

# Legislative Assembly Committee on Community Services Inquiry into Outsourcing Service Delivery

## NSW Government Response to Questions on Notice

(2 April 2013 Hearing)

**ADDITIONAL INFORMATION - TRANSCRIPT PAGE 5: Greater detail to be provided on the number of children and young people transitioned to an out-of-home care non government service provider**

On 1 March 2012, the transition of children and young people in Out of Home Care (OOHC) from the government to the non-government sector commenced.

From 1 March 2012 to 31 January 2013, a total of 699 children and young people had transferred to NGOs. This figure includes 255 new entries into care and 474 existing placements. At 31 January 2013, 32% of the full year target (July 2012 – June 2013) had been achieved with 699 children and young people transferred to NGOs. The full year target, July 2012 to June 2013 is 2183 children and young people.

From 1 March 2012 to 28 February 2013, a total of 1302 children and young people had transferred to NGOs. This figure includes 358 new entries into care and 944 existing placements. At 28 February 2013, 60% of the full year target (July 2012 – June 2013) had been achieved with 1302 children and young people transferred to NGOs.

There was a significant increase of 603 children and young people in the cumulative transition figures from 31 January 2013 to 28 February 2013 (A total of 699 in January and a total of 1302 in February). There was an increase of 103 new entries and an increase of 470 existing placements.

The main reason for this notable increase in figures is a change in the data source for the production of NSW and regional OOHC transition data that commenced in February 2013. In January 2013 a Transition Program Office data task group was established to address data inconsistencies identified by the regions in the OOHC transition dashboards primarily produced from the MDS data source. Previous transition data had been obtained from MDS, a data system reliant on NGOs entering data at their own discretion, often resulting in less reliable data recording for transition. Improving KiDS data recording and management processes, and quality testing of the KiDS system resulted in the KiDS system being identified as a more reliable data source for producing transition data than MDS. Further improvement to KiDS and data management processes for the collection of OOHC transition data is underway. KiDS Business Support continues to maintain the ongoing management of the transition process by providing regions with regular reports taken from KiDS data.

Please find attached the January Dashboard to demonstrate where the original figures in the transcript had been taken from (**ATT 1**).

## **ADDITIONAL INFORMATION - TRANSCRIPT PAGE 12: How does accreditation impact on organisations and tendering?**

As stated in the NSW Government submission to the Inquiry, because of the different service delivery reforms, regulatory frameworks and client groups there is no 'one size fits all' approach to FACS NGO reform and management.

The NSW Government submission outlines the quality, monitoring and regulation systems for FACS service delivery (*page 35, section 7*).

Accreditation impacts on organisations and tendering in different ways, depending on the client group. Key accreditation mechanisms for each service delivery area are:

- For out of home care services the NGOs need to be:
  - currently accredited by the Children's Guardian
  - in the quality improvement program with the Children's Guardian (this applies to existing services only), or
  - in the process of acquiring OOHC accreditation with the Children's Guardian.
- For disability services NGOs need to provide verification that they meet the NSW Disability Service Standards or are working towards full compliance with these standards. All ADHC funded service providers will be supported through the Industry Development Fund (IDF) to meet the new requirements during the life of the current Funding Agreement.
- For community housing services accreditation is an industry-led responsibility conducted by Global-Mark against the National Community Housing standards.

**ADDITIONAL INFORMATION - TRANSCRIPT PAGE 15: Furnish to the Committee a copy of a tender document in relation to out of home care. Provide a copy of a rural tender in relation to out of home care**

Please see attached the following documents:

- Out-of-Home Care (OOHC) Reform Program Open Tender Statement of Requirements (**ATT 2**)
- Out-of-Home Care (OOHC) Reform Program Conditions of Tender (**ATT 3**).
- Out-of-Home Care (OOHC) Reform Program Open Tender Application Form (**ATT 4**)
- Out-of-Home Care (OOHC) Reform Program Open Tender Returnable Schedules (**ATT 5**).

The above documents covered applications from all regions across NSW, including rural areas.

**QUESTION 1: Most organisations visited by the Committee expressed the view that community acceptance of individual services and service providers is a critical element in achieving good client outcomes. This can only be established over time, with secure staffing and funding continuity.**

- **Is there support for dedicated three year funding cycles to enable organisations to develop goodwill and trust within the community and foster good client relationships.**

Yes. All FACS Divisions have three year cycles in place for the majority of funding arrangements. Shorter term contracts may be provided for projects with specific implementation timeframes or for one-off investments (e.g. research, evaluation, equipment etc) or to align contract end dates pending implementation of a reform.

