

29 September 2017

Ms Ann Palmer
Senate Finance and Public Administration Committee
PO Box 6100
CANBERRA ACT 2600

Dear Ms Palmer

Inquiry into digital delivery of government services

Thank you for the opportunity to respond to the Committee's inquiry.

The Office of the Commonwealth Ombudsman plays an important role in safeguarding the community in its dealings with Australian Government agencies. Many of these agencies are transforming their services as part of the Australian government's digital transformation agenda.

In April 2017, the Office released a report, *Centrelink's automated debt raising and recovery system*, on our investigation into Centrelink's online compliance intervention system (OCI) for raising and recovering debts. The report, particularly the conclusion and recommendations, are relevant to this inquiry and form part of this submission. The report can be downloaded [here](#).¹

More recently, my office delivered a speech to the Australian Institute of Administrative Law which highlighted a broader set of lessons for government to consider when developing strategies for whole of government transformation and digital project delivery. As these lessons are directly relevant to your terms of reference (a) and (b), I have attached an extract from the relevant part of the speech. The full speech is available on our website [here](#).²

You are welcome to contact Fiona Sawyers, Senior Assistant Ombudsman, Social Services, Indigenous and Disability Branch if you have any further queries about this matter. Ms Sawyers can be contacted on _____ or _____

Yours sincerely

Michael Manthorpe
Commonwealth Ombudsman

Influencing systemic improvement in public administration

¹ http://www.ombudsman.gov.au/data/assets/pdf_file/0022/43528/Report-Centrelinks-automated-debt-raising-and-recovery-system-April-2017.pdf

² http://www.ombudsman.gov.au/data/assets/pdf_file/0024/48813/AIAL-OCI-Speech-and-Paper-Communication-team-edit.pdf

Extract from speech delivered by Senior Assistant Ombudsman Louise Macleod to Australian Institute of Administrative Law Conference on 20 July 2017

What can be learnt from the OCI experience?

Communication with users

One aim of digital transformation is to help citizens provide the information needed to assess their eligibility for benefits or services. As her Honour Justice Perry points out in her paper *iDecide: the Legal Implications of Automated Decision Making*, this self-service function holds great promise for government agencies, as it may help them process a high volume of transactions quicker, more reliably and less expensively than using human decision-makers.¹

One of the key lessons from the OCI experience is that an agency's strategy for communicating with citizens about a new digital process is at the heart of successful digital transformation. A digital process that relies on electronic coding to process data is only as good as the information the citizen provides, so the citizen needs sufficient guidance to successfully navigate the new process.

How much guidance is necessary depends on the circumstances, including the complexity of the new process. However, generally consideration should be given to providing sufficient guidance to ensure:

- the citizen understands from the outset what the process will require from them, including what information they will need to hand to successfully navigate it
- where they have options or choices about how to use the process, guidance about which option is appropriate for them and/or the consequences of their choice
- where to go for help if they have questions or difficulties with the process.

There are likely to be a number of points where this information needs to be provided – in the online space itself, on a website, through a help line. Providing guidance to manage user input to reduce the risk of error or misinterpretation is recommended in the *Better Practice Guide*.²

However, one of the key lessons from the rollout of the OCI was the importance of the quality of initial communication with users of a new digital service. The OCI's initial messaging to customers, both through its letters and in the system itself, was unclear and did not include crucial information.³ What we learned from the OCI was that the first communication with users can influence their response to the process and how successfully a new digital service meets its objectives.

The initial communication should clearly explain:

- the process and key steps to be taken
- the consequences of engaging with the process (either fully, partially) or not at all

¹ The Hon Justice Melissa Perry, *op cit*, p 2

² *Automated Assistance in Administrative Decision Making Better Practice Guide*, February 2007, at page 26

³ In particular, there was no clear explanation that income would be averaged across the employment period if they did not enter their income against each fortnight and that this may affect the amount of the debt. Complaints to our office showed that even users with high levels of education and digital readiness experienced difficulty understanding what information was required of them and how to enter the information once online.

- the options available, including if there is more than one way of engaging with the process
- what support is available, and how to access it, for example via a website, instructional videos, dedicated help line.

