Financial penalties under the Remote Jobs and Communities Program

A report prepared for Jobs Australia by
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In July 2013 a new Commonwealth funded labour market program was implemented across remote Australia - the Remote Jobs and Communities Program (‘RJCP’). According to the then Labor Government, the new program was designed to accommodate the specific circumstances of remote communities, particularly for Indigenous people who represent around 85% of its client base. Over the two years from the beginning of the program until its ‘reform’ in July 2015, the rate of penalties applied to RJCP job seekers grew substantially, both in raw numbers and as a percentage of all penalties applied to all job seekers. In this period over 47,000 financial penalties were applied to a caseload of around 37,000 people. Over 6700 of these penalties fell into the category of ‘serious failures’, attracting a penalty of 8 weeks without income support. This paper sets out the available public data on these trends and suggests some likely causes. Towards its conclusion, it points to the likely additional impact of the most recent set of reforms to the program which took effect on 1 July 2015, which were marked by the renaming of the program to the ‘Community Development Programme’ or ‘CDP’.

Rate of financial penalties applied to RJCP participants

At 26 June 2015 there were 36,803 people in the Remote Jobs and Communities Program, of whom around 83% identified as Indigenous. They represented around 4%-5% of the total national caseload in employment programs, and around 26% of the Indigenous-identified caseload across employment programs.

After the end of each quarter the Department of Employment publishes information about financial penalties applied to income support recipients under social security legislation (DoE, various dates). This includes information about the number of penalties applied to people (officially and hereafter called ‘job seekers’) in the RJCP. Examination of this data over the two years from the start of the RJCP on 1 July 2013 suggests that the pattern and rate of financial penalties in RJCP were significantly different from under its major non-remote equivalent – Job Services Australia (‘JSA’).

From 1 July 2013 to 30 June 2015, JSA accounted for most job seeker financial penalties applied under social security legislation as shown in Figure 1. JSA was, until its replacement by ‘jobactive’ in 1 July 2015, the main employment program applying in non-remote areas, with a caseload of around

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1 Senate Public Affairs and Finance Legislation Committee, Supplementary Budget Estimates, 19-23 October 2015, Answers to Questions on Notice, Question Reference no 143.
2 Estimates based on reported RJCP caseload at 26 June 2015 (Senate, ref 143), reported Indigenous JSA caseload at March 2015 in Hartsuyker (2015), reported DES caseload at http://lmip.gov.au/default.aspx?LMIP/DisabilityEmploymentServicesData. The most recent data suggest that CDP clients represent around 3.8% of the national employment program caseload, but the authors note a recent Departmental estimate of 5% of national caseload.
4 At the point of writing this was the full extent of published compliance reports. 30 June 2015 also marked the end of JSA and the end of the first iteration of RJCP – in some senses a ‘natural’ end point for this analysis.
760,000\(^5\). Over the two years shown, financial penalties in JSA reached a peak in the quarter ending Sept 2014 but then halved over the rest of the 2014/15 financial year. By contrast, in RJCP there was an initial drop in the number of penalties applied after September 2014, but they rose again in 2015. In the final quarter to the end of June 2015, twenty two per cent (22%) of all financial penalties were applied to RJCP participants, over four times their representation on the overall job seeker caseload (Figure 1).

*Figure 1 All job seeker penalties by employment program*

![All financial penalties by employment program](image)

The principal explanation for the decline in overall penalties in JSA after September 2014 appears to have been a change in the process used to re-engage job seekers after they had failed to attend an appointment with their employment services provider. From September 2014 when job seekers missed their regular appointment with their employment services provider, instead of contacting the Department of Human Services (‘DHS’)\(^6\) to arrange a ‘reconnection appointment’ (and to reinstate income support), they contacted the provider directly. This drove a large decline in ‘reconnection’ penalties (ie those incurred for non-attendance at a reconnection appointment) as shown in Figure 2. In JSA, these penalties declined by 72% from the first to the fourth quarter of the 2014/2015 financial year, while in RJCP they dropped by 66% over the same period.

