

Commonwealth Ombudsman's Report

Monitoring Closing the Gap Programs in the Northern Territory January – June 2011

The Ombudsman's office was specifically funded to provide an oversight and complaints mechanism for the Northern Territory Emergency Response (NTER) measures. The Ombudsman fulfils this function by:

- providing an outreach service to remote Indigenous communities in the Northern Territory (NT) to provide information about the role of the office; take, investigate and resolve complaints; and obtain feedback about the impact of measures on communities
- engaging closely with key stakeholders and community representatives to identify broader issues requiring government action
- drawing on complaints and feedback to identify systemic issues
- working collaboratively with agencies to resolve systemic issues and improve service delivery to Indigenous people in the NT.

Complaint investigations leading to good outcomes for individuals

Complaints investigated by the Ombudsman's office have resulted in a variety of remedies being achieved for Indigenous Australians in the NT, including:

- issues of miscommunication relating to the transfer of money from BasicsCards being clarified and resolved
- agencies expediting and resolving matters where a problem or delay was identified
- agencies reconsidering or reviewing a decision or action taken in respect of a social security debt

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

Reconsideration of a welfare debt – Ms A

Ms A complained to this office that she was told by Centrelink that she had a debt of over \$10 000 and she needed to provide her group certificate so that Centrelink could do a reconciliation of her Family Tax Benefit (FTB).

We contacted Centrelink and it confirmed that Ms A had two debts from July 2006 to June 2007, and July 2007 to June 2008. Both debts were incurred because Ms A did not lodge her tax return and therefore she was required to pay back to Centrelink the FTB money she had received during the two years. The total debt amount was over \$16 000 which she had been gradually paying off through deductions from her welfare payment. Centrelink advised that Ms A had paid about \$6 000 leaving a debt of \$10 000.

In order to respond to our enquiries, a Remote Servicing Team visited Ms A and decided that Ms A did not have to lodge tax returns for those periods. Subsequently, Ms A's debt was void and Centrelink paid Ms A the \$6 000 that she had been paying off since 2006.

Miscommunication concerning a simple BasicsCard inquiry – Mr B

Mr B was moving from the NT to Queensland. He complained to our office that he had some outstanding money on his BasicsCard. Mr B said that he had contacted Centrelink to ask what he could do about cancelling his BasicsCard and obtaining the money left on his card. He said that Centrelink informed him that he was not able to cancel his BasicsCard and therefore would lose the money on his card if he did not spend it.

After speaking to Mr B, we were able to ascertain that his primary concern was that he would be driving from the NT to Queensland over the course of five days and he was worried about not having sufficient funds in his other account during this trip. Mr B explained that he would like to access money in his IM account and BasicsCard along the way.

We contacted Centrelink and, with its assistance, we were able to resolve the matter for Mr B. This involved advising Mr B that he was able to use his BasicsCard in most of the towns that he was travelling through and that he had the option of arranging for money to be sent to stores along the way. Mr B confirmed that those options addressed the basis of his initial inquiry with Centrelink and subsequent complaint to this office.

Communication problems and delays associated with housing modifications – Ms C

Ms C lives in a remote community where the Commonwealth is the landlord, and FaHCSIA manages that lease. She complained to this office that she had been waiting two years for modifications to be done to her house. Ms C explained that one occupant, her niece, is permanently in a wheelchair and her husband uses a walking frame. As a result, they needed a ramp to the front door and hand rails for the shower and toilet. Ms C did not know whether the modifications had been approved or when they would be done.

We raised this complaint with FaHCSIA and were informed that Territory Housing had raised a work order for these modifications approximately six months ago. FaHCSIA advised that the work had been classified as a routine repair, which allows six months for completion. The six month time frame had expired when FaHCSIA provided its response to this office. As an explanation for the delay, FaHCSIA stated that due to the remoteness of the community and the wet season, contractors were not able to get to the community.

We have since been advised by a third party that the handrails and ramp for Ms C's house have been installed.

While we are aware of the challenges faced in delivering repairs and maintenance services in remote locations and during such a significant program of reform, this complaint reinforces regular feedback provided by this office about the need to keep residents informed of the progress of their repairs and maintenance requests. It also highlights the need for FaHCSIA to take a more active role in monitoring the delivery of services to ensure that it meets policy objectives and minimum standards. In cases where issues have been identified, a more proactive approach is required to remedy the issue for the individual and address any underlying problems.

