

Submission No 68

Commonwealth
OMBUDSMAN 

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Submission by the
Commonwealth Ombudsman

**INQUIRY INTO REMOTE COMMUNITY
STORES IN ABORIGINAL AND
TORRES STRAIT ISLANDER
COMMUNITIES**

Submission by the Commonwealth Ombudsman, Prof. John McMillan

10 March 2009

BACKGROUND

The office of Commonwealth Ombudsman is established by the *Ombudsman Act 1976*. The Ombudsman plays a part, along with courts and administrative tribunals, in examining government administrative action and improving public administration. 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
- reviewing statutory compliance by law enforcement agencies with record keeping requirements applying to telephone interception, electronic surveillance and like powers
- conducting investigations on an 'own motion' basis into wider systemic issues in public administration.

The Ombudsman can investigate the administrative actions of most Australian Government departments and agencies. The term 'administrative action' is not defined under the Ombudsman Act and, consistent with the beneficial nature of the legislation, it is interpreted in its broad sense. The Ombudsman can also investigate the actions of 'Commonwealth service providers', that is, a contractor or subcontractor who provides goods or services for, or on behalf of, an agency to the public.

Most complaints to the Ombudsman can be resolved informally, and without the need to reach a firm view on whether an agency's conduct was defective. This reflects the emphasis of our work on achieving remedies for complainants, and improving agency complaint-handling processes and public administration generally. Instances nevertheless arise in which administrative deficiency should be recorded and notified to an agency. This helps draw attention to problems in agency decision making and processes, and feeds into the systemic work of the Ombudsman's office.

Ombudsman's role in the NTER

When the Australian Government's Northern Territory Emergency Response (NTER) commenced in June 2007, the Ombudsman's office set up an Indigenous Unit with a particular focus on handling complaints about the NTER. The purpose of this unit is to:

- conduct outreach to the Indigenous communities in the Northern Territory to provide information about the role of the Commonwealth Ombudsman's office and to take complaints from community residents about the administration of the NTER
- investigate complaints about the NTER and provide a resolution to the issues raised

- identify systemic issues and work with government agencies and key stakeholders to improve public administration and resolve complaints. Such improvements include addressing gaps in service delivery and improving policies and procedures to address specific issues that arise.

The Ombudsman's office has played an active role in overseeing the implementation and administration of the NTER measures. This oversight role has been valuable in ensuring accountability and transparency of the NTER measures and, more broadly, for improving service delivery to Indigenous communities.

Since August 2007, we have visited approximately 44 of the 73 prescribed communities and 23 town camps in the Northern Territory and effectively engaged with a large number of Indigenous Australians. We have developed cooperative working relationships with government agencies and key stakeholders in the communities and significantly increased awareness of the role of this office. Approximately 600 complaints have been received in relation to the NTER and other Indigenous programs delivered in the Northern Territory since the establishment of the Indigenous unit.

The Ombudsman's office acknowledges the immensity of the task and the challenges faced in the introduction and delivery of NTER measures, particularly given the myriad of programs and agencies involved and the speed with which the measures were introduced. As a result, when investigating complaints about the NTER in the first 18 months of the Indigenous Unit's work, we did not consider whether there had been administrative deficiency in an agency's decision making or processes. We also did not conduct any own motion investigations into systemic issues in relation to the NTER.

As a result of this approach, the information outlined in this submission in relation to community stores reflects only our observations and the information reported to us by community residents, either in complaints or as general issues. Since our involvement in the NTER, the Ombudsman's office has not been critical of the agencies involved in community stores nor have we made formal recommendations for improvement in this area.

RESPONSE TO TERMS OF REFERENCE

Complaints relating to community stores in the Northern Territory

Of the 600 complaints received by the Indigenous Unit, approximately 50 relate to community stores, licensing and food security issues. Of these 50 complaints, 27 were investigated and the remainder were resolved without needing to seek information from an Australian Government department or agency.