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\(^5\) Answer to Question on Notice Senate Standing Committee on Education and Employment Supplementary Budget Estimates EMSQ15-000373 – jobactive caseload was 757,582 at October 2015.

\(^6\) Widely known as ‘Centrelink’. Centrelink became part of the Department of Human Services in 2011.
The impact of this change on total financial penalties applied in RJCP was much less than that in JSA for two reasons: the drop in reconnection penalties was lower (66% drop in RJCP compared with 72% in JSA); and reconnection penalties represented a smaller proportion of total financial penalties applied under that program (Table 1).

Table 1 Composition of penalties applied July 2013 to June 2015, JSA and RJCP

<table>
<thead>
<tr>
<th></th>
<th>JSA</th>
<th>RJCP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reconnexion penalties</td>
<td>43.4%</td>
<td>25.9%</td>
</tr>
<tr>
<td>NSNP (activity related) penalties</td>
<td>42.4%</td>
<td>59.7%</td>
</tr>
<tr>
<td>Serious failures (all)</td>
<td>12.6%</td>
<td>14.2%</td>
</tr>
<tr>
<td>Other financial penalties</td>
<td>1.6%</td>
<td>0.2%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

For RJCP job seekers, the decline in reconnexion penalties over the year to June 2015 was more than offset by a substantial rise in the largest category of RJCP penalty - No Show No Pay (activity related) penalties (Figure 3)⁷. These penalties were applied where a job seeker did not attend an activity – for example a Work for the Dole project, training session or similar - that was included in their individual plan (or Employment Pathway Plan (EPP))⁸; where they did not provide a reasonable excuse for non-attendance; where the provider advised DHS of the ‘failure’; and DHS applied the penalty. No Show No Pay failures attracted a penalty of one tenth of an individual’s fortnightly income support payment for each day of non-attendance.

Figure 3 shows numbers of RJCP and JSA clients who received a No Show No Pay (activity related) penalty over the two years to 30 June 2015. There was a noticeable drop in these penalties in JSA in the final quarter (to end June 2015) which is likely to have been the result of reduced compliance.

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⁷ No Show No Pay penalties may also be applied in other circumstances – for example for failing to attend a job interview – however these other categories account for less than 2% of penalties overall, and less than 1% in RJCP, so have been disregarded here for greater simplicity.

⁸ ‘Employment Pathway Plan’ is the term used in Social Security legislation, however these agreements were known as ‘Individual Participation Plans’ in RJCP, and are now known as ‘Job Plans’.
activity as job seekers and providers moved across to the new ‘jobactive’ program\textsuperscript{9}. However even if this June 2015 quarter is excluded from analysis, over the full year to March 2015, No Show No Pay (activity related) penalties increased fivefold in RJCP while remaining steady in JSA. Over the full year to end June 2015, nearly 23,000 penalties were applied to RJCP job seekers for not attending their activities. This category of penalty accounted for 60\% of all penalties applied under RJCP over the full two years (Table 1), rising to 76\% in the June 2015 quarter.

\textit{Figure 3 No Show No Show penalties - fail to attend activities}

The third major category of financial penalty applied to RJCP participants was that arising from ‘serious failures’. There are two types of ‘serious failures’: those that are work related, including refusing a suitable job or misconduct leading to loss of employment; and those that relate to ‘persistent non-compliance’ with program requirements. DHS consideration of application of a serious failure penalty for ‘persistent non-compliance’ is automatically triggered when a job seeker has incurred three other financial penalties (for example for non-attendance at reconnection appointments or activities) within a six month period. If these lower level penalties are applied to a group at a higher rate, this eventually flows into the rate of ‘persistent non-compliance’ penalties for that group. Serious failures incur a penalty of 8 weeks without income support\textsuperscript{10}.

