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SUBMISSION:

**Senate Community Affairs References Committee
Inquiry into the impact on service quality, efficiency
and sustainability of recent Commonwealth
community service tendering processes by the
Department of Social Services**



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1.0 Introduction

The Western Australian Council of Social Service (The Council) welcomes the opportunity to provide a submission to this important inquiry. We commend the committee for looking into the impact on service quality, efficiency and sustainability of recent Commonwealth community service tendering processes by the Department of Social Services (DSS). This issue is of significant concern to our members and, together with the Indigenous Advancement Strategy (IAS) tender conducted by the Department of Prime Minister and Cabinet (PMC), has consistently been raised with us in recent correspondence, member inquiries and consultative forums as one of the most significant factors impacting on the sustainability and effectiveness of front-line service delivery within our community. Similar concerns have also been voiced by other Western Australian community sector peak organisations, who have indicated similar levels of concern from their members through the WA Peaks Forum (which the Council convenes).

The Council are happy for this submission to be published by the committee and would welcome an opportunity to present evidence on the issues discussed herein.

2.0 A missed opportunity

The recent tendering process was a missed opportunity for service improvement and sector reform. The Council is extremely concerned by both the immediate and the longer-term unintended consequences of recent service procurement processes as a result of the manner in which they were conducted by the Department of Social Service (DSS). Short tendering timelines combined with the lack of consultation or advance notice undermined what could have been significant opportunities to achieve better service integration and collective impact. The move to longer contracting periods, the amalgamation of many smaller and fragmentary programs into broader service streams, the scaling up of population and service targets, and the increased scope for service innovation all offered significant potential for delivering more efficient, integrated and responsive services — if only there had been time for service providers to do the work needed take advantage of them and meaningful engagement with them on program and service design.

The DSS tendering and contracting process was a missed opportunity for the Commonwealth to target its investment in a way that would maximise community impact and deliver value for money. The stated high level objectives of the ‘new way of working’ under the ‘broad-banding’ approach to program design had the potential to form the basis of a more innovative, efficient and effective service system, but the manner in which the contracting process was conducted undermined the opportunity for us to work collectively towards these outcomes. These same criticisms and concerns apply equally to the recent IAS tendering process. On this basis we recommend that the DSS and the Commonwealth more generally should consider whether it has the capacity to conduct more effective and efficient tendering processes, and either commits to an open and consultative process with clear timelines for advance notice and negotiation of service contracts (as described further below) or it should restrict its role to setting high level program goals and developing evidence-based outcomes frameworks and devolve service design and tendering down to the State and/or local level.



3.0 Resetting the relationship with the community services sector

The Council notes that there is a real and genuine desire across the community sector to engage more fully and meaningfully with the Commonwealth in the design and delivery of efficient, effective and well-targeted community services. To this end we recommend that the DSS and the Minister for Social Services actively and openly engage with the community service sector to reset the relationship to one of genuine partnership, based on clearly articulated principles and behaviours. The fundamental common goal of this partnership has to be one of 'putting the people first' - and ensuring that achieving meaningful and sustainable outcomes for disadvantaged and vulnerable service users should always be paramount. While organisational sustainability and administrative simplicity are important considerations, they should always be considered secondary to this ultimate goal.

The Council contends that the model of engagement and community service reform being developed and implemented in Western Australia (as described further below) can provide a useful model for the Commonwealth's engagement with the community service sector in the procurement of Commonwealth-directly funded services. It also has the potential to provide a firm basis for more effective engagement with States and Territories, services and local communities in more devolved decision-making to deliver place-based outcomes as part of a more effective reformulation of roles and responsibilities under Federation.

4.0 The impact on service users

Unfortunately, the uncertainty created by this poorly designed and managed process is having a direct impact on disadvantaged and vulnerable people within our community, and on the frontline community service staff delivering the services that support them. Vulnerable people who face significant life challenges or come from disadvantaged or traumatic backgrounds require higher levels of certainty and trust, and there is significant evidence to indicate that the ongoing relationships with dedicated and caring support staff are critical to delivering outcomes that increase their resilience and improve their health and well-being. They tend to be sensitive to changes and threats within the service environment, pick up when staff are worried and stressed, and often react badly when those they have critical relationships with indicate they are moving on. These impacts have been exacerbated by the lack of communication and clarity about the timelines and processes for decision-making and notification, with service providers unable to discover who will be delivering new services within their areas so they can provide a supported referral. Delays in the tender assessment process have meant that on two occasions services that do not have ongoing contracts and are in the process of winding up have subsequently been given contract extensions – having already notified clients and staff of closure dates (see for instance the submission from Lamp Inc.¹ who provide community mental health services in the lower Southwest region).

¹ *Funding cuts to services in the Lower South West of WA*, Lamp Inc. March 2015



5.0 The impact on staff and organisations

There is a significantly high level of stress reported within many of our member organisations that have been disrupted by changes to and uncertainty in ongoing services and arrangements, with staff leaving to seek more secure and reliable employment,² and collaborative initiatives and arrangements undermined by distrust. In such uncertain times many organisations will hunker down as they rationally seek to prioritise the well-being of their clients and staff and the viability of their organisations. In the absence of clear information and certainty boards and CEOs will become risk averse and delay making decisions about exploration, participation or investment in new initiatives, employment of new staff or development of new facilities.