The OCI experience also demonstrated the need to take extra care to ensure that initial communication is received if the user is not a current customer of the agency. When agencies are implementing new systems, and non-engagement may adversely impact an individual, careful attention needs to be paid to the agency's ability to contact former customers or determine whether contact has successfully been made.

Design of digital platforms

Digital transformation often involves the creation of an online platform for citizens to use to engage with a new process. The development of online access promises increased convenience for citizens and reduces expense for agencies. As identified in the *ARC Best Practice Principles* and the *Better Practice Guide*, when developing an online system, agencies should take into account access and equity considerations in the delivery of their services.

A key lesson from the OCI experience is that the design of the online platform may have a significant bearing on the successful launch of the new process.

Seemingly micro-level issues of design may have significant consequences. For example: if there is a helpline, how visible should the phone number be? What icon should be used? Should the phone number appear prominently on each webpage? This may determine whether people access help at critical points or instead give up in frustration, failing to complete the process correctly or at all. It may influence whether people seek to use other access points to an agency, attending a shopfront, instead of using the dedicated helpline into which resources have been put.

There are also more fundamental design questions to be considered. Where information is required from the citizen before a decision may be made, one standard design approach is to mandate in the business rules that certain critical questions be answered before the digital process may be completed by the citizen. We are all familiar with this kind of design – we get to the bottom of a webpage, answering a series of questions, click on the “next” button but are told we have not answered all the required questions (now marked with an asterix).

However, an agency may consider for various reasons that it is appropriate to allow a citizen choice in how they access, or interact with a digital process. This in turn presents a different set of issues. It may require greater attention to the communication issues already mentioned – ensuring that citizens are clearly informed of their options and the consequences of those options.

The OCI was an optional process. A person was invited to update their income details, but engagement with DHS was not legally required. However, there was a consequence for non-engagement, as DHS would apply their ATO income data to their record. Within the OCI itself, a person could make choices about whether to enter data (for example, they could choose to provide some but not all of the fortnightly income data for a relevant period).

What we learnt from the OCI is that if a compulsory process is not used this increases the need for clear communication and messaging both outside and within the online platform, particularly in regard to the consequences of opting not to engage with the system, or of providing only partial information. It demonstrated that agencies designing optional systems should give close attention to:

- layout, for example, the helpline should be clearly displayed on every page
- warnings, for example, warning of the consequences of skipping a step, and prompts to review information
- messages about options and consequences.

Transparency

An important lesson from the OCI is that, when designing a digital system where human interaction may not eventuate, the messaging of the system is key to ensuring transparency.

Transparency is not just a fundamental administrative law value. It is also essential to the process of continuous improvement that is so important in digital transformation processes. It became apparent during our OCI investigation that poor communication was at the heart of the complaints we received about transparency, and it followed that improving the quality of communication was the key to improving transparency and usability of the system.

It was also clear that much of the misinformation about the system in the public domain derived from the lack of visibility of the system for commentators. Privacy is a key consideration in digital systems designed to be accessible only to the citizen and the staff of the owning agency. DHS ensured that its staff could access the system directly to talk people through the process and even enter data on behalf of the customer while they were on the telephone, where appropriate.

However the lack of visibility of the system for third parties was an issue in the public domain, where critics and commentators formed and voiced opinions without having seen the screens that customers were presented with when they went online. Our Office's understanding of the system was greatly improved by the "walk through" and "screen shots" we received of the system, which we annexed to our report, placing them in the public domain for the first time. Once we were able to "see" the system we were able to provide feedback to DHS that lead to revisions and improvements to the system.

The value of a clear communication strategy cannot be overstated, and a key consideration for agencies is whether the inability of third parties to access a digital system may cause confusion in the public domain, or impede third party organisations, such as legal services and community organisations, from supporting users. There is value in providing "walk throughs", "screen shots" and instructional video-on-demand resources to oversight bodies, peak bodies and other organisations that support users prior to and at the time of rollout as part of a comprehensive communication strategy. This approach is consistent with the *Better Practice Guide* which recommends agencies consider providing access to customers, call centre operators (for providing general advice and information), outsourced service delivery agents and/or providers, and community organisations assisting their clients to properly achieve the benefits of the transition to digital service delivery.