\textsuperscript{9} The letting of the new jobactive contracts – which took effect from 1 July 2015 – meant that providers changed in many locations and that both providers and DHS were engaged in the process of moving job seekers across to the new program.

\textsuperscript{10} Eight week penalties may be waived in cases of financial hardship, although this is relatively rare – over the year to 30 June 2015, only 238 waivers were granted (1\%). The client may also ‘work off’ their penalty by working an additional 25 hours per week for 8 weeks. 77\% of serious penalties were ‘worked off’ over the last year, although figures for RJCP clients – who already had a higher weekly work requirement – were not available. It is unclear how the new 25 hour per week requirement will impact on the ability to work off 8 week penalties.
Figure 4 shows that the rate of work related serious penalties applied across both RJCP and JSA job seekers remained fairly steady over the two years under consideration. But there was an increase in penalties for ‘persistent non-compliance’ applied to RJCP job seekers, coinciding with a marked decrease in these penalties applied in JSA. In the June 2015 quarter, 36% of all penalties for ‘persistent non-compliance’ with program requirements were applied to RJCP job seekers – more than seven times their representation on the overall caseload.

Figure 4 Serious penalties applied in RJCP and JSA compared

Figure 5 shows the percentage of each of these major categories of penalties that were applied to RJCP clients. It shows that they have become substantially over represented across all major categories of penalties except those that related to refusal to work, where they were less likely to incur a penalty. Most striking is the rate at which RJCP job seekers have become penalised for persistent non-compliance with program rules.
Figure 5 Proportion of financial penalties applied to job seekers in RJCP (various categories)

What is going on?

Over this two year period the pattern and rate of penalties applied to job seekers in RJCP has differed substantially from that applied to those in JSA despite the fact that the same social security rules – the ‘job seeker compliance framework’ - applied to both. Three likely contributing factors to this variation are identified here: (1) more onerous program requirements in RJCP (2) ineffectiveness of protections for remote job seekers and (3) local responses to program obligations.

1. **More onerous program requirements**

Reference was made earlier to job seeker plans, or ‘EPP’s that set out what each individual must do in order to receive income support payments\(^{11}\). The power to make these agreements has been delegated to contracted employment services providers\(^{12}\). However the content of these plans – in particular, the level of program participation that is required of job seekers - is largely prescribed by program rules which are included in employment services contracts and Government issued guidelines.

The program rules for RJCP providers from July 2013 specified that agreements with job seekers had to include monthly appointments and could include job search where labour market opportunities were available. In addition, the rules stated that:

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11 Those with participation requirements are, currently, people on Newstart, Youth Allowance (Other) (ie not students), Parenting Payment recipients with a youngest child of 6 or older, DSP under 35 with compulsory requirements, and Special Benefit recipients subject to an Activity Test.

Under RJCP, job seekers must participate in activities on an ongoing basis (eg each fortnight). As a guide, the level of fortnightly participation that is typically expected of job seekers is as follows:

- full time activity tested job seekers: activities of around 40 hours per fortnight (and, as appropriate, job search)
- principal carer parents: activities of around 20 hours per fortnight (and, as appropriate, job search)
- job seekers with a partial capacity of at least 15 hours per week to work or temporary reduced work capacity of at least 15 hours per week: activities of around 20 hours per fortnight or to their capacity (and as appropriate, job search).

(DEEWR, 2013: p4) [emphasis in original]...

This was a more onerous activity requirement than that placed on JSA clients in similar circumstances (refer Table 2)\(^3\). In particular, while most RJCP job seekers were required to do some form of ‘activity’ for around 20 hours per week on a continuous basis from the time they started in the program, most JSA job seekers were only required to participate in regular weekly activities after 12 months in the program, and then for up to 15 hours per week for six months of the year\(^4\).