Ombudsman work to address systemic issues

20 per cent local Indigenous employment

We identified that the monitoring and reporting data for 'local' Indigenous employees under SIHIP only captured general Indigenous employment numbers rather than 'local' employment numbers. This was identified through complaints where people raised concerns that locals were not being employed under SIHIP as per the government's objective under the Council of Australian Government's National Partnership Agreement on Remote Indigenous Housing. As a result, and to more accurately reflect employment numbers and information provided to the public about SIHIP employment statistics, FaHCSIA and the NT Government have agreed to change the way this information is publicly reported and work together to develop an agreed definition of 'local' for the purposes of capturing accurate employment data.

Use of Indigenous Interpreters

With the increase in government investment, services and programs in the NT there has been a significant increase in government engagement with Indigenous people. Complaints to this office since the commencement of the NTER highlighted problems with the use and accessibility of Indigenous interpreters by government agencies. As a result, the Ombudsman conducted an own motion investigation to examine six agencies' awareness of the need to make use of Indigenous language interpreters. This investigation resulted in a public report¹ and recommendations aimed at improving the use of Indigenous Interpreters.

The report also identified enormous challenges in recruitment, retention and use of Indigenous interpreters. In order to explore these challenges, allow an opportunity for agencies to share ideas and experiences in relation to Indigenous interpreters and to discuss agencies' progress with implementing the Ombudsman's recommendations, we facilitated a workshop with all the agencies and representatives from the Northern Territory Aboriginal Interpreter Service (NTAIS) and NT Government. The involvement of all agencies, open discussions and the sharing of valuable insights from the NTAIS resulted in a positive and constructive forum.

Remote housing reforms in the NT

Similar to previous Ombudsman monitoring reports, issues relating to remote housing reforms in the NT continue to be the main source of complaint. Drawing on these complaints and following valuable briefings and meetings with FaHCSIA, we have developed a housing issues log to assist us to monitor progress on these systemic problems. We have also streamlined our complaint investigations and processes with FaHCSIA which seem to be resulting in more detailed responses and a stronger focus on remedies.

The Ombudsman has decided to prepare a report covering issues identified in housing complaints and make recommendations to agencies aimed at improving government administration in this area. This report will be released later this year.

¹ Talking in language: Indigenous language interpreters and government communication available at [http://www.ombudsman.gov.au/files/Talking_in_Language-Indigenous Interpreters REPORT-05-2011.pdf](http://www.ombudsman.gov.au/files/Talking_in_Language-Indigenous_Interpreters_REPORT-05-2011.pdf)

Centrelink's processes and decision making surrounding Income Management

We are currently undertaking an own motion investigation into aspects of Centrelink's decision making surrounding Income Management. The two areas of decision making we are assessing are:

1. the decision to refuse to exempt a person with dependent children/a dependent child from new IM on the basis that there are indicators of financial vulnerability (per s 123UGD(1)(d) of the Social Security (Administration Act) 1999)
2. the decision to include a person in new IM on the ground that the person has been determined to be a Vulnerable Welfare Payment Recipient (per ss 123UCA and 123UGA(1) of the Act).

Our investigation is primarily an audit of Centrelink's papers against the requirements of the legislation and policy, with a focus on whether the legal and administrative requirements for sound decision making are being met. This report will be released later this year.

Emerging issues

The issues raised in complaints from people living in remote communities affected by NTER and Closing the Gap in the NT measures provide valuable insights into possible broader problems. We have raised these issues with agencies both through individual complaints and by clarifying our concerns about the systemic implications. We will be continuing to work with agencies responsible to improve in these areas. Examples include:

- arrangements and processes underpinning the payment of rent to traditional owners of communities subject to statutory five-year leases
- lack of information and communication surrounding Income Management exemption processes and decision making
- access to adequate Job Services Australia services for communities affected by weather or extreme remoteness
- Housing Reference Groups' (HRGs) ability to meet stated objectives and the level of support they receive
- the way in which rent reforms are being communicated and rolled out
- weaknesses in the repairs and maintenance processes under the new remote housing reforms
- Centrelink's management of urgent payments and the financial hardship test where a problem has arisen as a result of a Centrelink error
- communication surrounding Asbestos management and removal in communities
- capturing and reporting on the numbers of local Indigenous people employed under Strategic Indigenous Housing and Infrastructure Program (SIHIP)
- despite positive resources and policy relating to using interpreters, one case highlighted that the success of good policy rests with the training and skills of the individual officers being asked to deliver that policy on the ground
- approach to rent reimbursement for people living in improvised dwellings.

Our work to address these emerging issues:

- Issues relating to housing reforms in the NT will be covered in the housing report with specific recommendations aimed at improving communication, access to information, repairs and maintenance processes and arrangements for the new rental framework. These issues form the basis of our ongoing feedback to FaHCSIA and we are meeting with FaHCSIA regularly to monitor progress on addressing problem areas.
- FaHCSIA has agreed to revisit its reporting of 'local' Indigenous employment data under the SIHIP component of the National Partnership Agreement on Remote Indigenous Housing.

