

Commonwealth Ombudsman's Report

Monitoring Closing the Gap Programs in the Northern Territory July – December 2010

The Ombudsman's office has a dedicated Indigenous Unit responsible for providing independent oversight of many Australian Government Indigenous programs in the Northern Territory (NT). Drawing on complaint investigations, information obtained during outreach to Indigenous communities and engagement with a range of stakeholders, the Ombudsman provides feedback to agencies about problems identified in program administration, service delivery issues and the effectiveness of governments working together to achieve outcomes. The Ombudsman also achieves remedies for Indigenous Australians who have individual complaints and problems.

Ombudsman feedback during reporting period

Housing

The Ombudsman has reported in the previous two monitoring reports, and in various other forums, that housing programs and related service delivery are key concerns for people and significant sources of complaints to this office. This remains the case for this period.

Although the Ombudsman's focus is predominantly on those communities subject to five year leases under s 31 of the *Northern Territory National Emergency Response Act 2007*, the issues identified in those areas have broader application across the NT. The Ombudsman recognises the difficulties faced by the Commonwealth, Territory and local government departments working in partnership to deliver such large scale housing reforms in the NT. Notwithstanding these challenges, the Ombudsman's complaint investigations and observations, as well as community and stakeholder feedback, provide an avenue for agencies to be alerted to problems and areas for improvement.

Feedback provided to FaCHSIA in the reporting period has included:

- Payment of rent by remote housing customers who are not subject to Income Management (IM) or who have been exempted from IM – we became aware that with the changes to IM in July 2010, remote housing customers who exited from IM did not have a mechanism by which they could pay their rent. The rent deduction scheme in place for urban housing customers had not been amended to accommodate remote housing customers. This means that remote housing tenants cannot easily pay their rent through Centrepay or third party transfers via Centrelink. It was further evident that some tenants had not been given clear information about their payment options and others were informed that voluntary IM would enable them to easily pay their rent.

Agencies involved advised that remote customers could pay their rent via direct debit from their bank account or through cash payments to the shire. However, we reiterated that remote customers cannot easily access their banking institutions to make those arrangements and further, as we understood it, the shires did not have

adequate systems in place to take cash payments. The agencies involved identified the need for the system to be changed and are taking steps to address the problem. While this issue is being resolved a large number of remote housing tenants have been unable to pay rent and are subsequently concerned about the arrangements, including rent arrears arrangements. We have provided feedback to FaHCSIA about this issue and will continue to monitor the progress.

- Strategic Indigenous Housing and Infrastructure Program (SIHIP) – complaints have continued to highlight concerns about the quality of information and communication by the Government about various aspects of SIHIP. Our feedback has reiterated the need for agencies to have adequate local mechanisms in place for people to access information and obtain assistance with problems as they arise. Often the investigation of a complaint by this office is the only avenue by which a person can access the level of information they require to either understand the housing reforms, navigate their way through the system to get action on a particular issue (such as unfinished SIHIP work, SIHIP inclusions, timings or arrangements for transition housing) or find out how to report a matter or obtain information locally.

It has also become evident that the lack of detailed information about SIHIP allocations for each community, especially the lack of information about the need to deduct administrative and other costs from each allocation, has led to unrealistic expectations as to the amount of money that would be spent on each house. Consequently, as SIHIP has been finalised in each community we have received complaints that more should have been done for the money that was allocated.

- Remote Rental Framework – we consistently hear concerns from people about their difficulty understanding how rent has been calculated and their responsibilities under the new tenancy agreements. Feedback has focused on the need to use interpreters when discussing these matters with people and when signing key documents, having clear local mechanisms and complaint processes in place for people to raise concerns and looking for repeated and varied opportunities and methods to provide information about the changes to those affected.
- Repairs and maintenance problems – complaint investigations and feedback to FaHCSIA has focused on the need for clarification to be given to community residents about the process and response time standards for repairs and maintenance. We have fed back to agencies that adequate systems for recording and tracking repairs and maintenance requests will assist to address some of the current concerns people raise with us, as will the establishment of local escalation and complaint avenues.

Delay in payment of rent in compensation for statutory five year lease communities

Also on our radar is the Commonwealth's payment of rent in compensation for the 64 statutory five year lease communities. We understand that although money has been paid to the Land Councils for some communities for distribution to traditional owners, in the majority of cases this money has not actually been passed onto to those traditional owners by the Land Councils to date. We understand that the delay in Land Councils releasing payment to the traditional owners is the result of those land councils disagreeing with the amount paid by FaHCSIA. Prior to this monitoring report being released, this office sought advice from FaHCSIA about its plans to address this problem and ensure that payments are provided to traditional owners and not further delayed.

