



Submission by the Commonwealth Ombudsman

DISCUSSION PAPER ON BETTER DEALINGS WITH GOVERNMENT: INNOVATION IN PAYMENTS AND INFORMATION SERVICES

Dr Vivienne Thom
Acting Commonwealth Ombudsman
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INTRODUCTION AND SUMMARY

The Ombudsman commends the Government's examination of innovative ways in delivering government payments and collecting and sharing information. With increasingly integrated government programs the need for more seamless services to government customers is becoming a greater issue and challenge. The use of technology to deliver government programs has the potential of not only improving the efficiency and effectiveness of such programs but also addressing customer needs. Properly designed and implemented use of technology has the capacity to improve the accuracy, consistency, transparency and accountability of government decision-making.

With increasing use of technology in administrative decision making and service delivery it is important to ensure appropriate administrative law principles are not neglected. The Ombudsman suggests that the requirement to adhere to administrative law principles should underpin all Government processes linked with the development of new payment and information service delivery methods. This includes integrating such requirements into the tender, governance, design, development and maintenance stages.

It is also important to ensure that users of government services have access to appropriate avenues of redress. In this regard information about any review rights and their capacity to complain to agencies and independent oversight bodies such as the Commonwealth Ombudsman should be prominent. The Ombudsman suggests that the new payment and information service delivery also incorporates such features.

COMMONWEALTH OMBUDSMAN BACKGROUND

The Commonwealth Ombudsman safeguards the community in its dealings with Australian Government agencies by:

- correcting administrative deficiencies through independent review of complaints about Australian Government administrative action
- fostering good public administration that is accountable, lawful, fair, transparent and responsive
- assisting people to resolve complaints about government administrative action
- developing policies and principles for accountability, and
- reviewing statutory compliance by law enforcement agencies with record keeping requirements applying to telephone interception, electronic surveillance and like powers.

RESPONSE TO THE DISCUSSION PAPER

We understand that the Discussion paper is primarily intended for consultation with industry on innovative ways of delivering government services. To ascertain such feedback from industry and to guide the consultation the Discussion paper poses specific questions. In our response to the Discussion Paper we have not addressed these specific questions but rather provide more general commentary on the issues.

The Ombudsman agrees with the key strategic settings for the development of innovative payment and information services which are outlined in the Discussion paper. In particular we recognise the increasing need to provide more citizen-centric services, especially as there is greater integration of government programs and government agencies are working more cooperatively to ensure broader policy outcomes are met. Systems and services which enable a more seamless experience for those dealing with government, including their experience in assessing and accessing entitlements and complying with obligations will be beneficial to both the consumer of government services as well as to governments in providing more effective and efficient services. In developing and implementing such systems and services it is essential to maintain the integrity of legislative and policy programs that it delivers as well as accountability and transparency principles.

In 2007 the Ombudsman in conjunction with the Australian Government Information Management Office, the Australian National Audit Office and the Office of the Privacy Commissioner published a Better Practice Guide on Automated Assistance in Administrative Decision-Making (AAADM)¹. The Better Practice Guide sets out checklist points to assist agencies engaged in designing and implementing automated systems and in ongoing assurance processes. Importantly the AAADM Better Practice Guide sets out how administrative law principles should be applied to the use of technology in government decision making and service delivery.

The AAADM guidelines are applicable to the development and implementation of a system envisaged in the Discussion paper. The Ombudsman suggests that the Department of Human Services has regard to the key principles set out in the AAADM Better Practice Guide when progressing the new payments and information services. This includes adherence to the following principles:

- the underlying rules contained in the system should accurately capture the relevant legislative and policy provisions as well as the relevant procedures
- the rules in the system should also be readily understandable and publicly available
- the system should be designed with disclosure and external scrutiny in mind
- matters of judgment or discretion should be carefully considered to ensure that there is no inappropriate restrictive modelling of such rules and that they are capable of scrutiny and review
- the system should have the capability to automatically generate an audit trail of the decision-making path. This capability should be able to be used to generate reasons for the decision and be available for external scrutiny
- appropriate governance arrangements need to be in place for the development of such systems to ensure that policy and program owners are key decision makers and that business outcomes are clearly defined and realised.

It is important that these principles are highlighted during the various stages the Department is planning as it works towards its objective of developing a payment and information system. This includes making it clear to industry, whether as partners or as suppliers of products or services to government, that their proposed solutions need to adhere to administrative law principles. Innovation should not come at the

¹ See Commonwealth Ombudsman website at <http://www.ombudsman.gov.au/pages/publications-and-media/better-practice-guides/aaadm.php>

expense of good public administration practice. Government expectations in this regard need to be set out at an early stage, including during the consultation, tendering and design stages.

Access to information and capacity to seek redress of government action are key components to accountable and transparent public administration. Decisions or self assessments which are derived from the payments and information systems also need to be accountable and transparent. As such it is important that the system also provides a facility for seamless and accessible review and complaints services. This should include providing tailored information for those impacted by government decisions of any merits or judicial review rights they may have as well as access to complaints handling services. The complaints investigation services of the Commonwealth Ombudsman, which has jurisdiction over Commonwealth government agencies as well as contracted service providers, should be promoted.