

## Commonwealth Ombudsman's Report

### Monitoring Closing the Gap Programs in the Northern Territory January – June 2012

The Ombudsman's office has provided independent oversight and a complaints service for the NTER and other Indigenous programs in the Northern Territory (NT) since August 2007. The NTER has ceased however a number of programs will continue under the Government's Stronger Futures in the NT initiative. The office did not receive funding to continue its dedicated role in relation to Stronger Future programs in the NT. The funding previously received under the NTER allowed the office to conduct outreach to Indigenous communities in the NT to ensure people had access to an independent complaints service and so that we could gain better insight as to the impacts of services and programs at the local level.

Over the past five years, the Ombudsman's office has investigated complaints, worked with agencies to resolve systemic issues, established relationships with a range of stakeholders and visited 73 prescribed communities and town camps in the NT at least once. This work has allowed us to gain a unique insight into the impacts of government programs on Indigenous people in the NT and as a result we have facilitated the early identification and resolution of a range of administrative problems.

Below are some examples from this reporting period of cases where this office identified problems in government administration and obtained remedies for those affected.

#### ***Community building wrongly handed to the shire was returned***

Ms A complained to this office that the local shire had taken over a building which belonged to the parish and despite her efforts to raise this with the shire and the Government Business Manager, she had not been successful in having the building returned to the parish.

Our investigation established that when the local community councils were replaced by the shires, FaHCSIA, as the administrator of the Commonwealth's statutory five year lease, granted permission to the shires to allow them to use the assets and buildings previously used by the community council for local government business and services.

In granting this permission to the shires, FaHCSIA relied on lists of assets and buildings that the NT government provided, identifying which houses and buildings were noted as being used for shire business. FaHCSIA's permission to the shire was only valid to the extent there was not a pre-existing interest over a property. However, prior to issuing the permission to the shire, FaHCSIA did not inform the community of its proposed actions or consult with them to establish whether there were in fact any pre-existing interests over any of the properties identified for shire business.

Consequently, communities were unaware that FaHCSIA had granted permission to the shire to use assets and buildings in the community for shire business until some years later,

and the community did not have the opportunity to dispute the shire's use of assets such as community houses or buildings.

As a result of this complaint, FaHCSIA convened a meeting between the parish and the shire and an agreement was reached that the land and building would be returned to the parish. FaHCSIA also provided information to the community via flyers and a factsheet to inform people about plans for community housing, buildings and property after the five year leases expire.

### ***One size does not fit all – Individualised service assists an IM customer***

Mr B complained to our office in January 2012 that Income Management (IM) was causing him financial difficulties. He said that he had unsuccessfully sought an exemption from IM. He explained that he lives on the property of a mining company and has limited living expenses: he does not pay rent, phone or electricity bills. Due to his limited living expenses, Mr B was having difficulty using all of his IM funds to pay for priority goods. Mr B had been raising this problem with Centrelink for some time. But the options suggested by Centrelink, such as transferring funds to a store so that Mr B could shop at the store using his IM funds did not resolve the ongoing problem for Mr B.

We acknowledged that Mr B did not qualify for an exemption from IM. However, after discussing this matter with Mr B, we identified that a core issue for him was that his living circumstances were such that he was able to meet all of his priority needs with only part of his IM funds. This meant there was a portion of funds which remained in his IM account which he could not easily access because of his remote locality or utilise due to his minimal living expenses. We raised with Centrelink whether it was able to consider Mr B for unrestricted cash payments — an option allowing Centrelink to provide IM funds to a customer via cash payments where the customer could demonstrate that their priority needs had been met. After facilitating contact between Mr B and Centrelink, Centrelink arranged for Mr B to receive regular unrestricted cash payments.

### ***Houses made safe after lengthy delays***

Mr C and Mr D, two people who live in different remote NT communities, complained about delays in the NT government undertaking modifications to their houses which were needed to make them safe. Both Mr C and Mr D had disabilities and used motorised scooters. An NT agency had assessed both houses and determined that modifications in the form of ramps, hand rails and changes to the bathrooms were required. In early to mid 2011, the agency notified the NT government of the required modifications by sending reports with recommendations.

In February 2012, when this office received the complaints, we established that no action had been taken to progress these modifications. Following an investigation, a work order was issued on 20 February 2012 and the majority of the work was completed in March 2012.

We expressed concern to FaHCSIA and the NT government that these complaints highlighted weaknesses in their management of disability modifications and repairs and maintenance of houses. FaHCSIA and DHLGRS advised that it had engaged consultants to report on the end-to-end process for the completion of works and that it was taking steps to strengthen its processes for managing disability modification and repair and maintenance requests.