6.0 The effects on service integration

The biggest challenge facing community services is how we can better deliver more effective services to improve the prospects and change the lives of some of our most disadvantaged and vulnerable citizens - particularly those with complex needs. Doing so requires an evidence-based approach that coordinates and integrates services and support across different programs and disciplines to deliver collective impact, but these services take time to develop. Within our current operating environment, characterised by a growing demand for services (underlined by both an ageing population with increasing levels of inequality and disadvantage) and a tightening fiscal environment resulting in reduced service funding, there is a critical need to ensure that the services we are delivering are well targeted, effectively deliver meaningful long-term outcomes, are accessible to and engage with service users, and have the continuity and sustainability to inspire their trust. In this context it is critical that we become more effective in better identifying those who are at high risk of poor longer term outcomes and are able to deliver effective early intervention services at crucial life transitions to ensure that the need for more expensive crisis or tertiary services is reduced in the longer term.

It is apparent that the problems with timelines, communication and the way in which the tender process was conducted (as described further below) clearly undermined the capacity for service providers to collaborate, to develop integrated services and to pursue service innovation, despite the capacity for all of these things inherent in the new approach to broad-banding services and scaling up service contracts. Where innovation and service integration is likely to happen within the scope of service contracts funded under this process, it is likely only to be within individual larger service providers who are able to join up or extend existing services, on the basis of existing networks and relationships between service providers that have 'survived' the tender process. Service collaboration should be encouraged and supported by program structures and processes, rather than occurring in spite of them. The DSS should be looking at how it can put in place tendering processes that encourage the development of collaborative service models and consortia, and program structures that encourage and support information sharing, supported referral and greater degrees of service wrap-around and integration.

² For example Communicare report 5 staff leaving to find more secure work.
Submission to the impact on service quality, efficiency and sustainability of recent Commonwealth community service tendering processes by the Department of Social Services, Communicare Inc. March 2015



7.0 Consultation and evidence-base

To our knowledge there was no consultation or meaningful engagement with service providers on any of the key elements of service outcomes or program design. This lack of consultation led directly to an over-subscription to the tender process, a lack of coordination between service providers concerning service integration or population and cohort outcomes - which will ultimately lead to a fragmented and ineffective service system with significant risks of service and support gaps, duplication and poor targeting of effort.

No information has been shared with service providers that indicated an evidence base or an overarching outcomes framework that lies behind and informs the decision-making behind the services procured or changes made to the scope and extent of contracts offered. We recommend that this question is specifically asked of DSS on notice prior to them presenting evidence to the committee, as we would expect there would be some rationale for the changes made to service offers.

On the one hand, if there is in fact a rationale, model, evidence base or data-set that informs this decision making, then it seems counter-productive not to share this with service providers in discussing and designing the scope, extent and outcomes of services offered. Many service providers who have been successful in receiving service offers expressed their frustration with the need to re-scope, design and price their services within a very short timeframe and felt that the time, effort and analysis they put into their initial tenders was wasted if the DSS in fact wanted something more specific that they had not specified or were working to a model that they had not shared.

On the other hand if there is not an evidence base or rationale for their decision making, then on what basis has service tenders been ignored or re-scoped? What then is the explanation for this duplication and waste of effort and increased administrative burden for service providers and DSS staff?

8.0 The administrative burden

While community service organisations have welcomed the Commonwealth's in principle commitment to reduce red tape, we are concerned that the focus of efforts to date has been more on reducing the administrative burden for the Department (through reducing the number of program streams and the number of contracts it needs to manage) rather than reducing the burden placed on the sector by making tendering and reporting requirements more directly relevant to community need and population or cohort outcomes. We note with some concern that one direct outcome of a poorly design and managed service tendering process (that does not sufficiently clearly define the scope of services being procured or the outcomes to which they are targeted) is a dramatic increase in the number of tenders received, the divergence of services offered and outcomes likely to be produced, and the increasing demands of administrative processes required to evaluate and respond to them. The direct consequence of a poorly designed and implemented tender process is a significant increase in the administrative burden of the Department.

The Council notes that this lack of clear scope and outcomes, together with the lack of notice to and consultation with the sector, the high level of uncertainty concerning how new program streams



mapped onto old ones and the short tendering timeframe have also resulted in months of additional effort for community organisations in drafting a huge number of grant applications ... as well as months of additional work and a significant blow-out in the tendering timeline for the DSS in evaluating them. Recent evidence to your committee in Senate Estimates indicated that this resulted in 5,500 applications worth more than \$3.9 billion for the \$800 million delivered through the DSS tendering round (which represents approximately one third of all DSS community service funding).

We understand that similar figures and similar concerns apply to the IAS tendering process, with 2,472 applications for 4,948 projects from 2,345 organisations worth in the order of \$14 billion for the \$2.3 billion of funding available - resulting in an extension of the funding round of an additional 6 months to allow assessment of the high number of applications. We understand that 1,233 of the 2,472 applications were deemed non-compliant with the application requirements, which seems to indicate a lack of clarity and understanding of those requirements and a significant waste of effort and time.

The Council notes that an additional administrative burden was then placed on organisations who received a service offer that varied substantially from the services they had tendered for, requiring them to re-scope, redesign and re-cost prospective services within the very narrow timeframe of a 20 day contract offer with strict confidentiality provisions.

