at doing an internal investigation into the issues that were raised with us. We subsequently—

Senator McCARTHY: When did you do an internal investigation?

Ms Sawyers: That investigation we would have done in the second half of last year. And then in January this year we wrote to both the Department of Prime Minister and Cabinet and the Department of Human Services with some suggestions about things that might be improved.

Senator McCARTHY: So your contribution in those letters in January has contributed to where we are today in discussing the changes to CDP—would you say?

Ms Sawyers: I don't know that I could draw a direct link between the contributions we made and where we are in reforms today. But I can certainly advise that the responses we had back from both agencies were that they took on board many of the suggestions we made in relation to the findings.

Senator McCARTHY: So, when you look at the legislation before us today in your own expert opinion, have your views been dealt with in the piece of legislation that we're examining?

Ms Sawyers: Our view is that it's early days for the TCF nationally, and it's not clear to us that it's been tested for its applicability in remote areas. That's probably the extent to which we can comment at the moment until we see how it is rolled out in practice. We do have some concerns about how some aspects of it will apply in remote areas, given the experience we've had with the current regime.

Senator McCARTHY: And what are those concerns?

Ms Sawyers: They're the sorts of things that we've raised—

Ms Hinchcliffe: For example, the assessment process for assessing capacity—this is in relation to the current process and would apply to the process under TCF. We've raised some barriers to obtaining employment service assessments and medical evidence to be able to then have those assessments. We're pleased to see the changes that come in the government's proposal to enable local health workers—that is, community nurses—to be able to provide some of that evidence. We continue to hold concerns about jobseekers having the assistance they need to be able to ask the right questions or engage with community health workers to be able to obtain the information that they need to obtain the employment services assessment.

Senator McCARTHY: Thank you, Ms Hinchcliffe. Ms Lewis, is CDP an Indigenous program?

Ms Lewis: It's a program for all Australians in remote Australia.

Senator McCARTHY: Is it funded from the Indigenous Advancement Strategy?

Ms Lewis: Yes.

Senator McCARTHY: So, why does the funding for providers come from IAS when the program is not only for Indigenous people?

Ms Lewis: That was a decision of government when the Indigenous Advancement Strategy was established. Eighty per cent of CDP participants are Indigenous Australians.

Senator McCARTHY: So the other 20 per cent receive funding from IAS?

Ms Lewis: Yes, in effect. They receive money through the social security system but out of the Indigenous Advancement Strategy money.

Senator McCARTHY: Are you able to break up just how much of that goes to Indigenous organisations or participants?

Ms Bird: The money that's funded under the IAS is predominantly for funding providers—

Mr Denny: Providers, not for income support.

Ms Bird: Whereas the income support comes from—

Senator McCARTHY: How many Indigenous providers do you have?

Mr Denny: We have 30 providers, including two local councils that are majority Indigenous representation. It's 37 per cent providers in total.

Senator McCARTHY: So 37 providers in total, and 30 are Indigenous?

Mr Denny: Yes. Six of those have formed some sort of partnership or joint venture arrangement with a local Aboriginal organisation, or are in the process of doing that.

Senator McCARTHY: Would that be like a fifty-fifty Indigenous and non-Indigenous partnership?

Mr Denny: Correct. There's one provider who has been granted an exemption.

Senator McCARTHY: Who would that be?

Mr Denny: That's Indian Ocean Group Training in Christmas Island and Cocos Keeling Island. There were new eligibility requirements that were placed on the selection of providers when we extended the program in the last 12 months.

Senator McCARTHY: So Indian Ocean receive 100 per cent IAS funding for CDP? Is that what you're saying?

Mr Denny: All those providers in the delivery of CDP are funded under the Indigenous Advancement Strategy. Indian Ocean may receive funding from other sources.

Senator McCARTHY: But in terms of its CDP program, that would be IAS funding?

Mr Denny: Correct.