\(^3\) The exception was Early School Leavers 22 years old or less
\(^4\) In fact it appears that relatively few JSA job seekers were referred to group activities which had this mandatory hours requirement. Most were referred to training, voluntary work, part time work, or some other form of activity (OECD 2012, p.106). The scope to do this was there in RJCP, but the Departmental emphasis, particularly following the September 2013 change of Government, was on structured activities.
After 2 years in program can be required to do Work Experience activities for 11 months of the year where provider considers this beneficial. Year round activity requirements start from day one.

The fact that RJCP job seekers were expected to attend activities more often, and from an earlier stage, than their counterparts in JSA could have been expected to flow into a higher rate of application of penalties for non-attendance at activities, simply as a result of there being more opportunities in each week for them to ‘fail’. Figure 5 shows that, by the end of the first year of RJCP (June 2014), the proportion of ‘activity related’ penalties being applied to job seekers in RJCP was significantly above their representation on the caseload at 9% (compared with 4-5% of caseload). But the rate of these penalties did not stabilise at this level, instead it continued to climb over the following year, with the greatest acceleration occurring in the first half of 2015. Over this period, while there was not major change to the rules in RJCP, the election of a Coalition Government in September 2013 brought with it an increased emphasis on ‘structured activities’ as the primary form of RJCP activity, reflected in increased contract manager monitoring and attention. ‘Structured activities’ (or ‘Work for the Dole’) were distinguished from other activity options by the requirement for direct supervision of job seekers and the need to record and report daily attendance via timesheets, making it easier to track and report non-compliance. The sharpest increase in No Show No Pay penalties in RJCP followed the Minister for Indigenous Affairs’ announcement in December 2014 that, from 1 July 2015, activity requirements would become even more stringent, moving to 25 hours per week Work for the Dole, spread over 5 days per week, throughout the year and that provider fees would be linked to daily attendance in these activities (Scullion 2014, PM&C 2015a). In the six months leading up to the implementation of the new rules, 14,835 No Show Now Pay (activity related) penalties were applied in RJCP, compared to 8,149 that were applied in the previous six months.

While the more onerous activity requirements from day one of RJCP laid a foundation for higher penalties, the policy signals of the Minister and his Departmental officials over 2014 appear to have been extremely important in driving provider behaviour. The combination of more onerous requirements and Government focus have driven a substantially higher rate of No Show No Pay penalties, and, in turn, penalties for persistent non-compliance than that applied to other job seekers, despite the fact that the social security rules that applied were the same.

2 Protections for remote job seekers

As income support payments have become more ‘conditional’ upon meeting program obligations, Governments have also (sometimes under pressure) put in place a series of protections for unemployed people who face losing their income support. While negotiation, monitoring and reporting on individual job seeker obligations is principally undertaken by contracted employment service providers, the Department of Human Services (DHS) makes final decisions as to whether penalties should be applied. It is responsible for administering processes that are meant to ensure that obligations are fair, reasonable, and that the withdrawal of income support does not cause undue harm to those affected.

When providers report apparent compliance failures to DHS (a ‘participation report’), DHS undertakes a series of checks before applying a penalty – for example it must verify that the job seeker was notified of, and understood their obligations and that the obligations were reasonable. In the year to June 2015, RJCP providers submitted 42,534 participation reports, of which 27% were