**QUESTION 2: Another criticism by service providers in rural and remote areas is that new services are funded which directly compete with existing providers, without offering improved client outcomes and thereby creating dislocation and uncertainty for clients.**

- **Do you think there should be a requirement to map existing services on the ground before tendering for new services providing support to clients already receiving identical support?**

FACS agrees that improvements in the way that services are co-ordinated in local communities would improve the efficacy of those services and the outcomes for clients. FACS has planning processes in place that inform the allocation of resourcing at the local level. These planning processes include consideration of the existing services that are available for FACS target groups.

FACS is restructuring its regions to align with Local Health District boundaries. The 'Localisation' initiative will devolve the legacy regional structures of ADHC, Community Services and Housing into a single local structure across 15 districts. This will enable more localised planning and decision-making, improve linkages between senior service delivery management and front line staff, and critically, local communities.

FACS considers that a local planning and community engagement approach to service delivery decisions, that involves other NSW and Commonwealth agencies, local government and the non-government sector is a more effective way of effecting improvements in service co-ordination and responsiveness than a simple mapping and tendering approach.

- **Is competitive tendering appropriate in all circumstances?**

No competitive tendering is not the optimal approach to determining funding and service delivery arrangements in local communities. Transparency and probity in decision making is essential in the allocation of government resources, however a range of processes can be used to achieve – a range of processes are used by FACS to establish new service arrangements – these are set out in the NSW Government submission (section 6, page 31).

To support transition to the NDIS, ADHC is establishing a Supplier Directory by June 2013. The Directory will include all existing service providers, setting out their services by location and service type. The Directory will be open to new providers through a competitive process where a service shortage is identified. The Supplier Directory will reduce competitive selection processes and also enable information for clients about providers.

**QUESTION 3: It is claimed by some providers that new award conditions, while increasing salaries, have not fully compensated for overheads and costs, resulting in reduced staffing hours and a need for reliance on volunteers.**

- **Have you conducted any assessments of the impact of the new award conditions on staff and organisational capacity?**

Through the introduction of the national workplace relations system the Social and Community Services (SACS) sector in NSW now operates under a national Modern Award. Fair Work Australia's Equal Remuneration Order (ERO) will see SACS Modern Award workers receive wage increases between 23 and 45 percent (depending on level of position) over ten years, which includes an additional 4 per cent loading and is designed to ensure that the sector attracts, rather than loses staff.

Implementation of the wage increases is a joint responsibility of the NSW and Commonwealth Governments, as well as NGOs themselves where service delivery is not funded by Government. The NSW Government has committed \$1 billion dollars to meet its fair share of the increased wage costs arising under NSW and joint NSW/Commonwealth funded programs. This includes a shortfall in the Commonwealth's share of supplementation.

We are not aware of any issues resulting from the award changes which would impact substantially on NGO overheads to the extent that reductions in staffing would be required. There is a process to enable funded organisations to appeal the level of supplementation issued if they can prove it will have adverse impact on their overall operations.

**QUESTION 4: In answers to Questions on Notice (September 2012), you note that in July 2012 ADHC introduced a new Funding Agreement which aimed to improve services and funding arrangements and processes.**

- Have you received any feedback on the success of this Agreement from the providers of the clients? How have you been able to assess its progress?**

The ADHC Funding agreement was developed with substantial input from sector leader and a range of organisations.

Organisations have welcomed the streamlined administration which has seen in the first six months of the new agreement a reduction of 82% in the number of funding changes required to be signed by organisations compared to the same period in 2011.



**QUESTION 5: Reference is made in the answers to Questions on Notice to the Community Sector Charter and the Forum of Non-Government Agencies (p4).**

- **Can you elaborate further on the current status of the Charter and how the Forum is progressing the partnership relationship between the NSW Government and the community services sector?**
- **How is membership of the Forum determined?**

FACS is undertaking a range of reforms that impact on its relationship, including funding arrangements, with the NGO sector. FACS is developing an NGO Engagement Strategy to support the implementation of these reforms.

The Strategy will, amongst other things, create a consistent platform for NGO engagement across FACS. The Strategy will incorporate the NSW Commission of Audit's recommendations relating to the NGO sector, including the establishment of a Community Partnership Forum.

A Community Partnership Forum model is being developed and will be in place by June 2013. It will work alongside other stakeholder engagement forums to be established by FACS and will focus on capacity building for the NGO sector in a climate of extensive change. Membership of the Forum will follow the composition suggested in recommendation 40 of the NSW Commission of Audit Government Expenditure Report.