Ms Lewis: I'm sorry for confusing you, Senator. To be clear, the Indigenous Advancement Strategy money only funds CDP providers, not the participants themselves. Participants are funded through the social security system. Just to be clear on that.

Senator McCARTHY: So how much IAS money in total goes to all the providers?

Ms Lewis: I don't have the total budget just for providers.

Mr Denny: We don't have those budget figures on us now.

Ms Lewis: But we can get those quite quickly.

Mr Denny: We have provided them before, but we can certainly provide them again.

Senator McCARTHY: I think they might have changed slightly since the last time you gave them to us. So 30 providers are Indigenous, 37 providers in total, and six who have a partnership of fifty-fifty.

Mr Denny: One of those six is in progress. We're hoping to finalise that soon.

Senator McCARTHY: Can you name those six? Or at least five? If you haven't finalised the sixth one—I suspect that's still in process—could you name the five?

Mr Denny: I don't have those details on me right here, Senator.

Senator McCARTHY: Would you like to take that question on notice?

Mr Denny: Yes, I can do that.

Senator McCARTHY: So is the Indigenous Advancement Strategy program for Indigenous programs only? Or does that mean it's now open to be utilised in any way?

Mr Denny: It's primarily for Indigenous Australians.

Senator McCARTHY: So it's for Indigenous programs, but you said that CDP is not Indigenous. Why would those providers who are not Indigenous be receiving it?

Mr Denny: They're still primarily delivering services to Aboriginal and Torres Strait Islander—

Senator McCARTHY: Is that a prerequisite for them receiving the IAS funding?

Mr Denny: The prerequisite is they're delivering a CDP service, and primarily Aboriginal and Torres Strait Islander people are in the program.

Senator McCARTHY: But you said it's not an Indigenous program.

Mr Denny: It's not defined as an Indigenous specific program because not all participants in the program are Indigenous, but the majority are.

Senator McCARTHY: I just wondered why it wouldn't come under jobs as well in other areas. But I might come back to that. When the government introduced the targeted compliance framework in the Better Targeting of Assistance to Support Jobseekers measure in the 2017-18 budget, the estimated savings from jobactive recipients was \$632 million over five years. What savings are expected to be generated by expanding the framework to CDP recipients, given the existing breach rates for CDP recipients are higher than for jobactive?

That was as a result of our inquiry in December 2017.

Ms Bird: I don't think we've got the specific figures on us, but the broad distribution of savings was, I think—

Senator McCARTHY: If you can't answer it, just take it on notice.

Ms Lewis: We just have to re-check the—

Ms Bird: Yes, but I think the type of the compliance framework reduces—

Senator McCARTHY: I'm not trying to trip you up. If you don't know, just get the information—

Ms Bird: Yes, we'll take it on notice.

Senator McCARTHY: and provide it to us. If there are savings, what is the funding profile, and is it ongoing? And how are the savings being redirected back to the budget or into the program?

Ms Lewis: Overall, my understanding is that it's budget neutral—the overall budget—but we can look at the breakdown. It's in the budget papers. I just can't remember off the top of my head.

Ms Bird: There's some reduced interaction with DHS, for example, which reduces, and that kind of—

Senator McCARTHY: The proposed bill will remove penalties that CDP participants receive for one-off breaches of mutual obligation requirements, and financial penalties will focus on those who are 'persistently and wilfully' non-compliant. Can you explain how 'persistently and wilfully' has been defined, and who will be determining 'wilfully'? Is there a threshold, and how will the determinations be monitored?

Ms Bird: I think that would be described as the policy intention of the framework. The way that that's given effect through the framework is to focus on those early stages and looking at making sure that, when people aren't complying, you consider the reasons why they're not complying. If those reasons are determined to be reasons that the person could actually have complied in that situation, then the demerit is applied. It's that kind of cumulative effect: each time you assess them, you determine with them that they can actually comply with the requirements, that their circumstances allow them to, that the job plan is appropriate and that they don't have other barriers that might preclude them from complying. That, cumulatively through the framework, gives effect to that 'wilfully and persistently'.