<table>
<thead>
<tr>
<th>Activity Requirement</th>
<th>Penalties Applied</th>
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<tbody>
<tr>
<td>RJCP</td>
<td>9%</td>
</tr>
<tr>
<td>JSA</td>
<td>4-5%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Time Frame</th>
<th>Penalties Applied</th>
</tr>
</thead>
<tbody>
<tr>
<td>First year of RJCP</td>
<td>9%</td>
</tr>
<tr>
<td>Following year</td>
<td>14,835</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Activity Options</th>
<th>Requirements</th>
<th>Penalties Applied</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structured activities</td>
<td>25 hours per week</td>
<td>14,835</td>
</tr>
<tr>
<td>JSA</td>
<td>4-5%</td>
<td>8,149</td>
</tr>
</tbody>
</table>
rejected by DHS\textsuperscript{15}. Remote providers have often expressed frustration at this process, perceiving it to be overly bureaucratic, and arguing that the people considering what ‘excuses’ may be reasonable have little familiarity with the location, let alone the individual job seekers (see, for example Disney et al (2010) at p72). Despite this, over the 2014/2015 financial year DHS was less likely to reject participation reports submitted by RJCP providers than other providers (27\% rejection rate in RJCP, compared with 35\% across employment services). Around 30\% of these rejections were for administrative error (for example the activity was not properly reflected in the plan). Others were more substantive – for example DHS acceptance that there was a reasonable excuse (eg a medical condition (11.5\%), bereavement (6.1\%), caring responsibilities (4.1\%); or because the activity requirement itself was considered unreasonable (10\%)\textsuperscript{16}. 

Protections for more vulnerable people rely on a series of assessments that are made by DHS of the work capacity and personal circumstances of individuals. When people apply for income support DHS administers a questionnaire designed to identify obstacles that they might face to employment - the ‘Job Seeker Classification Instrument’ (‘JSCI’)). This in turn, may trigger referral for a more detailed assessment of work capacity – an Employment Services Assessment (ESAt) - designed to ensure that the employment and program expectations of individuals are reasonable given their health issues, disabilities and circumstances\textsuperscript{17}. DHS may also attach a ‘Vulnerability Indicator’ to the job seeker’s record, alerting DHS and provider staff that the job seeker’s circumstances may impact on their ability to meet program obligations. Following this initial assessment, providers can also identify any other, or new, circumstances that might impact on participation, again triggering referral for an ESAt. 

These systems are designed to ensure that the overall requirements of individuals are reasonable, particularly in cases where people have a disability (for example a cognitive impairment), mental or other health problems or are experiencing personal crises – like homelessness or domestic violence.

ESAts are designed to be conducted face to face by a health or allied health professional\textsuperscript{18}. In the period from 1 July 2015 to 31 October 2015, 79\% of all ESAts were conducted face to face (including via videoconference), but only 35\% of ESAts involving RJCP (now named CDP) clients were face to face or via videoconference\textsuperscript{19}. Seventeen per cent (17\%) of ESAts in relation to RJCP clients over this period were conducted solely by reviewing evidence held on file. Interpreters were used on only 9 occasions over this period - 1.7\% of ESAts conducted with RJCP clients - despite the high proportion of clients for whom English is not their first language\textsuperscript{20}. The efficacy of assessments may also be affected by lack of access to professional and community services in remote areas (Disney 2010 p75). DHS assessors rely heavily on evidence provided by health and other treating professionals, particularly where assessments are not face to face. Problems in accessing these services means 

\textsuperscript{15} Senate Public Affairs and Finance Legislation Committee, Supplementary Budget Estimates, 19-23 October 2015, Answers to Questions on Notice, Question Reference no.152
\textsuperscript{16} Senate Public Affairs and Finance Legislation Committee, Supplementary Budget Estimates, 19-23 October 2015, Answers to Questions on Notice, Question Reference no.152. Unreasonable here includes unreasonable commute (4.3\%), unreasonable requirement (4\%) and inappropriate referral (1.6\%).
\textsuperscript{17} Refer section 1.1.E.104 Guide to Social Security Law. In JSA or jobactive this may include referring to an assistance ‘stream’ with a stronger focus on non vocational assistance or to Disability Employment Services. A Job Capacity Assessment may also be conducted to consider the impact of health or disabilities on eligibility for the Disability Support Pension (s 1.1.J.10 Guide to Social Security Law).
\textsuperscript{19} Senate Public Affairs and Finance Legislation Committee, Supplementary Budget Estimates, 19-23 October 2015, Answers to Questions on Notice, Question Reference no.146.
\textsuperscript{20} Senate Public Affairs and Finance Legislation Committee, Supplementary Budget Estimates, 19-23 October 2015, Answers to Questions on Notice, Question Reference no.147.
that participation barriers faced by remote Indigenous people may not be properly identified or documented. The Department of Employment itself identified these issues in a 2012 report in which it attributed substantial under-representation of remote Indigenous people in Stream 4 of JSA (the stream reserved for most disadvantaged clients) to failure to interview face to face and to lack of non-vocational services in remote areas (DEEWR 2012, pp.31–33).