9.0 Discontinued funding rounds

The Council understands that three funding rounds were discontinued at a late stage after prospective tenders had spent significant time and effort developing service tenders, resulting both in significant additional wasted effort by organisations preparing tenders. This would seem to be an indication of a lack of clear high level policy direction, with budget and program decisions being made 'on the run'. While it is to be expected that such decisions will be made, it is inappropriate and highly irregular for changes to be made once already committed to a competitive tender process. The submission from Shelter WA³ provides analysis of the implications of the abandonment of the 'Housing and Homelessness Service Improvement and Sector Support' round, documenting the significant effort put in to developing and negotiating arrangements with service providers and local government authorities.

The Council is extremely concerned about the cessation of funding arrangements for national housing and homelessness research, representation, policy development and advocacy with the cutting of funding to the national housing peak bodies National Shelter, The Community Housing Federation of Australia and Homelessness Australia in June 2015. The timing of this funding cut is particularly unhelpful as it will come part-way through the white paper process on the reform of Federation, which has the role and responsibilities of the Commonwealth in housing and homelessness programs and policy as one of its four main areas of focus, and a discussion paper on this topic currently out for public consultation. Reducing capacity at this point undermines the capacity of the community to enter into this important debate of national interest in an informed and coordinated manner. The decision to cut funding at this juncture sends also an unfortunate

³ *Response to the Senate Inquiry into Community Service tendering by the Department of Social Services, Shelter WA, March 2015.*



signal to the wider community, as it might logically be taken as an indication that the Federal Government have already decided to devolve housing and homelessness funding and policy to the States and Territories.

Irrespective of whether the Federal Government decides to devolve responsibility for housing and homelessness program design and procurement to the State and Territory level, it is clear that there are essential policy levers that directly impact upon the housing market, housing affordability and the viability of social housing systems at the national level, particularly in relation to Commonwealth Constitutional responsibility for tax and transfers.

Reform focused on devolving program design and decision making to the State and local levels is predicated on maintaining Commonwealth responsibility for the provision of funding. In order to maximise the return on Commonwealth investment, setting clearly defined goals attached to the expenditure is recommended. States and Territories should be accountable for achieving the defined high-level program goals (and reporting on population level outcomes) that are set at the national level and accompany the provision of funds.

This will ensure the Commonwealth has sufficient leverage and oversight to ensure equitable access for housing services and supports across the nation (or other comparative outcomes in other areas). In order to ensure equitable access to services, as well as setting high level national outcomes, the Commonwealth will need to continue to play a role in national policy coordination and collection and the maintenance of national data sets. This will provide the necessary evidence base to share and promote innovations between jurisdictions to ensure that no state is falling behind in achieving the stated objectives in their provision of services.

States and Territories alone cannot (using housing affordability as a specific example) address the high comparative cost and ongoing inflation of housing costs that are impacted by other federal levers (capital gains, negative gearing, CRA, monetary policy etc.). A true partnership approach between the Commonwealth, State and non-government organisations recognises the multiple factors impacting housing affordability (and other areas of social policy and program delivery more generally) and seeks to provide improved outcomes for all Australians.

10.0 Grants vs. service agreements

The Council notes that DSS communications and materials do not appear to distinguish between grants and service agreements and use the terms interchangeably. There are a range of different funding and procurement tools and mechanisms that are available to governments seeking to develop services or deliver community outcomes. Examples include short-term and one-off grants, registration of interest and expression of interest processes, requests for quote, proposal or tender, service pre-qualification mechanisms and panel processes, preferred service provider arrangements, direct negotiation, and open tender processes.

Some mechanisms, such as individual and one-off grants are particularly suited to some circumstances (such as pilot programs and innovation, or establishing initiatives that might be expected to become self-sustaining or access other longer term funding mechanisms once established) but are less suited to others (such as providing ongoing services, ensuring continuity



and trust in service users, or encouraging higher levels of collaboration and integration across providers, service types or disciplines). An effective policy approach to responsible service delivery should outline which mechanisms are most appropriate under which circumstances and use them accordingly.

In relation to the appropriate use of grant programs, the Western Australian *Delivering Community Services in Partnership* policy states:

Grants may be an appropriate funding arrangement where:

- 4) an Organisation requires one-off subsidies, top-ups, seed funding, or funding for a discrete project, innovative trial, pilot program or research of a non-commercial nature; and*
- 5) the grant is for a discrete period; and*
- 6) the grant does not constitute the entire financial base of an Organisation.*

A defining characteristic of grants is that there is generally less oversight, reporting and documentation than for service agreements. Grants must also be linked to a specified purpose and should be paid as either a lump sum, or through instalments.”⁴

The context, application and effectiveness of this policy is described further below. The Council notes that the DSS tender process can be characterised as using a one-off grant mechanism through a competitive tender process to deliver long-term and essential community services, which on this analysis is not an appropriate mechanism for delivering sustainable services or effective service user outcomes.

11.0 The partnership approach

Our experience in Western Australia of a partnership approach between the State Government and the community service sector to the design and delivery of community services, is that an open and consultative process where program scope and outcomes are the result of a genuine co-design is that it directly results in a significant reduction in the number of tenders submitted, a much higher level of quality and relevance, and a greater degree of collaboration and integration between services. When services are able to openly engage in dialog about local community and cohort needs and desired outcomes, and gain a better appreciation of existing services, knowledge and skills prior to entry into a competitive tendering process (where it is important that the highest standards of probity are maintained) we have found that it is more likely that service providers will think constructively about where their services and capabilities fit into a service system capable of delivering higher level population or cohort outcomes, and are more likely to enter into collaborative arrangements, including forming consortia, developing memorandums of understanding or sub-contracting arrangements that can ultimately produce a better integrated and more cost efficient service system.