New Income Management

A new model of IM was introduced in the NT in mid 2010. The new model focuses more on the circumstances of individuals and their payments rather than a person's residence in a prescribed community as per the NTER.

Since the commencement of IM in 2007, this office has received a steady stream of complaints relating to the provision of information to IM customers by Centrelink. Complaint issues have included:

- the need for a greater use of interpreters by Centrelink when explaining and discussing IM with customers
- confusing or inadequate information provided in Centrelink letters
- difficulty in understanding IM Account Statements
- difficulties in accessing balances, transferring funds and changing allocations, and concern that this stemmed from inadequate information about these processes.

Given this common source of feedback, this office conducted some observations of Centrelink's rollout of new IM in order to get a better understanding of the process and discussions by Centrelink with new IM customers. These observations and other information provided to this office culminated in feedback being provided to Centrelink and FaHCSIA which focused on:

- Centrelink ensuring that complete and accurate information relevant to the individual customer is provided by its officers
- the need for agencies to seek feedback from communities relating to the effectiveness of information delivered at community information sessions
- consistency and quality of information provided to customers.

The Ombudsman has also decided to conduct an investigation into Centrelink's decision making surrounding new IM. The investigation will focus on Centrelink's decision-making, reasons and communication about decisions to:

- a) place people on IM on the basis that they are vulnerable welfare payment recipients, and
- b) refuse to exempt people with dependent children from IM on the basis that they do not pass the financial vulnerability test.

Accountability of policy and funding agencies for services delivered

The Ombudsman has reiterated the need for policy and funding agencies to take responsibility for service delivery outcomes and not just the development of the underpinning policy. Increasingly, the delivery of services is being devolved to contracted service providers, State or Territory governments and other third parties. These arrangements may be on behalf of, or in partnership with, the Commonwealth. Under such arrangements, Commonwealth agencies need to take greater responsibility for ensuring the effectiveness of those arrangements and that policy objectives are being achieved. Agencies need to have appropriate mechanisms in place to:

- monitor outcomes
- support effective integration between the policy makers and those delivering the services
- identify and address problems arising in the delivery of services.

The Ombudsman has also reiterated that complaints provide a valuable window into problems and that by adopting a positive and responsive approach to complaints, agencies will be better placed to identify shortcomings and look for systemic issues, lessons and

opportunities for broader improvement. Ultimately, proactive engagement with complaints can only improve program outcomes.

Reports

The Ombudsman released a public report into the administration of funding agreements with regional and remote Indigenous organisations. This report arose out of an individual complaint investigation and culminated in five principles which the Ombudsman recommends agencies should consider when managing funding agreements with remote Indigenous organisations. The full report is available at:

http://www.ombudsman.gov.au/files/office_for_the_arts_dpnc_admin_of_funding_agreements.pdf

The Ombudsman conducted an own motion investigation into the use of Indigenous language interpreters during government communication in the NT. This investigation found that agencies and their service providers can do more to use interpreters when delivering services to Indigenous people and communities. The report also highlights opportunities to improve staff awareness about working with Indigenous language interpreters and remove some of the barriers to the recruitment and retention of Indigenous interpreters. This report will be released publicly shortly. Once released, a copy of the report will be located on our website.

During this reporting period, we published a report following an investigation into a failure to provide review rights to the Social Security Appeals Tribunal and the Administrative Appeals Tribunal for individuals subject to IM in the NT. The full report is available at:

http://www.ombudsman.gov.au/files/FaHCSIA-Centrelink_Review-rights-income-managed-people-NT.pdf

Remedies achieved for individuals

Complaints investigated by the Ombudsman's Office have resulted in a variety of remedies being achieved for Indigenous Australians in the NT. Remedies have included:

- agencies agreeing to meet with individuals or communities to better explain a policy, service or decision
- agencies reconsidering or reviewing a decision or action taken in respect of a social security payment, housing or community service
- agencies expediting and resolving matters where a problem or delay was identified.

The following three case studies provide examples of the types of remedies achieved by this office for individuals in the reporting period:

Advance payment delay identified and paid – Mr A

During outreach to a remote community in the NT, we received a complaint from Mr A that he had not received payment of a \$700 advance which Centrelink had approved. This office investigated this complaint and identified that the approval and processing of the advanced payment coincided with Mr A's exit from Income Management (IM). Mr A maintained that the advance had not been paid into his bank account.