There is a further safeguard in the job seeker compliance framework that operates before application of an (8 week) serious penalty for ‘persistent non-compliance’. Before this penalty is applied, a specialist DHS officer (generally a social worker) must conduct a Comprehensive Compliance Assessment (CCA). The CCA is designed to examine the reasons for non-compliance including any underlying personal or health issues affecting the individual that may have contributed to their non-compliance. Where DHS finds that a job seeker has persistently failed to comply, and has done so ‘intentionally, recklessly or negligently’ then an 8 week penalty can be applied. Alternatively, DHS may: refer the job seeker for an ESAt; change the job seeker’s service stream (JSA only); make another decision (like altering the EPP, or referring to alternative assistance services) (called an ‘other outcome’); or make a finding that the conditions for finding persistent non-compliance are not there (‘no outcome’)

Table 3 shows that where RJCP clients were referred for CCAs during the 2014/2015 financial year, DHS was significantly more likely to make a finding that persistent non-compliance had occurred than in other cases (65.5% vs 44.7%). DHS was much less likely to refer RJCP job seekers to other forms of assistance or support (‘other outcome’) (25% vs 38.5%).

Table 3 Outcome of Comprehensive Compliance Assessments

<table>
<thead>
<tr>
<th>Outcome of Comprehensive Compliance Assessments FY2014/2015</th>
<th>RJCP</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>n</td>
<td>%</td>
</tr>
<tr>
<td>Referral for ESAt</td>
<td>nd*</td>
<td>nd*</td>
</tr>
<tr>
<td>Stream changed**</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Other outcome</td>
<td>1587</td>
<td>25.5%</td>
</tr>
<tr>
<td>No outcome</td>
<td>515</td>
<td>8.3%</td>
</tr>
<tr>
<td>Persistent non compliance</td>
<td>4073</td>
<td>65.5%</td>
</tr>
<tr>
<td>Total</td>
<td>6,215</td>
<td>100%</td>
</tr>
</tbody>
</table>

*No data is available as the number in each quarter was less than 20
**RJCP does not have service streams
(Source: DoE, Quarterly job seeker compliance data 2014, 2015)

This is a surprising finding, given the high rates of prevalence of the sorts of personal factors that could lead to non-compliance in remote communities, issues like mental illness, substance abuse and personal violence. As with ESAts, the means of assessment may be important. Table 4 shows that CCAs were almost never conducted face to face for RJCP clients (1.1%). Again, we suggest that failure to properly identify and document underlying issues is a significant contributor to worse outcomes for RJCP job seekers through CCAs.

Table 4 Delivery method of CCAs

<table>
<thead>
<tr>
<th>CCA Delivery Method for FY 2014/2015</th>
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<table>
<thead>
<tr>
<th>CCA Delivery Method</th>
<th>Other programs</th>
<th>RJCP</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>%</td>
<td>Total</td>
</tr>
<tr>
<td>Face to face interview</td>
<td>3,902</td>
<td>12.8%</td>
<td>65</td>
</tr>
<tr>
<td>Phone interview</td>
<td>26,530</td>
<td>87.2%</td>
<td>6,107</td>
</tr>
<tr>
<td>Total</td>
<td>30,432</td>
<td>100.0%</td>
<td>6,172</td>
</tr>
</tbody>
</table>

In 2010, one year after the introduction of most of the elements of the current job seeker compliance framework, an independent review was conducted of its efficacy (Disney et al, 2010). At that point the review panel expressed concern over the operation of protections in the framework in remote areas:

The new compliance system faces great difficulties in remote areas, especially in relation to Indigenous people. While some of its innovative safeguards are preventing hardship which might otherwise have occurred, there is a clear risk that Participation Reports and participation failures will continue to accumulate for reasons which have more to do with the dearth of opportunities and services in these areas than with recalcitrance on the part of job seekers.