Support for users

Understanding user needs is paramount when designing digital systems, and is the first standard of the Digital Transformation Agency's Digital Service Standards.⁴

The design and implementation of a new digital process should include consideration of user needs and support for them. The nature and degree of support required will depend on a number of

⁴ <https://www.dta.gov.au/standard/> accessed 1 July 2017

circumstances, including the novelty of the new process, its complexity, the demands made of users and the characteristics of the user group.

At one end of the spectrum are systems which require only clear information for users. For example, where the new process is relatively simple and users are relatively sophisticated, the process is similar in nature to other processes users will already be familiar with.

However, as the complexity and demands of a new process increase, so does the need to carefully consider the support required for users. In fact, the successful implementation and operation of the new process may depend on it.

There are a number of key issues for agencies to consider. These include:

- **the complexity of the process relative to the sophistication of the user.** For example, a portal for tax accountants may be able to assume a degree of knowledge and sophistication among its users that a portal for taxpayers could not.
- **the extent to which alternatives to a new digital process should remain available.** What are the consequences if non-digital alternatives are not retained? If they are to remain available, questions of inclusion and exclusion may arise. For example, if access to alternatives is restricted to “vulnerable persons” how are they to be identified and defined? Will it be available short, medium or long term?
- **the novelty of the process for users.** If the process is new some people may continue – at least at first – to seek to undertake the transaction in the way they are familiar with. What training should be given to front of house staff who may be the first point of contact for people seeking help?
- **the form support should take.** This may range from information (for example, website, video on demand, a help button in the online platform) to specialist trained staff to assist people. It may be helpful to user test some forms of support in the planning stages to test its effectiveness. There needs to be a clear communication strategy directing users to sources of support.
- **how to ensure support is accessible.** Considerations include timing (when it is needed, for example, at rollout) cost (including time, financial and emotional) user capacity (particularly where users may be vulnerable, for example, due to literacy, language, disability) communication (in particular, pathways directing users to support). Steps should be taken to identify vulnerable customers prior to rollout, where possible, and a strategy developed for identifying and servicing customers whose vulnerability only presents after rollout.⁵

The OCI was an example of a complex system relative to the user. It followed that there would be a higher need for user support.

DHS had maintained non-digital channels and had set up a dedicated help line with specialist trained staff, however the existence of these supports was poorly communicated as the help line number was initially excluded from letters and was not obvious in the system. This meant customers called general customer service lines resulting in long wait times, instead of the help line.

⁵ DHS identified vulnerable customers using existing records prior to rollout, developed an alternative servicing strategy for those customers.

The OCI provided other accessibility lessons for agencies rolling out complex digital systems on a large scale. It showed that instructional resources, such as user guides, factsheets, Video on Demand and other “How to” resources should be developed and be available at the time a new system is launched. An incremental rollout approach should be taken if there is a risk that demand for support may reduce accessibility (for example, long telephone wait times).

Finally, the OCI demonstrated that when designing systems where citizens enter data which will inform an automated decision, consideration must also be given to how readily available that information will be to the user. Wherever possible, agencies designing self-service systems should forewarn people to retain records they may need for future interaction with the system.⁶ Where this is not possible, and where appropriate, agencies need to give consideration to whether they have adequate assistance and support for people to obtain the documentation or information they need to effectively engage with self-service systems. During our investigation, for example, DHS redesigned its system to enable people to enter bank statement data where payslips or payroll data were unavailable.

External Perspectives

A key lesson for agencies and policy makers when proposing to rollout large scale measures that require people to engage in a new way with new digital channels, is for agencies to user test thoroughly and engage early with external stakeholders. Many of the problems outlined in this paper and in our report could have been mitigated through better project planning, engagement, change management and communication at the outset.

An important consideration for agencies is at what point external stakeholders should be consulted in the design and implementation of a new digital service. This may be particularly difficult if there is a high risk the new system could be jeopardised by criticism of early prototypes. However, this must be weighed against the risk that a lack of external perspective may impact the design and delivery of the project.