In this context, we might expect that a high level of over-subscription to a tender process, a preponderance of out of scope or of poorly integrated service proposals is a clear indication and

⁴ *Delivering Community Services in Partnership Policy*, (2011), page 9.
http://www.finance.wa.gov.au/cms/Government_Procurement/Policies/Delivering_Community_Services_in_Partnership.aspx



direct result of a tendering process where the scope is unclear, the service, cohort and population outcomes poorly articulated, and where service providers have not been consulted and engaged in program design. While a process of genuine engagement with service providers in program scope and design requires time and resources to be effective - it should be considered that a great amount of time and resources are likely to be wasted in the design, costing and evaluation of service proposals under an ineffective tendering process and that the services that result are much less likely to deliver value for money, to contribute to longer term population or cohort outcomes, or to result in an integrated service system where particular groups, needs or challenges do not 'fall through the cracks'. We contend that in the longer term taking an uncoordinated 'scatter-gun' approach to the procurement of services will deliver poorer outcomes and cost the community more as a result of higher levels of ongoing service reliance and greater numbers of citizens who are in areas or cohorts where there are 'cracks' between services,⁵ or are not receiving the kind of support required to turn their lives around.

12.0 Delivering Community Services in Partnership

The Council contends that the process of engagement in service design, the reform of policy and service procurement arrangements, and the commitment to a high-level model of genuine partnership between the not-for-profit community sector and government in Western Australia provides a model that the Commonwealth could learn from in improving its tendering processes and re-setting its relationship with the community sector.

We understand that the government of Western Australia is putting in a submission to this inquiry that provides some history and context for the *Partnership Forum* and the *Delivering Community Services in Partnership* (DCSP) policy. As part of this relationship they have engaged with the community sector in a joint response to the White Paper on Federation process, consulted with us on their submission to this inquiry and worked with us collaboratively in our efforts to seek clarity about Commonwealth/State relations, national partnership agreements and the provision of supplementary funding in relation to equal remuneration orders from Fair Work Australia and the Western Australian Industrial Relations Commission.

From the community sector's perspective this engagement is genuine and progress on reforms in agreed areas of shared interest and concern is underway. While things are by no means perfect or reforms near complete, this relationship is robust and we are able to have frank and open discussions about challenging issues. There remains significant variation between line agencies in the understanding, capacity and engagement with the reform agenda, and significant challenges in implementing more complex reform areas such as service co-design and outcome-based contracting. However there have been some very significant lessons learned along the way there are some good examples emerging of successful initiative in areas including the early years, youth at risk and homelessness.

⁵ For example, where there is no longer a multi-cultural early years' service for developmentally vulnerable children in the Bentley and Cannington regions (see the Communicare Inc. Submission) or where there are no longer financial counselling and emergency relief services in a number of regional towns with high levels of disadvantage.



The Partnership Forum was established with the strong backing of the Premier as a result of the Economic Audit Committee process (begun in 2008) and its seminal report *Putting the People First*⁶ (2009). It is made up of leaders from both the public and not-for-profit sectors and led by an independent chair⁷. A critical factor in its success has been participation, good-will and active engagement at senior levels on both sides (including the Directors General of human services departments and community sector CEOs) as well as its role as the governance and oversight mechanism for the implementation of the DCSP policy. The willingness of the Premier and senior members of his government to send strong signals about priority and to ensure compliance with policy (while at the same time building capacity and providing support for implementation) have been critical success factors.

A fundamental element of the Partnership Forum has been its shared commitment “to improve outcomes for all Western Australians through a genuine partnership in the policy, planning and delivery of community services in Western Australia” through an agreed series of principles and behaviours⁸ as outlined below:

Partnership Principles

1. *A commitment to improve social, cultural and economic outcomes for the Western Australian community.*
2. *A collaborative approach to decision-making and working together recognising the interdependence in the delivery of Community Services.*
3. *A partnership based on mutual trust and respect, with openness and transparency in all activities.*
4. *A recognition of the value and contribution of both sectors in the design and delivery of Community Services and the important roles each play in the wellbeing of the community.*
5. *An enduring commitment to the sustainability of Community Services.*
6. *A commitment to empowerment of service users in the planning, design and delivery of Community Services.*

Behaviours

1. *An enduring focus and drive to deliver demonstrable improvements in outcomes for all Western Australians.*
2. *Consultation on all significant issues, including the development of policy, planning and service design.*
3. *Transparency in decision-making, including through the sharing of data and information, basis for funding decisions and contracting requirements.*
4. *An interdependent approach to the planning and delivery of Community Services.*
5. *Public Authorities and Organisations work together to ensure that funding levels are sufficient for sustainable Community Services.*
6. *Engagement of citizens in the ongoing planning, design and delivery of Community Services through direct and indirect methods of consultation and representation in the development of service delivery.*

⁶ See <http://www.dpc.wa.gov.au/Publications/EconomicAuditReport/Pages/Default.aspx>

⁷ For more information see <http://www.partnershipforum.dpc.wa.gov.au/AboutUs/>

⁸ The principles and behaviours are defined in the DCSP policy [document](#) and [context](#); and implemented over time through [Strategic Directions 2012](#) and [Strategic Directions 2015](#).