And further that:

It is clear that shortages of non-vocational services are greatly weakening the efficacy and fairness of the compliance system in many regional areas.

The protections that are in place to ensure that unemployed people are not subject to harsh or unreasonable penalties rely on the effective operation of communications, assessment and treatment services in the places that they live. The lack of these services in many remote areas appears likely to be contributing to higher penalty rates through imposition of unreasonable requirements on people who have significant non-vocational barriers, and the failure of measures designed to prevent harsh penalties applying to the most vulnerable.

3. **Individual responses to program requirements**

As discussed in the previous section, non-compliance with program requirements may be because of the difficulties faced by individuals in meeting them, but there is also evidence that some people are more actively rejecting or resisting these requirements. In response to a recent survey conducted by one of us for the two employment service provider peaks, many RJCP providers reported that the latest reforms to the RJCP program were not just generating increased penalties, but also increasing the numbers of RJCP job seekers leaving income support (but not for work), or leaving the region to avoid RJCP obligations (see Figure 6).

*Figure 6 RJCP provider survey results - impact of 'reforms'*
The withdrawal of people from income support has also been noted in media reports over the 2013-2015 period (e.g., Betts 2015, Rothwell 2015, Wahlquist 2015, Wild 2013). In 2012, the then NT Coordinator General for Remote Services identified significant disengagement from income support in the NT, noting that:

According to the Census a large and increasing part of the Aboriginal population do not regard themselves as part of the labour force, particularly young men between 15 and 24 years of age. (Havnen, 2012: 176).

As Havnen herself suggested, further research is needed to uncover the level and reasons for disengagement by these people. While poverty is a major problem for people in remote communities and has serious long term effects, it does not follow that remote Indigenous people will necessarily respond to the threat of financial penalties by complying with program requirements. The practice of sharing food and cash within family and/or kinship networks may shield individuals from the full effects of financial penalties. In this case, while an individual may not experience the full impact of loss of income the effect will be felt across their family, network or community. In some areas traditional or informal economic activity may be used to supplement or substitute for income support – at least for a period. On the other side of the equation, the rewards from participation in labour market programs are not always clear in communities with limited job prospects. What limited evidence has been made available suggests that job seekers in this program are more likely to receive a serious penalty than to achieve a job that lasts for at least 13 weeks.22 The value of participation may be questioned.

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22 For example, in the three months from 1 July 2015 to 30 September 2015, according to figures tabled in Senate Estimates, 681 thirteen week outcomes were achieved but on average over a thousand serious penalties (8 week) were applied in each of the four preceding quarters.
Those who are eligible, but are not participating in the income support system tend to get overlooked by policy makers when considering the design and effectiveness of labour market programs. But if it is true that they are present in large numbers in remote areas, that they are often young men, and that their numbers are increasing, then this could be expected to have long term effects – for example in increasing rates of crime, hunger, itinerancy and long term disengagement from the workforce.

Implications of 1 July 2015 changes

From 1 July 2015 RJCP was substantially changed and re-titled the ‘Community Development Programme’ (CDP). From this date, activity tested income support recipients aged 18-49 have been expected to participate in 25 hours of Work for the Dole activities, spread over 5 days per week, 12 months per year. For most, this has meant an increase both in number of hours worked each week and the number of days of attendance, on top of what were already more onerous mutual obligation requirements than those applying in other parts of the country.

