



Submission by the
Commonwealth Ombudsman

**INQUIRY INTO GOVERNANCE IN THE
INDIAN OCEAN TERRITORIES**

Submission by the Commonwealth Ombudsman, Colin Neave
April 2015

INTRODUCTION AND SUMMARY

This submission is based on complaints made to our office about the administration of the Indian Ocean Territories (IOT) by the Department of Infrastructure and Regional Development (DIRD).

It is evident from the complaints received that communication between DIRD and the residents of IOT could be improved. In our view, the absence of clear statements by DIRD about how and when it consults with IOT residents has resulted in a level of avoidable confusion and dissatisfaction among a number of residents. At our suggestion, DIRD has agreed to consider addressing this issue.

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.

COMPLAINTS RECEIVED

In the past 10 years the Ombudsman's office has received relatively few complaints from residents in the Indian Ocean Territories (IOT). Most were received on the occasions we visited Christmas Island.

In August 2013 and March 2014, at the invitation of the then IOT Administrator, this office conducted a community complaints clinic on Christmas Island. As a result seven separate individuals or groups raised concerns about 17 issues (some duplicated). We also received two complaints during this period outside the complaints clinic.

The complaint issues raised in 2013-14 can be summarised as:

- DIRD's alleged lack of responsiveness to approaches and complaints by the community, in particular about the level of or delivery of facilities and services on the islands
- the alleged failure of DIRD to consult with residents during renegotiation of service delivery arrangements, which complainants claimed resulted in a reduced level of service
- Christmas Island Shire's delivery of DIRD funded projects.

A number of matters relating to the Christmas Island Shire were referred to the Ombudsman Western Australia, who has jurisdiction to consider these complaints. Several were referred to DIRD's complaints area. We investigated one complaint about DIRD's alleged failure to respond to a resident.

RESPONSE TO INQUIRY

Responding to the community

Some complainants told us that they found that DIRD did not respond to their concerns or questions. In response to our inquiries, DIRD maintained that it responded promptly to all correspondence from the IOT community. DIRD has advised us that it intends to introduce an online form for the community to provide feedback, which would be supported by an internal process to monitor, handle and respond to correspondence from the IOT community.

Under its Client Services Charter, DIRD also provides a complaints process that can be accessed by the IOT community. We found that complainants were not aware of this and believe that further use of this process would assist resolution of some concerns. This complaints process could be further publicised by DIRD in publications and in direct responses to IOT residents.

Consultation

In our view, DIRD and the IOT residents have different expectations of the appropriate level of consultation and communication. There does not appear to be any clear statement of expectations about how DIRD will engage with residents, leading to confusion and dissatisfaction over the level of consultation conducted.

It appears that the absence of clear statements by DIRD about how and when it will consult has contributed to frustration among many residents. When consultation does occur, the practice appears ad hoc and variable.

DIRD has advised us that it recognises the importance of consulting the IOT community, and there are a range of mechanisms it uses for consultation. However during our investigations DIRD only provided one practice or policy document relating to consultation; an information kit for WA government agencies in relation to Service Delivery Arrangements (SDA).

During our inquiries we also noted a number of community consultative committees appear to be operating or being re-established, but it was not clear what support DIRD provided to them. Such consultative forums could enhance communications with the IOT communities. However, we believe that governance arrangements could be improved by DIRD formally endorsing them and having clear guidelines about role of the committee and processes involved.

The role of the IOT Administrator in consultation arrangements is also unclear. Previous Administrators have taken an active role in forwarding issues of concern to residents to DIRD. We understand that the current Administrator is also closely engaged with the community. However it appears that the community's expectations of the Administrator's ability to influence change are not consistent with the Administrator's formal role. In our view, the role of the Administrator in community consultation should be better articulated by DIRD to increase the understanding of affected groups within the community.

DIRD gave an undertaking to our office to consider establishing a protocol which sets out the extent of its commitment to consult, the manner in which such consultations will be undertaken and how the outcomes will be communicated. We believe this would assist in managing community expectations.

DIRD recently provided our office with an update on its progress on a number of matters including the online feedback portal and its consultation with residents for its review of several SDAs. We acknowledge that this reflects ongoing work being progressed by DIRD, but remain of the view that developing a shared understanding between DIRD and the community of what constitutes an appropriate consultation process is critical. We will monitor DIRD's progress on their undertaking to consider and articulate the broader principles underpinning its consultation and communication with residents.

Role of local government

We understand that DIRD previously funded the IOT Shires to undertake community consultation. The Christmas Island Shire told us that this funding had ceased in 2013. DIRD advised us that in December 2014 it had written to the Shires seeking their feedback on the SDAs and views on how DIRD could consult with residents.

We acknowledge the potential usefulness of engaging with the Shires to consult the community. Any proposal by DIRD to expand the Shires' role in community consultation should ensure that the role is clear and supported. This is particularly important as the Shires are not likely to be responsible for deciding or delivering what they consult about. Any arrangement with the Shires should be included in DIRD's broader statement about the principles underpinning its consultation and communication with residents.