13.0 Drivers, goals and principles for reform

The section below is intended as a starting point to compile a list of the key elements of reform. An open consultation process is still needed to identify gaps and priorities and adapt these suggestions to set out a reform agenda in re-setting the relationship between the Commonwealth and Community Sectors, and between Federal, State and Local levels of government under reform of Federation.

In this context, *Drivers of Reform* are defined as the problems or opportunities that are 'driving' us to do something differently. Goals of Reform are what the community service sector (and, through consultation, other stakeholders) want to see achieved as a response to the drivers. The goals of reform outline what is the ideal focus of the reform process. Principles for Reform outline how the reform process itself should be conducted. They are the underlying concepts that should form the basis of decision making.

Drivers for Reform

- Greater accountability for performance in delivering outcomes
- Improved levels of subsidiarity to allow flexible approaches to improving outcomes
- Improved consistency of approaches across the nation
- Improved equity, efficiency and effectiveness of service delivery
- Improved durability of allocation of roles and responsibilities
- Improved fiscal sustainability
- Current horizontal inequity between those with similar levels of need by differing access to local services and supports, due to patchiness and targeting methodologies within the system.
- Need for improved provision of seamless support, sustainable outcomes and transition for people with multiple and complex needs across the system

Goals of Reform

- Adequate and sustainable revenue for social programs
- Reforms to Commonwealth service funding which promotes greater devolution to State and local levels
- Commonwealth/State funding agreements deliver greater transparency and accountability
- Commitment to address the structural economic issues driving locational disadvantage, lack of opportunity or access to education, training and employment outcomes
- Equitable access to services and support across Australia
- National policy coordination and collection and maintenance of national data sets
- Funding for services is long term and adequate to meet current and projected demand

Principles for Reform

- Stakeholders are actively engaged in co-design of the system
- Reform approach reflects a true partnership approach between Government and non-government stakeholders
- Reform approach reflects a true partnership approach between levels of Government (Federal, State and Local) and across portfolio areas



- Reform considers the significant Commonwealth structural levers that directly affect outcomes
- No net loss to service delivery levels
- Reforms should improve equity in the distribution of resources, access to opportunity and outcomes

14.0 Recommendations

The Council suggests that the way forward is for the Commonwealth to commit to reforming the Commonwealth Grant Guidelines through a collaborative consultation process in partnership with the community services sector. The recommendations below are our contribution to starting that dialogue with the Minister, the DSS and our national and interstate colleagues. We have structured this section of the submission to provide a list of some specific problems identified by service providers with the tender processes, together with other related issues pertaining to their relationship with the Department in service development, delivery and assessment and then provide specific recommendations to address these issues.

Key Recommendation: That the Commonwealth reform the Commonwealth Grant Guidelines in partnership with the community services sector.

Specific Issues and Responses

Below we provide some analysis of particular issues of concern arising from the DSS tendering process along with specific recommendations of how they could be addressed as a means of reforming Commonwealth Grant Guidelines and service procurement processes.

1) Lack of consultation and engagement with the design and scope of tendered programs and with the tendering process and timeline

- a) Lack of clarity in the tender process
- b) Lack of clear scope of services required
- c) Lack of specification of geographic areas or cohorts targeted
- d) Lack of specification of service user, cohort or population level outcomes sought
- e) Lack of a clear timeline for the tender process or adherence to that timeline

Recommendation 1. Advance notice should be provided a minimum of 6 months ahead of any service procurement process, including clear information on the size, scope and nature of any services tendered, the relevant population or cohort groups and their desired outcomes.

Recommendation 2. Where there are significant changes to the size, scope or nature of services tendered there should be a clear and open consultation process with services concerning program design and service outcomes.

Recommendation 3. Clear and consistent advice on the goals and outcomes of any service consultation or engagement processes need to be provided at the commencement of those processes, including clear



information about the level of engagement as to whether it is for information only, consultation seeking input or endorsement, or whether it is a genuine co-design process.⁹

2) Lack of transitional processes or arrangements

- a) Insufficient notice of process and timelines to allow existing service providers to enable certainty for staff or meaningful and supported transitions for clients
- b) Lack of information provided to those receiving a service offer about where funding to other existing services had been cut or changed, to allow them to transition clients, enter into sub-contracting arrangements or secure experienced staff

3) Poor timing of processes

- a) Tight timelines for service providers to develop service tenders
- b) Unreasonable timelines for service providers to respond to contract offers (given significant changes of scope, duration and cost of services offered compared to those tendered for)
- c) Uncertain and shifting timelines for DSS evaluations and responses

Recommendation 4. Clear timelines are established well in advance of any tendering process - ensuring new contracts are finalised a minimum of 6 months prior to the end of existing service contracts.