These changes to requirements were accompanied by a substantial shift in contracting arrangements with providers. Provider payments have been directly linked to recorded hours of attendance in Work for the Dole. Where clients fail to attend without a reasonable excuse, a provider will only retain their payment for that period where they report non-compliance to DHS and are able to re-engage the person in Work for the Dole within two weeks. While providers have retained some discretion to ‘allow’ absences or to identify people as not able to participate in Work for the Dole (eg because of mental illness or other health issues), in each case this will lead to reduced fees. Referral to other services – like rehabilitation or counselling – is allowed, but, if provider payments are to be maintained, must be monitored daily and must meet the hours requirement– something that is likely to be difficult in areas with limited community services.

Alongside these new payment arrangements, a new Programme Management Framework has been put in place which includes, as one of its Performance Targets that:

- All Eligible Job Seeker non-attendance is handled swiftly and appropriately in accordance with Guidelines and the Funding Agreement. This includes:
  - 100% of Eligible Job Seeker non-attendance is followed-up with the Eligible Job Seeker and actioned in the IT system on the same day.
  - If no Valid Reason or Reasonable Excuse for Eligible Job Seeker non-attendance exists, 100% of Provider Attendance Reports and Non-Attendance Reports are submitted to DHS within 2 business days of non-attendance by Eligible Job Seeker ...

While the rules still suggest that providers can choose strategies other than compliance to re-engage job seekers, both their performance ratings and financial outcomes will be reduced as a result (PM&C 2015b, PM&C 2015c).

Cumulatively, these changes have increased further the ‘opportunities’ for people to fail to comply, increased pressure on providers to report non-attendance, and increased the disparity between the requirements of job seekers in remote areas and job seekers elsewhere. As the new CDP rules are implemented there will almost certainly be more, substantial increases in financial penalties applied in what are some of the poorest communities in the country.

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23 There was an initial transition period up to 31st December 2015 through which providers were guaranteed income based on a 75% Work for the Dole attendance rate.
One other development must be noted here. On the 2nd of December 2015, the Minister for Indigenous Affairs tabled a bill in the Senate that would – if passed - enable him to remove a remote area from the those provisions of social security legislation that set out obligations, penalties and protections for job seekers and to create new rules (set out in regulations) in their place\(^{24}\). The proposed legislation would also enable the Government to move some of the decisions currently made by DHS in relation to income support payments across to CDP providers. Analysis of the intent and likely impact of that Bill is beyond the scope of this paper.

Conclusion

The legislative framework under which income support is administered in remote Australia is (at least for now) the same as that across the country, but available data from the first two years of RJCP suggests that the outcomes for beneficiaries have been quite different. More onerous program requirements – particularly in relation to mandatory ‘Work for the Dole’ type activities – have generated significantly higher levels of smaller penalties, and these in turn have contributed to higher application of 8 week penalties for persistent non-compliance. The systems that should protect vulnerable people from unreasonable requirements rely on the adequacy of DHS assessments and on the availability of services in remote locations to identify and document individual capacity limitations. The lack of these services means that at each stage of the process: from the setting of requirements, to assessment of vulnerabilities, to investigation of reasons for non-compliance, RJCP clients seem to be at a disadvantage. In some cases, people are leaving the income support system altogether, placing them beyond reach of employment assistance and increasing financial pressure on families and communities. As the compliance effects of the new CDP start to emerge, the question arises as to whether an appropriate balance has been struck between the employment opportunities and assistance afforded remote unemployed people and the effects of financial penalties on them and their families.

References


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Implementing the RJCP Research Project

The Centre for Aboriginal Economic Policy Research (CAEPR) at the Australian National University (ANU) is undertaking a research project on the implementation of the Remote Jobs and Communities Program (now Community Development Programme) in partnership with Jobs Australia. This project has been funded by the Australian Research Council and Jobs Australia, starting in 2013 and continuing for up to four years (Linkage Project No130100226). The research aims to document the way that RJCP is implemented over its first few years. It includes interviews with and surveys of providers, interviews with clients and other stakeholders, and observations.

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