



**Submission by the
Commonwealth Ombudsman**

**PRODUCTIVITY COMMISSION
PRELIMINARY FINDINGS REPORT**

**INTRODUCING COMPETITION AND INFORMED USER
CHOICE INTO HUMAN SERVICES: IDENTIFYING
SECTORS FOR REFORM**

Submission by the Commonwealth Ombudsman, Colin Neave AM

October 2016

The Commonwealth Ombudsman welcomes the opportunity to respond to the Productivity Commission's Preliminary Findings Report – *Introducing Competition and Informed User Choice into Human Services: Identifying Sectors for Reform*, and in particular, the focus on improving outcomes for Indigenous Australians discussed in Chapter 7.

BACKGROUND

The Commonwealth Ombudsman has broad jurisdiction to investigate the administrative actions and decisions of most Commonwealth Government agencies, including the actions and decisions of private providers contracted to deliver services on behalf of those agencies. Some of the most common types of complaints to the Commonwealth Ombudsman are about:

- the delivery of payments and services under social security and family assistance law by the Department of Human Services' Centrelink program
- the assessment and collection of child support liabilities by the Department of Human Services Child Support program
- the delivery of immigration programs and services by the Department of Immigration and Border Patrol
- services delivered by Australia Post
- people's experience of job services programs (oversighted by the Department of Employment ('jobactive' or mainstream job services), the Department of Social Services (disability employment services), and the Department of Prime Minister and Cabinet (Community Development Program or Indigenous employment services).

Additionally, the Commonwealth Ombudsman has jurisdiction to investigate administrative decisions and actions of the National Disability Insurance Agency and investigate complaints from consumers about the provision of private health insurance.

RESPONSE TO THE PRELIMINARY REPORT AND FINDING 7.1

We share the Productivity Commission's view that the current arrangements for purchasing and delivering human services are not fully meeting the needs and preferences of Indigenous Australians living in remote communities.

In our experience, Indigenous people, and particularly those living in rural and remote regions, are often the most vulnerable and disadvantaged with complex needs in the human services area.¹ Research demonstrates that although Indigenous people are major users of government services, they face significant cultural and practical barriers in accessing services. These same barriers impact on their ability to complain and provide feedback when these services do not deliver appropriate

¹ For example, see the Commonwealth Ombudsman report [Administration of Income Management for 'Vulnerable Youth'](#), February 2016.

outcomes for them. Their awareness of programs, services and decisions affecting them is often low.

Improving the quality and accessibility of human services delivery for Indigenous Australians

Complaints and feedback

In our view any reform of human services delivery should include a robust and effective complaints and feedback mechanism, not only as a mechanism for people to resolve issues they may have with the delivery of services, but also as a critical element of achieving improved service delivery outcomes and as a fundamental component of effective government stewardship and accountability.

Complaints and feedback can deliver direct information from clients to an agency and their providers about the effectiveness of the programs they deliver. More specifically, complaints and feedback provide early warning about faulty decisions and poor service delivery. They also provide agencies and providers with an opportunity to provide a remedy to a client who has suffered disadvantage, maintain good relations with the public, build client loyalty and ensure systemic problems are identified and dealt with to inform decision making about future service delivery.

In 2014, we conducted an own motion investigation into complaint management by government agencies². One of the Ombudsman's key recommendations following that investigation was that agencies need to ensure their complaint systems meet the needs of disadvantaged and vulnerable people.

In our experience, people who face challenges such as remoteness, a lack of literacy, disability, or homelessness are more likely to have problems with government because it is more difficult for them to access government services through mainstream channels. Unfortunately many Aboriginal and Torres Strait Islander people fall within this group.

Improving the efficiency and effectiveness of the delivery of human services by introducing greater competition, contestability and informed user choice should not happen at the expense of disadvantaged and vulnerable groups. There is a tendency for public sector organisations, with limited resources, to focus their attention towards solutions for the greatest number. This means that disadvantaged and vulnerable people, who require more intensive servicing, often fall through the cracks.

The role of an effective complaints and feedback system is to act as a safety net for these people, to put them carefully back into the system to ensure they are able to access services in the same way as everyone else. Therefore it is critical that complaints and feedback systems are tailored, responsive and flexible enough to deal with the needs of disadvantaged and vulnerable groups. They should focus on the resolution of the complaint for the client, including ensuring accountability by government and contracted service providers where such arrangements exist.

² Complaint management by government agencies: *An investigation into the management of complaints by Commonwealth and ACT government*, Report 02/2014, October 2014 – available at http://www.ombudsman.gov.au/data/assets/pdf_file/0011/30017/October-2014-Complaint-management-by-government-agencies.pdf

Research demonstrates that although Indigenous people are major users of Australian government services, they face significant cultural and practical barriers in exercising their right to complain and provide feedback when government services and actions do not deliver appropriate outcomes for them. Indigenous people often lack the resources and confidence to challenge decisions and feel disempowered and overwhelmed. This not only inhibits resolution of issues for individuals but also limits the opportunity for agencies to use complaints and feedback as a window to systemic issues which can precipitate change and drive improvements. Improving access to complaints and feedback is also an important component to building trust and genuine engagement with Indigenous communities.