Recommendation 5. Timelines for service re-negotiation, transition or wind-up should be built into service contracts

4) Changing scope in contract offers

- a) Many organisations received service offers that were fundamentally different from the services they had tendered for
- b) Changes included variations in the location or geographic extent of services (including some asked to provide their service in a town where they had no staff or facilities) the period of the contract and the range of services offered
- c) This required services to re-scope, re-cost and redesign service models - a significant additional impost within a very short timeframe to accept an offer (20 days)
- d) Within this time service providers might also need to seek additional service capacity or negotiate sub-contracting or other collaborative arrangements (while hampered by a lack of information about existing services and by confidentiality restrictions as below)
- e) Ministerial and DSS communications indicated a clear preference for and intention to move to 5 year contract terms, so it is unclear why some service offers based on 5 year tenders were reduced to shorter terms, and no explanation was provided.

Recommendation 6. Recommendation 6: Service type, scope, duration and geographic extent should clearly be established at the outset of a tender process (preferably co-designed with service providers prior to entering into a competitive tender) and changes to this scope

⁹ See for example the Partnership Forum's *Good Practice Guidelines* (2015) as listed further below.



should then only be considered on the agreement of both parties where there is a clear reason to do so.

Recommendation 7. Recommendation 7: Sufficient time should be allowed for contract negotiations.

5) Lack of clear and meaningful information supplied and contact points within DSS

- a) Service providers received generic letters or emails that lacked any meaningful information
 - about why tenders were not successful
 - about why changes were made in service offers to the scope, duration, cost or geographic extent of services they had tendered for
 - about who to contact within DSS to seek more information or negotiate contract details
- b) there were significant delays for service providers seeking more information to clarify offers, often requiring multiple calls and emails and repetition of the same questions and information to different DSS staff
- c) without a clear contact point or contract manager it is effectively impossible for services to undertake meaningful negotiation about service contracts
- d) DSS staff were unable to supply meaningful information about the rationale for or background to changes to service offers compared to those tendered for
- e) Those receiving service offers where the scope or geographic extent of services requested had changed were not informed where existing services were being de-funded or cut (for example a mainstream service asked to deliver services to an additional Aboriginal community was not informed those services had previously been delivered by that community's local governance body).

Recommendation 8. Service providers should be given a single clear contact point for information and negotiations within DSS and clear records kept of any questions asked, issues raised or information supplied.

Recommendation 9. Service providers should be able to directly negotiate service terms and conditions with a state or regional contract manager who has the capacity and is empowered to enter into contract negotiations. An ongoing relationship established that enables them to better understand community need and the context of service delivery so they can make informed decisions and participate in ongoing service improvements.

Recommendation 10. The Commonwealth should consider greater devolution of program and service design to the State, regional and local level to enable more appropriate and responsive location-based services to be developed.

Recommendation 11. The Commonwealth should empower State and regional contract and program managers to be able to enter into cross-departmental, cross-portfolio and cross-sectoral negotiations to



enable them to participate in collaborative location-based collective impact service development initiatives.

Recommendation 12. The Commonwealth should use as a starting point the Good Practice Guidelines¹⁰ developed by the WA Partnership Forum in developing guidelines to support the co-design of community programs and services, and should enter into a process of adaptation and continuous improvement in partnership with the community services sector.

Recommendation 13. That Good Practice Guidelines be developed for the three way process of program and service co-design involving Federal and State or Territory Governments together with the community services sector.

6) Onerous and unreasonable contract terms and conditions

- a) Confidentiality requirements restricted the ability of services to enter into collaborative agreements or partnerships. Where existing services had been cut back or de-funded, not only were those with expanded contract offers not told of these existing services, but they were prohibited from discussing their service offers with them, making it impossible to identify service gaps, negotiate collaborative arrangements, ensure the transition of former clients or offer jobs to outgoing staff.
- b) Unnecessary and restrictive provisions that micro-manage operational issues, such as requiring approval for purchases over \$5000.

Recommendation 14. Ensure no contracts proscribe service providers from entering into negotiations to establish collaborative arrangements (including sub-contracting or MOUs), including the sharing or receiving of necessary information about service offers or services being terminated or transitioned.

Recommendation 15. Ensure no contracts proscribe service providers from participating in policy development, public debate or advocacy.

Recommendation 16. Ensure no contracts proscribe service providers from undertaking independent research and publication in relation to their funded activities.

Recommendation 17. Ensure there is adequate provision for redundancies for staff affected by changes in service procurement and ensure no contracts proscribe service providers from using funds appropriately to meet their employee obligations.

7) Lack of an overarching Commonwealth approach to service procurement

- a) Lack of service continuity for service users

¹⁰ *Good Practice Guidelines*, The Partnership Forum, 2015. Note that these guidelines are appended to this report and should be published shortly at: <http://www.partnershipforum.dpc.wa.gov.au/>



- b) Lack of funding certainty to support collaboration, investment and innovation
- c) Lack of a clear distinction between grants and service contracts
- d) Lack of clear policy guidance on which procurement tools are most appropriate under which circumstances

Recommendation 18. Clearly distinguish between grants and service contracts, delineating where their use is appropriate in the delivery of one-off pilot programs versus ongoing community services, and put in place clear timelines and procedures for service tenders, notifications and transitions

Recommendation 19. Include clear guidance and policies for the use of preferred service provider arrangements, direct negotiation or select tender processes as a preferred means of ensuring ongoing service delivery, and include provisions for determining when and where competitive tendering processes are appropriate and likely to be beneficial - based on an ongoing periodic review to determine whether services are delivering cost-effective outcomes

Recommendation 20. The DSS and the Commonwealth more broadly should consider whether it has the capacity to conduct more effective and efficient tendering processes in the future. If it does not have or is not willing to invest in and develop this capacity, then it should devolve service design and tendering down to the State or Territory level, and restrict its role as a funder of services to setting high level program goals and developing evidence-based outcomes frameworks at the national level.