The complaints received by this office in relation to community stores generally related to the following issues:

- licensing
- pricing of food and other items
- lack of EFTPOS facilities in community stores

- Purchase of essential need items
- receipts and statements about Income Managed funds not being given to customers by the community stores
- general management and governance concerns for community stores
- poor quality food and food shortages
- electronic system faults
- issues relating to Bush Orders.

Licensing

- The community store in one community was not licensed for Income Management, which meant that people had to travel by charter flight to another location to shop with their Income Managed funds, and this flight is expensive, approximately \$500 for a return trip.
- In one community there was concern about why stores are required to be licensed for Income Management, but the Councils who are also in receipt of Income Management funds for essential needs (for example, rent and the School Nutrition Program) are not required to be licensed by the Australian Government. It was considered that this approach was inequitable and discriminatory towards the stores.
- FaHCSIA took approximately five to six months to license one community store. The complainant considered that this was an unacceptable delay, and the store lost income during this period. This also meant that community residents could not shop at this store with their Income Managed funds. It is recognised that this delay may have been due to the need to ensure quality and price of stock, however the impact is significant for community residents.
- One community was concerned about losing community control of the store to the Australian Government and Outback Stores with the new licensing arrangements.
- One community store owner elected not to be licensed for Income Management because the associated workload was too high, and there was no compensation for the extra hours worked. As result a Bush Orders system was developed as an option for the community, but people do not have fridges to keep bulk food purchases cold.

Pricing of food

- Community residents have reported that because of the high cost of food in their community stores, people cannot afford to shop for essential food and in some cases people are forced to travel great distances and spend additional money on transport to get their food elsewhere.

- Some community residents have reported a fear that pricing of food has increased with the introduction of Income Management.
- It was reported that in one community, residents were told that the very high prices at the store would drop after Income Management was introduced, but this did not happen.

Lack of EFTPOS facilities

- Several complaints have been received about the community store not having EFTPOS facilities.

Essential needs under Income Management

- Communities have complained about inconsistencies in the way ALPA stores handle Income Management purchases in terms of what people can and cannot purchase.
- People have also complained that you can buy certain items at some stores but you cannot purchase those same items at other stores.

Receipts and statements

- Communities have complained about Income Management account balance statements not being given to customers by the store after purchasing items at one community store.
- Complaints have also been received that people do not know how much money they have available to spend on essential items and it is difficult for them to know what they can and cannot purchase.

Management of community stores

- Some communities reported a concern about the recruitment of staff for community stores. Concerns were that there had been a high turnover of staff, staff are not required to have police checks and as a result there was a concern in the community about the potential for fraud.
- One community reported a concern that there were no local employment opportunities at the store since the ownership changes, and that the community was not benefiting from the operation or profits of the store.

Quality of food and food shortages

- Some communities have complained about the poor quality of food, for example, the fruit and vegetables not being fresh and not lasting long after purchase.
- Other complaints have been about remote community stores running out of food, which was attributed to the commencement of Income Management.

Electronic system faults

- Community residents have complained that the Income Management swipe card system is regularly out of use at one community store, meaning that people have to use their discretionary funds, rather than Income Managed funds.

Bush Orders

We are aware that the Bush Order system was developed in some communities as a result of the lack of a licensed community store where people could use their Income Managed funds. It may therefore be of use to the Committee if we outline the types of complaints that have been made to this office about the Bush Order system. Community residents have complained about:

- communication problems with making orders and the delivery of orders
- people not knowing who to speak with if there is a problem with their order
- people receiving a standard order and not knowing how to change the order, or being given the opportunity to change the order
- lack of access to phones, faxes and computers to make orders
- delivery problems, including food delivered to the wrong person, orders incomplete, food being left on doorsteps and spoiling or being eaten by dogs, no invoice, no list of food ordered and provided at time of delivery so a person can check that the order is complete, and deliveries not made often enough
- lack of cold storage for bulk food orders and for food not able to be delivered on the day and time of delivery
- concerns about food not being delivered during the wet season and people going hungry.