Senator McCARTHY: I suppose what I'm trying to understand is this. This is explained in the legislation—sorry, it's not explained. That's the problem. It's not explained; it's described. I'm just wondering how you define 'wilful' as opposed to 'non-wilful' in your determination here.

Ms Bird: It's a matter of looking at the individual circumstances each time. If, say, for one example, an individual didn't attend an activity, and the reason that they didn't attend an activity was not because they were incapable of it or something unexpected came up which meant that they couldn't attend but a choice where they described to the provider, 'I didn't want to attend the activity,' then that's an obvious choice. The TCF is looking at trying to encourage—

Senator McCARTHY: So what's 'non-wilful'?

Ms Bird: 'Non-wilful' would be looking at those sorts of circumstances where maybe there's a mistake in the job plan which meant that they were meant to be attending an activity at an hour when they were also meant to be having caring responsibilities, for example. They clearly wouldn't have been able to attend.

Senator McCARTHY: But isn't that wilful? Isn't it wilful? If someone's unable to attend because their car broke down, is that wilful or non-wilful?

Ms Bird: It's circumstances which mean they weren't able to attend. I think the point would be that they would have attended but for that circumstance happening.

Senator McCARTHY: All right. I'll give an example. We had evidence just this afternoon of a participant saying that they didn't turn up to their CDP program, when they realised that the offer of being a mentor meant that they could receive more money into their account and they didn't receive that. They felt like they were not being treated well and therefore didn't turn up. How would you describe that?

Ms Bird: I would say that that's something that has to be considered on the case-by-case circumstances. I'm not aware of that particular individual's case and what the circumstances surrounding it were. That would be something they'd have to work through with the provider.

ACTING CHAIR: You might have heard towards the end of the appearance of Jobs Australia and the National Employment Services Association the discussion in regard to discretion around the approved reasons. Can you look at the *Hansard* and provide on notice a response to that discussion? I think there's a misunderstanding of how the process would work. I'm also curious to understand how the department will respond to the ideas around greater discretion, local planning et cetera that were put to us by the National Employment Services Association. Is that clear?

Ms Bird: We can look at the *Hansard* and reflect.

ACTING CHAIR: In the minister's second reading speech he said that the new TCF has additional protections for vulnerable jobseekers. Can you explain what they are?

Ms Bird: For example, under the current framework an individual can receive three financial penalties before a comprehensive compliance assessment is undertaken. Under the new framework an individual won't receive any financial penalties before a similar opportunity for a capability interview with the provider. There's also an opportunity for a capability assessment, and there are no financial penalties in that early stage. They're some of the additional protections we see as existing within the TCF to encourage that ongoing continuous engagement with the individual to understand their personal needs.

ACTING CHAIR: That sounds like an additional protection. Perhaps you could detail those on notice.

Ms Bird: We can do that.

ACTING CHAIR: During the discussion this afternoon I have gone through various documents on the DSS website et cetera and I can't find the list of approved reasons. You might have them in front you; is that right?

Ms Bird: This is the Department of Jobs and Small Business targeted compliance framework reference guide they have out at the moment, which is relevant to the current legislation.

ACTING CHAIR: I thought I looked at that and couldn't find the list of approved reasons.

Ms Bird: I can—

ACTING CHAIR: That's good. That's the answer I'm looking for—quite long. Perhaps you can provide it to us on notice. That's great, but I got frustrated, so if I couldn't find it, it might be difficult for others. There being no other questions, I draw your attention to the fact that the committee is expected to table its report on the 12 October, so we require answers to questions taken on notice by 5 October. We're going to accept two documents that have been presented to the committee, unless there are any objections. Thank you very much to all those who have given evidence today for making the time to appear before the committee.

Committee adjourned at 14:18