Recommendation 21. The DSS and the Minister for Social Services actively and openly engage with the community service sector to reset the relationship to one of genuine partnership, based on clearly articulated principles and behaviours. The goal of this partnership should be putting the people first to achieve meaningful and sustainable outcomes for disadvantaged and vulnerable service users through effective and sustainable services.

15.0 Conclusion

The Council thanks the Senate Community Affairs References Committee for the opportunity to provide a submission to this inquiry. Should the Committee have any questions or concerns about this submission, or should you want any further information, please contact Chris Twomey, Director Social Policy at WACOSS on (08) 9420 7222 or chris@wacoss.org.au.



16.0 Appendix 1

Summary of Lessons Learnt from the implementation of the *Delivering Community Services in Partnership Policy*.

This is a version of the outcomes of an assessment of the first stages of implementation of the DCSP Policy undertaken by the Partnership Forum in 2013, edited to be of broad relevance to the Commonwealth with regards to its tendering processes.

TRANSPARENCY

1. Provide a clear scope of the procurement of the service or program process. This scope should be provided at the beginning of the process. The procurement process should be understood by both the public and the not for profit sectors.
2. Recognise that there is a spectrum of procurement processes determined by the overall context, including the particular service or program, government priorities, community need or outcomes being sought. It should be clear on where a particular procurement process sits on this spectrum. The parameters of the process should be clearly communicated to both the public and not for profit sectors. This may include relevant government decisions, existing policy priorities, budgetary or timing constraints or the requirement to achieve a particular government policy outcome.
3. Procurement processes should outline *either* a fixed cost budget *or* a set of pre-determined outcomes but not both, and not neither.
4. Procurement processes should clearly articulate the vision of the service being sought and the type of outcomes that are to be delivered under this vision. This may include distinguishing between service outcomes or community outcomes, or clearly communicating how the outcomes fit within broader policy frameworks.
5. Effective communication opportunities and briefings should occur throughout the procurement process, including comprehensive post-procurement feedback to both successful and unsuccessful applicants. In addition, collaboration should occur while recognising the not for profit sector's right to advocate to government.

INVESTING IN COLLABORATION

6. Provide a commitment of resources from both the public and not for profit sectors to ensure the collaboration process works adequately and ensure that procurement design structures are open to consultation. Ensure that the consultation occurs at the front end of the procurement process in order to prevent the stifling of innovation.
7. Recognise that building genuine collaboration in the design and delivery of services requires time. Effective communication and collaboration may include exercises such as market sounding, the release of exposure drafts or directly involving not for profit organisations in the design of outcomes.



8. Recognise that it is possible and desirable to achieve collaboration between government agencies and the not for profit sector in the co-design of tenders, and to simultaneously establish a competitive tender environment.

BUILDING CAPACITY

9. Effective collaboration between government agencies necessitates oversight across agencies by central mechanisms within Government that have both the capacity to assist and support collaboration and to require it.
10. Learn by doing: it is important for both the not for profit sector and government agencies to feed the lessons from past implementation back into current practice.
11. Share knowledge, learnings and experience with others within both the not for profit and public sector through the Partnership Forum to ensure that experience informs the practice of all.
12. Clearly articulate the benefits that are realised through the action learning process to both the not for profit and public sector staff.



17.0 Appendix 2

DRAFT GOOD PRACTICE GUIDELINES FOR ENGAGEMENT AND COLLABORATION IN COMMUNITY SERVICES PROCUREMENT

This document has been developed as a guide for government agencies undertaking community services procurement. It provides an outline of the behaviour expected when engaging with the Not-for-Profit (NFP) sector, and provides some practical considerations for undertaking collaboration processes.

The nature of the relationship between government agencies and NFP service providers is central to the *Delivering Community Services in Partnership (DCSP) Policy*. Partnership Principles and Behaviours have been established which guide both sectors when undertaking collaboration regarding the planning, design and delivery of community services. The *DCSP Policy* is clear that collaboration must commence during the procurement planning phase, prior to decisions being made about possible funding and contracting strategies.

What are the Partnership Principles and Behaviours that apply to engagement and collaboration in community services?

Government agencies undertaking engagement and collaboration with NFP organisations must have regard to the Partnership Principles outlined in the *DCSP Policy*.

1. A commitment to improve social, cultural and economic outcomes for the Western Australian community.
2. A collaborative approach to decision-making and working together recognising the interdependence in the delivery of Community Services.
3. A partnership based on mutual trust and respect, with openness and transparency in all activities.
4. A recognition of the value and contribution of both sectors in the design and delivery of Community Services and the important roles each play in the wellbeing of the community.
5. An enduring commitment to the sustainability of Community Services.
6. A commitment to empowerment of service users in the planning, design and delivery of Community Services.¹¹

The *DCSP Policy* outlines expected Behaviours for both government agencies and NFP organisations engaged in the provision of community services.

1. An enduring focus and drive to deliver demonstrable improvements in outcomes for all Western Australians.
2. Consultation on all significant issues, including the development of policy, planning and service design.