### ***Compensation arrangements honoured***

Mr E complained that FaHCSIA had not honoured a compensation agreement relating to accidental damage of a sacred site. Community compensation had been agreed in the form of a tractor and a truck, and a storage compound to house the vehicles. The Shire purchased the vehicles with money from FaHCSIA, but then used them in other communities until the truck broke down. The compound was not built.

We established that the terms of the compensation had not been documented at the time the compensation arrangements were made. Following our investigation, FaHCSIA agreed to meet with the parties, formalise the terms of the compensation arrangements and discuss guidelines surrounding the usage and storage of the tip truck and tractor. The truck has since been repaired and the storage compound built.

### **Importance of accessible and effective complaints mechanisms**

Independent research commissioned by this office supports the feedback we have received from Indigenous people in the NT— that is, they have valued the opportunity to raise issues with us and have them investigated by an independent agency; they have valued the face to face approach and have felt more comfortable to discuss issues or raise complaints in person; and that they are motivated to raise issues even where their circumstance cannot be changed but where it may lead to improvements for others. We commissioned independent research to improve Ombudsman services to Indigenous Australians. The findings are applicable to all agencies and this research can be found on our website, together with our own observations of areas for improvement in agency communication and engagement with Indigenous communities.<sup>1</sup>

This office has consistently relayed to agencies the need to have robust and effective complaints mechanisms in place. Complaints provide a rich source of information about the service delivery experience from the perspective of the end user. They provide an opportunity for agencies to identify problems early and take remedial action. For those agencies working with remote Indigenous communities, extra attention needs to be given to ensuring any complaints service is accessible to those living remotely. Agencies have a responsibility to ensure pathways to complain or seek information are visible and understood by all people who are affected by an agency's programs or services.

An accessible complaints service requires more than a dedicated 1800 number or local government official who people can talk to. Accessible and meaningful complaints services for Indigenous people in the NT should also feature:

- Agencies getting the message to people that they value complaints and feedback, that they see complaints as an opportunity to improve, that it is ok for people to complain and that their complaint will be taken seriously. This will assist to dispel any misconceptions that there is no point in complaining as agencies do not welcome complaints.
- Where more than one agency is involved in a program or service or where an agency has contracted a third party to provide a service, complaints need to be dealt with holistically with a firm focus on providing a remedy for the individual.
- Government officials who interact with the public should be encouraged to listen to people's questions, queries or personal circumstances and use the interaction as an

<sup>1</sup> <http://www.ombudsman.gov.au/media-releases/show/207>

- Government officials who interact with the public should be encouraged to listen to people's questions, queries or personal circumstances and use the interaction as an opportunity to assess whether the person has experienced problems or issues with a service or a process. It is often difficult for people to articulate their complaint or know that their circumstances warrant complaining. Government officials, who know their agency's business, should be proactive in considering whether there are adverse impacts or concerns resulting from their agency's programs, services or decisions.
- Agencies need well established working relationships with stakeholders, representatives and advocates to assist them to identify and resolve issues on behalf of their clients.
- Using interpreters when talking to people where English may not be their first language to ensure the agency understands the person's concern or personal circumstances and that the person understands their options.
- Taking the opportunity to explain to people the program, service, process, obligation or entitlement to ensure they understand how it works and what they can do if they are concerned or dissatisfied.
- Focusing on identifying a remedy for the person quickly and taking action to fix a problem.
- Managing the complainant's expectations as to possible remedies or outcomes and having these discussions early with the person to avoid disappointment.
- The capacity for an agency to look over complaints and identify common themes or systemic problems requiring action.
- The ability for frontline staff to escalate a complex or intractable matter to a more senior officer for attention and/or approval to take the necessary action to fix.
- Encouraging staff to problem solve and re-build relationships with clients and the public where things have gone wrong.
- Ensuring there is local advertising and contact information about complaints processes and avenues for raising concerns with an agency.
- Establishing agreed ways of communicating with people about their complaint so that a person knows how and when they should expect to hear from the agency.
- Providing written information to people about decisions or outcomes.

Providing an accessible complaints and review process is a fundamental component of good public administration. The Ombudsman's office is committed to working with agencies to improve internal complaint handling, with a particular focus on accessibility for Indigenous people living in remote NT communities.

Complaints investigated by this office throughout the duration of the NTER and Closing the Gap initiatives in the NT, have identified a number of important areas of public administration requiring improvement. We have valued the opportunity to work closely with Indigenous people, stakeholders and agencies to improve services, programs and government decision making.

Although our resources will not extend to continuing our extensive outreach program to remote Indigenous communities in the NT, we are considering options to ensure that our independent oversight of *Stronger Futures in the NT* continues.



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