Issues and observations

As mentioned above, we have not investigated many of these issues in great detail. However, the concerns reported in complaints to this office may be indicators of areas requiring further attention. Based on the complaint issues above, some key focus areas may be:

1. Communication and consultation

Complaints highlight that community residents and store owners/operators would benefit from enhanced communication mechanisms about issues relating to community stores. Community residents seem to be seeking a better understanding about what they can and cannot buy from stores, knowing what they can expect from store profits, what they can expect in terms of quality and pricing of food and involvement of community members in employment, licensing and decision making about stores.

Communication with store owners/operators on a regular and ongoing basis is critical and needs to be tailored to the community's individual needs and circumstances. Meaningful communication with stores about the licensing arrangements, expectations and provisions will increase a store's chance of success and place them in a good position for longer term sustainability. Monitoring and review of a community store's progress with the licensing agreement should focus on open communication which empowers the stores to develop.

2. Governance and support

With the introduction of Income Management, store cards and BasicsCards, there is an added pressure and expectation on store owners/operators to ensure appropriate systems are in place to accommodate these new ways of operating. Often community stores in remote Indigenous communities face challenges associated with governance and financial obligations. It is therefore imperative for the success of a store's operation that they are provided with appropriate levels of support and assistance to meet these demands and changed ways of operating. This should be a key focus in the licensing process, to ensure that risks are identified early and appropriate strategies are implemented to maximise the store's chances of success and the community's expectation to be able to access food and essential items.

The introduction of the BasicsCard appears to have reduced the administrative burden for people being income managed, as well as for the store owners. The Ombudsman's office has received both positive and negative feedback about the BasicsCard. The positive comments appear to reflect how much easier the BasicsCard is to use than to manage purchases with store value cards and an Income Management account at a community store. The negative comments tend to relate to the barriers to accessing card balances before making a purchase, which means that people shop without knowing how much money they have available to spend on their BasicsCard, resulting in declined transactions. This situation can cause significant embarrassment for the customer, and has implications for the store operator.

3. Options and access to essential items

With the introduction of Income Management people now have less disposable income which they can spend at their own discretion. This has brought into sharp focus the issue of access to food and essential items for people living in the prescribed communities in the Northern Territory. The complaints highlight that due to a range of problems with the community stores (including stores not being licensed for Income Management, stores not having fresh and well priced food, a lack of EFTPOS facilities and confusion surrounding what people can and cannot buy) community residents report that they may be forced to travel great distances to access food and essential items. While there may be other reasons why people will travel to larger areas to do their shopping, this issue needs to be explored further in the context of Income Management and the impact that this has had on the community stores and residents.

One example of this impact was reported to the Ombudsman's office by a community where the store was not licensed, and as such people were not able to use their Income Managed funds at the store. The community advised that they had to either travel to Alice Springs to shop or use the Bush Orders system to get food. The elderly people in the community said that they were upset that they could not shop at their local community store with their Income Managed funds, as they had been shopping there for many years. There was not enough public transport for them to

get to Alice Springs, so they have to wait for a car to be available. The community store is nearby, and there was fear that the store would close because it is not licensed and people are not regularly shopping there.

Another example of the impact in one community was a report that the cost of food at the community store was too expensive and as a result of Income Management people were unable to shop there, and they had no choice but to go to Katherine instead. They said that this is a big problem for them, as they do not get much disposable money now, and they were expected to pay for taxi fares into town to do their shopping.

Conclusion

While there has been considerable attention and financial investment from the government towards the issue of food security, improving the quality of food and the way community stores operate in the Northern Territory, based on the complaints to this office it appears that there are areas for improvement. The introduction of Income Management has also created new challenges for communities and government in relation to stores, the way in which people can access food and essential items and the way stores provide this service.

We therefore make the following suggestions for consideration by the Committee:

- that any changes to the model of community stores strongly focuses on community consultation and engagement
- that options, choice and access to quality food and essential items for community residents takes account of the Income Management regime and the impact that this has had on community residents
- that stores are strongly supported in meeting governance and licensing requirements.