¹¹ The *Delivering Community Services in Partnership Policy* (2011), p5.



3. Transparency in decision-making, including through the sharing of data and information, basis for funding decisions and contracting requirements.
4. An interdependent approach to the planning and delivery of Community Services.
5. Public Authorities and Organisations work together to ensure that funding levels are sufficient for sustainable Community Services.
6. Engagement of citizens in the ongoing planning, design and delivery of Community Services through direct and indirect methods of consultation and representation in the development of service delivery. ¹²

These Principles and Behaviours are reflected in the practical guidelines below.

Who should government agencies consult with?

The *DCSP Policy* notes the importance of engaging citizens as well as the NFP sector in the planning, design and delivery of community services. The engagement of citizens could be undertaken through an anonymous survey of service users about how current services are meeting their needs, or gaining advice from consumer advocates regarding gaps in service delivery.

Community Services peak bodies are key sources of information regarding community needs. Contacting peak bodies early in the procurement planning phase will enable them to assist with engaging stakeholders, many of whom government agencies may not have access to. It is recommended that as many potential service providers as is practicable are engaged, as this will deliver a variety of viewpoints and a robust collaboration process. In practice this may involve government agencies contacting a wide range of individuals or organisations and asking these parties to participate in any engagement activities.

Additional key stakeholders may include other government agencies, sector experts, and service experts. Where a government agency is unsure of which stakeholders may be relevant to the community service they are looking to purchase, advertising collaboration sessions widely through any usual means of communication with the community will often be a useful starting point.

What should we consult and collaborate on?

Collaboration with NFP organisations and service users should cover a variety of aspects of the proposed community service. At a minimum, engagement and collaboration should take place regarding the community outcomes being sought (i.e. the desired impact or 'change' the services should achieve), the potential design of the service model, or any other requirements the government agency may have about how services are to be delivered (for example, quality standards).

In some cases, the government agency may need to consult key stakeholders regarding the community need, social drivers and possible strategies to engage the service users. This may include undertaking an analysis of gaps in current services and/or a market profile and capacity analysis. Engagement should identify any previously unknown information about the market including potential service providers and service models; this is a process with which peak bodies may be able to assist.

¹² *The Delivering Community Services in Partnership Policy* (2011), p5.



For example, in planning a community services procurement process you may be unsure of whom the potential service providers are, what best practice is for this area of services, and whether the community's needs have changed since engagement was last undertaken. In this scenario, contacting all relevant stakeholders to gain feedback on these questions would lead to a greater understanding of the community need, how it could be achieved and who would be well placed to provide the services.

In another scenario, you may have a good understanding of the market and the community need, but choose to engage your stakeholders in collaborative service design to develop community outcomes and ensure that your specification for services encourages innovation in service delivery.

How should engagement and collaboration take place?

There are a number of ways that government agencies can undertake engagement and collaboration. Forums or workshops with multiple representatives of the NFP sector and/or the community are often useful, or it may be more appropriate to meet with service users and NFP organisations individually. Where unsure, seek guidance from the organisations or individuals with whom you are in consultation to ensure that the format of the formal engagement process is one they are comfortable with and will enable honest and considered feedback.

In some circumstances, it may be appropriate to provide documents (for example, a table of draft outcomes) prior to collaboration meetings to enable participants to consult with their key stakeholders prior to a meeting. This can encourage an iterative engagement process whereby service design evolves through a series of discussions between parties.

Government agencies should communicate the result of engagement with all participants, and encourage participants to provide feedback on the engagement process to improve future practice.

Therefore, in practice, an engagement process may involve many elements. Successful service design may be achieved by holding workshops with an open invitation to all interested parties (e.g. potential service providers and community representatives) to discuss funding levels and service design. Documents could be provided to participants prior to the workshop; feedback could be incorporated into the design of services on the spot and all participants would be contacted with the results of their feedback following the collaboration process.

How long should we allow for engagement and collaboration?

Allowing insufficient time is a significant barrier to effective collaboration and engagement. The co-design of a community service can take time, especially in circumstances where a government agency has a range of stakeholders to consult and the service is complex.

As the tendering process may take six months or more, it is recommended that initial engagement is undertaken as soon as possible. Government agencies should aim to have completed their collaboration at least six months prior to the anticipated commencement date of any service agreement.

For example, if a service agreement is due to expire 30 June 2015, the procurement process would ideally commence in early 2015. As such, the government agency may choose to begin their



engagement process from 30 June 2014 in order to allow sufficient time for an iterative, collaborative process to identify the ongoing community need, define the desired community outcome and explore service design options.

Where can I find further guidance and practical examples about how to collaborate effectively?

A wealth of evidence and guidance about the value of collaboration and partnership from early service planning and design stages through to procurement, service delivery and evaluation, is available from both Australian and International sources.

Some suggested resources are available online:

- The Australian Centre for Social Innovation's [Co-Design Approach](#);
- The Australian Centre for Social Innovation's [Australian and International Networks](#);
- Nesta's [Innovation Labs](#);
- Nesta's [Coalition for Collaborative Care](#); and
- Nesta's Report: [By Us, For Us: The Power of Co-Design and Co-Delivery](#).

Who can I contact if I need further assistance?

FaCS is available for assistance with community services procurement, including any queries regarding engagement and collaboration via [e-mail](#) or on (08) 6551 1515.