DHS did not ensure all relevant external stakeholders were consulted during key planning stages and after the full rollout of the OCI. This was evidenced by the extent of confusion and inaccuracy in public statements made by key non-government stakeholders, journalists and individuals. Better consultation processes would have provided important feedback both in terms of improving the system design, and for identifying gaps in the communication strategy.

Our investigation found the OCI required more rigorous user testing and would have been improved by greater use of the co-design approach the department has adopted elsewhere. After DHS worked with the now Digital Transformation Agency (DTA) in February 2017 to review and re-design the OCI and undertook comprehensive user testing, this resulted in a more user-friendly system. In future, systems like the OCI should be developed in collaboration with the DTA and other oversight agencies.

⁶ Our office was also concerned about the fairness of a system which relied on users being able to provide historical employment income information, when those people had not been informed in advance they may need to keep that information. Many complainants to our office had problems collecting evidence about their employment income, particularly for periods from several years ago. Although it was subsequently amended, at the time the OCI was rolled out the DHS website advised people to keep their income information for six months.

Consultation and use of multidisciplinary teams during design and testing is consistent with the *ARC Best Practice Principles*.

The OCI demonstrated the need for external perspectives in the design, testing and implementation of new digital systems. Wherever possible, systems should be tested with citizens, service delivery staff, oversight agencies and other organisations that support users at the earliest possible stages.

Guidance and oversight

As her Honour Justice Perry commented in her paper, the ARCs *Automated Assistance in Administrative Decision-Making* report was ground breaking and appears to have been the first report to systematically review the administrative law implications of automated decision-making systems. The *Better Practice Guide*, which assists agencies in their design and implementation of automated systems, was also the first of its kind.⁷

Somewhat prophetically, most of the problems with the OCI were foreshadowed by the *Better Practice Guide*. For example, the *Better Practice Guide* identified the risk that user interface design problems may “artificially limit the effectiveness of the information gathering process that is essential to good administrative decision-making”. It also articulated the importance of access to support including telephone and face to face support and considering the impact the new system may have on existing service delivery channels.

However, it is now ten years since the *Better Practice Guide* was published and questions arose about its currency in a rapidly changing environment. Our experience with the OCI suggests that, in particular, more guidance is needed on managing user input and the importance of effective communication strategies to ensure that public confidence in government administration is preserved during digital transformation.

The OCI experience also raises questions about whether greater project management oversight is required, particularly in pre-implementation phases.

In its 2004 report, the ARC recommended the establishment of an independent interdisciplinary advisory panel to oversee automated systems. It envisaged the panel would focus on the extent to which administrative law values are reflected in the use of such systems and proposed the panel would include the Auditor General and Commonwealth Ombudsman, as well as community organisations that represent users of these systems.

When DHS redesigned its system in February 2017, it incorporated feedback from the Commonwealth Ombudsman and the DTA. This was six months after implementation when the insights and expertise of oversight agencies and other external stakeholders could have been captured in the early design and planning stages. One solution to this problem may be for agencies rolling out automated decision making systems to consider establishing advisory panels or delivery units to oversee major digitalisation projects, which include external stakeholders, in particular the DTA, the Commonwealth Ombudsman, the Office of the Australian Information Commissioner and the Australian National Audit Office in the earliest stages of design and planning.

In October 2016 the Commonwealth Government expanded the role of the DTA, which now has central oversight of the Government’s ICT agenda. In February 2017, the DTA announced the establishment of a new Digital Investment Management Office within the agency to improve

⁷ The Hon Justice Melissa Perry, *op cit*, p 3.

transparency of ICT design and delivery across government and provide independent assurance. The DTAs *Digital Service Standard* has a strong focus on understanding user needs. DHS indicated that it will apply these standards and collaborate with the DTA in future. All government agencies embarking on the digital transformation journey would do well to ensure decision making carried out by or with the assistance of an automated system is consistent with *ARC Best Practice Principles*, the *Better Practice Guide* and the *Digital Service Standards*.