We ascertained that Mr A had met with a Centrelink officer on 22 September and requested the advance. The Centrelink officer approved and processed the advance and it was paid into Mr A's IM account that day.

After those transactions, and in accordance with IM changes, the Centrelink officer then exited Mr A from IM. As a result, Mr A was exited from IM but the advance balance remained in his IM account. Mr A was not aware that his advance was in his IM account as he had expected it to be paid into his bank account.

We were initially informed that when a customer exits from IM, Centrelink can only disperse money remaining in an IM account in \$200 lots. Despite this, at the time of the complaint, Mr A had not received a \$200 instalment. Furthermore, he had also commenced repayment of the advance via deductions from his social security benefit. Centrelink confirmed its error and after further consideration and internal escalation of the matter, Centrelink released the IM account balance in full to Mr A. Centrelink also reinforced with its staff the importance of processing advances after a person has left IM so that the money is allocated to their bank account rather than their IM account.

Housing repair delays escalated and new house allocated – Ms B

During outreach to a remote community over which the Commonwealth has a five year statutory lease, Ms B complained that the requests she had made for repairs to her house had been outstanding for a long period of time. Ms B lived in the house with her partner, four children ranging in age from toddler to teenage and her infant grandchild. Ms B showed the house to our staff who noted, amongst other things, that the internal skirting boards jugged out at dangerous angles, the metal sheeting on the outside of the house stuck out a sharp angles and the shower room was in need of repair.

In January 2010, we raised these repair concerns with FaHCSIA and the NT department that delivers tenancy services on behalf of the Commonwealth in that community. The NT department made enquires with the relevant Shire. Five months later the NT department advised this office that it was not aware of these repair issues until they were raised by this office, but they would now be referred for urgent action. We made further enquiries about the status of the repairs and the whereabouts of a medical certificate relevant to Ms B's request to be allocated another house. In August, tenancy and asset officers visited the house and rated the above repairs as urgent. While we were initially informed that the medical certificate could not be located and Ms B should lodge a new one, after further questions from our office it was located. Ms B was allocated another house in October but, as at that time, the repairs had still not been carried out.

Ms B's difficulties appear to be linked to implementation problems following housing reforms in the NT. Noting the multi-jurisdictional environment in which all three tiers of government have various responsibilities, key issues identified include a lack of local complaint mechanisms and responsiveness to issues, the need for adequate escalation pathways, an initial lack of timely service delivery standards and further need for clarification of roles and responsibilities.

Improved treatment of BasicsCard customers by merchant – Ms C

Ms C complained to our office on behalf of other BasicsCard customers in her community. She reported that BasicsCard holders suffer poor treatment by a staff member at the local store. She reported that if people do not have sufficient balances on their cards to purchase their goods, the staff member gets angry at the customer, demands that they leave the store and does not allow them to use other payment methods. Ms C reported that customers are highly embarrassed because the staff member yells at them in front of others. This has caused BasicsCard customers to have to pay the costs of, and take additional time to travel to stores further away to avoid this poor treatment.

We decided to investigate this complaint with Centrelink on the basis that it is responsible for compliance reviews and monitoring of BasicsCard merchants. We recognise that the merchant terms and conditions do not include conditions specifically relating to merchant behaviour and the alleged behaviour in this complaint does not suggest a breach of the terms and conditions. However, this complaint suggested that the merchant may not have been operating in a way which supports the intent of the underpinning IM policy (that is, to assist customers with meeting essential household needs and expenses and providing customers with greater choice and flexibility to access goods and services from a wide range of merchants).

After being alerted to this matter, Centrelink took a proactive and problem solving approach to the matter. Centrelink arranged for senior officers to visit the merchant to discuss the concerns. Centrelink advised that it has an expectation that a merchant will treat customers with courtesy and respect and that in order for a merchant to remain approved for Basicscard, the merchant would need to continue to support the primary outcome of the BasicsCard.

When Centrelink discussed this matter with the store manager, the store manager was very apologetic and was able to identify the staff member as they had previously been counselled for similar behaviour. The store manager undertook to address the issue straight away. Ms C reported that the staff member no longer works at the store and her community now feel comfortable with shopping at the store.

In response to this matter, Centrelink advised that it is discussing with FaHCSIA the need for an additional clause in the terms and conditions to address this scenario and the additional requirement for merchant compliance.

Allan Asher
Commonwealth Ombudsman
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