During the past year, the Commonwealth Ombudsman's office has taken a leadership and coordination role, working with a wide range of stakeholders in sharing information and developing strategies to improve complaints and feedback systems for Indigenous people. We have established four working groups aimed at taking a collaborative approach to progressing durable solutions. These initiatives and working groups include the following:

- *Information Sharing Portal* to facilitate the sharing of ideas, contacts, tools, strategies, resources and information to support and improve Indigenous complaint handling.
- *Right to Complain Strategy* which aims to develop information strategies (utilising a range of appropriate messaging and media) to promote complaints and feedback.
- *Commonwealth Government Complaints Community of Practice* as a forum for Commonwealth Government Agency representatives to share contacts, information, ideas and resources with a view to improving Indigenous complaint handling within and across government
- *Australian and New Zealand Ombudsman Alliance (ANZOA) Indigenous Interest Group* which focuses on sharing information, contacts and resources as well as supporting a more coordinated approach to Indigenous outreach and engagement between member governments and industry Ombudsman organisations within ANZOA. The group also aims to establish a coordinated approach to encourage the agencies and organisations we oversight to make their complaint processes more accessible and effective for Indigenous people.

This office also prioritises the monitoring and pursuit of systemic issues within government program delivery impacting on Indigenous people. Some issues we are presently prioritising include, accessibility to Disability Support Pension for remote Indigenous people, Indigenous Centrelink debt and the administration of income management and its impact on vulnerable youth.

We encourage the Productivity Commission to recognise the importance and value of complaints and feedback, especially when supply characteristics in remote locations mean in many cases there is a single service provider. As the Productivity Commission recognises, poor quality service and provider failure can have a significant impact on individuals and remote communities. Complaints and feedback focuses providers on continual service improvement and is fundamental to ensuring service delivery meets the needs of the client and improves outcomes.

Local engagement and use of interpreters

We know from our outreach work that successful engagement with Indigenous people and communities about issues affecting them, especially in remote areas, is a labour intensive undertaking. It requires commitment to investing in and building relationships of trust with individuals, leaders, communities and Indigenous peak and local organisations. This requires an appropriately culturally competent workforce with the sensitivity, skills and commitment to support vulnerable people to communicate their experiences, and if necessary, provide relevant documents. Quite often, our office only becomes aware of systemic issues affecting Indigenous people via community leaders and advocacy organisations in the course of our regular engagement.

We agree with the Productivity Commission's finding that place-based service models and greater involvement of local Indigenous communities in service design and delivery can improve outcomes. Any engagement with Indigenous communities must be in a culturally appropriate way, including using interpreters where required.

In 2011, this office released a report highlighting the lack of awareness of the need for, and skills in working with, Indigenous language interpreters.³ A follow-up investigation is currently underway which focuses on what steps, if any, agencies may have taken to improve access to Indigenous language interpreter services when engaging in service delivery.

Unfortunately, government agencies and individuals are still frequently unable to access interpreters, even where the need for an interpreter is identified to ensure genuine awareness and engagement. Key issues include insufficient awareness of the need to use interpreters, the absence of 'on-demand' telephone interpreting services, insufficient numbers of accredited interpreters to meet demand and reduced interpreter training options, among others. Unlike the national Telephone Interpreter Service which agencies can access for migrant communities, dedicated Indigenous language interpreter services are found only in the Northern Territory and Western Australia.

Since the 2011 report, complaints to this office continue to highlight that culturally appropriate communication and the provision of clear information are paramount in ensuring that people understand government programs and services that affect them, how they will be affected, and what process they should undertake if they wish to complain, challenge a decision or exercise their review rights. Information about any new program or service needs to be accessible, available in appropriate languages and through a variety of methods. When something changes, people should be advised of the changes and be given the opportunity to ask questions and seek further information.

A key finding from our recent investigation is that a coordinated whole of government response is required. While there has been some progress, ongoing barriers to accessing interpreters continue to undermine communication between government and Indigenous language speakers, even for those agencies who have gone to

³ The Commonwealth Ombudsman report *Talking in language: Indigenous language interpreters and government communication*; April 2011 – available at http://www.ombudsman.gov.au/_data/assets/pdf_file/0014/30281/April-2011-Talking-in-Language-Indigenous-language-interpreters-and-government-communication.pdf

considerable lengths to try to improve accessibility. We expect to release the latest report into the accessibility and use of Indigenous language Interpreters by the end of 2016.