- We have commenced an own motion in relation to aspects of Centrelink's decision making surrounding Income Management and we are monitoring improvements in reasons for decisions in complaint investigations.
- We have met with FaHCSIA to express our concerns in relation to the delayed payments for rent for five-year lease communities. FaHCSIA advised of steps being taken to progress the issue and we are continuing to monitor this including through current complaint investigations.
- Other issues remain under investigation or monitoring.

Complaints culture in agencies

Complaints received during outreach to communities, coupled with our own observations, indicate that people do not always have access to local channels to raise problems or complaints. Even where channels or processes are provided by agencies, our experience suggests that significant improvement is required in relation to agencies' responsiveness and willingness to resolve those problems. Additionally, we often hear that officers who are meant to provide a complaint resolution process are not able or empowered to fix the problem.

While we recognise that there are likely to be many examples where local agency staff resolve problems and use creative and innovative solutions to improve services for Indigenous people in the remote NT, where complaints are made to us it is often apparent that people in remote communities have little awareness and access to information about reforms, services and government policy. In turn, people are ill-informed and are therefore unable to identify that there is a problem about which a complaint could be made. This is further compounded by a historical context of neglect in which people have come to have low expectations of government services.

In investigating the complaints we do receive, we repeatedly experience scenarios where action is only taken by the agency once our office becomes involved. This includes agency inaction when faced with systemic problems.

Housing reforms in the NT continue to be a significant source of complaint to this office. We have frequently reiterated to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), as the manager of the Commonwealth's lease over the majority of remote Indigenous communities in the NT, the need for an accessible complaints process that adequately deals with the large volume of housing related concerns held by people living in these communities.

In this reporting period, we considered and provided extensive comments on the draft Remote Housing Complaints and Appeals policy developed by the NT Department of Housing, Local Government and Regional Services (DHLGRS)². While we recently became aware that a complaints process is now in operation for remote communities, we understand that it mostly reflects the urban model with some modifications. It is not clear how agencies' and stakeholder feedback was incorporated into the policy nor the level of awareness in communities about its existence. However, we will monitor and provide feedback about the effectiveness, accessibility and responsiveness of the complaints model.

² The Commonwealth holds a statutory five-year lease over several communities in the NT. As such, the Commonwealth is standing in the place of the land owner and has control over all land and fixed assets including community housing. FaHCSIA administers these leases and has a Service Level Agreement with DHLGRS to manage the public housing.

One of our complaint investigations also raised concerns about FaHCSIA's mainstream complaint handling procedures and the underpinning guidance about the conduct of internal investigations. We investigated a complaint, which had first been investigated by FaHCSIA, in which we identified serious flaws in FaHCSIA's complaint handling. FaHCSIA's response to the issues raised has been encouraging – it has agreed to review its handling of the individual matter and will use the investigation to inform improvement to its complaints policy.

Agencies must have a flexible and open approach to identifying matters that constitute a complaint, including how they are received. Agencies must value the potential for an individual complaint to identify a broader problem or systemic issue and take this opportunity to review, reflect and improve. This can be illustrated by the following common scenarios:

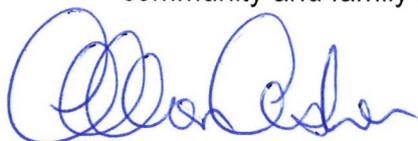
- repeated repairs and maintenance requests for the same issue from the same house should assist agencies to identify either a delay in the process or problems with the quality of work done
- repeated requests from the same person for an exemption from Income Management should prompt the agency to review its reasons for decisions, revise its communication about those decisions and improve the quality of information provided to customers about the evidence required to make those decisions.

Importance of an independent and accessible complaints mechanism

Complaints to this office in the reporting period have reinforced that people living in remote NT communities have difficulty accessing or understanding government services, programs, policy, or decisions. The large scale reforms in the NT have resulted in a complex service delivery environment involving all levels of government and multi-agency arrangements. In this multifaceted environment it is important that agencies are responsive to the needs of its target client group and are open to new and innovative ways of operating, including adopting a seamless approach to complaint handling.

Research commissioned by this office about how we can improve Commonwealth Ombudsman services to Indigenous Australians has been applied to our work in the NT and provided some valuable insights:

- Indigenous people often prefer to deal with government agencies through an intermediary whom they know and trust
- Indigenous Australian's prefer face-to-face contact and for the communication to occur in a familiar location
- there is a general mistrust of Government and complaint handling processes will only be used if it is viewed as being impartial and effective
- Aboriginal people are often motivated to make a complaint to ensure others don't have to put up with the same problems they experienced. This reinforces the strong community and family-centric views that came through in the research.



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