**QUESTION 6: You note QoN (p6) that FACS will continue to provide services in areas where NGOs are unable to service needs.**

- Are there any plans to assist NGOs to develop in areas that they do not currently have the capacity or ability to operate in?**

The NSW submission to the Committee provides examples of where the NSW Government has invested substantially in building the capacity of the NGO sector to take on new roles. Examples include:

- development of the NSW Community Housing sector to ensure it is equipped to take on a more diversified role
- investment with the Out of Home Care peak ACWA in developing the role of out of home care providers to transition children from community services to NGO providers, this include supporting new entrants to the Out of Home Care sector, and seeding new organisations to address particular areas of demand, such as Aboriginal service provision.

A more recent example is the use of innovative procurement approaches to attract new entrants to deliver new support models. FACS has recently appointed the St Vincent de Paul Society to deliver the Ability Links (local area co-ordination model) in the Hunter area to support the launch of the NDIS from 1 July 2013. While the organisation is well recognised as a significant non-government provider across Australia, they have had a limited role in the funded NSW system.

With the agreement for full scheme NDIS now struck with the Commonwealth the NSW government is considering the optimal approach to transitioning its role and direct service delivery functions to ensure that clients have choice and control in the supports that they receive, and better engagement with local community.

Under an NDIS, the limitations on the market, and therefore the need for a government service delivery presence to ensure service supply, changes substantially. The NDIS model is designed to expand the market of supports available to people with disability beyond the current limitations of the specialist disability service system. The NDIS environment will create opportunities for new entrants to the system, and for the concept of the system to broaden based on the choices and aspirations of people with disability. It will be better resourced, removing many of the constraints on current services to diversify or expand. The role that the Government plays as a specialist provider will need to change substantially in response to that environment, while ensuring continuity of support for clients.

The NSW Government will be looking to the launch of the scheme in the Hunter area to determine the most appropriate approach to transitioning the services to the NGO sector to ensure that the flexibility exists for clients in the supports available to them.

The Department will be working closely with the Commonwealth to inform its sector development activities to support NDIS implementation

**QUESTION 7: Taxation incentives are considered to be very important to organisations operating in the charity sphere.**

- **Has the legislative definition of what constitutes a “charity” been finalised?**

On 8 April 2013 the Commonwealth Government released an exposure draft legislation for a statutory definition of charity. The draft definition states that to be a charity, an entity must be not for profit, and all charitable purposes must be for the public benefit. Charitable purposes include the advancement of health, education, social or public welfare, religion, culture, and the natural environment, promoting and protecting human rights, preventing or relieving the suffering of animals, and protecting the safety of the general public.

Public comment on the draft is currently being sought, with consultation closing on 3 May 2013.

- **How are harmonisation of tax treatment reforms proceeding, in line with the National Not-for-Profit Reforms (QoN, p9) designed to reduce the regulatory burden on NGOs?**

Much of the work regarding the provision of Commonwealth tax concessions to date has been discussed between Commonwealth Treasury, representatives from the Not For Profit (NFP) sector and legal academics.

The Commonwealth Government announced in the 2011-12 Budget that it will reform the tax concessions provided to NFP entities to ensure they are targeted only at those activities that directly further an NFP's altruistic purposes.

A consultation paper on tax concessions for the not-for-profit sector was released in November 2012, with feedback sought on how Commonwealth tax concessions for the NFP sector could be made fairer, simpler and more effective. The Commonwealth has not advised on the response to that paper and submissions received.

**QUESTION 8: Reference is made to a Keep them Safe Evaluation Steering Committee with Government and NGO representatives (QoN, p8).**

- **Who is on the Steering Committee**
- **Has the interim review of the Keep them Safe program been finalised?**
- **If so, what were its findings?**

The Evaluation Steering Committee includes representatives from:

- Department of Premier and Cabinet
- Treasury
- FACS, including Community Services
- Aboriginal Affairs
- Department of Education and Communities, including Aboriginal Affairs
- Health
- Department of Attorney General and Justice, Juvenile Justice
- Police
- LCSA (NSW)
- NCOSS

Individuals on the committee representing these organisations have changed over time.

The Interim Review of the Keep them Safe program has not yet been submitted to Minister Goward for approval to release. Submission is imminent.

**QUESTION 9: Ability Links NSW is attempting to reorient the disability system to focus on a more person centred approach to participation.**

- **Can you provide an update on the development of the entity which will deliver the Ability Links NSW program that is due to being in July 2013?**

On Wednesday 10 April 2013 the Minister for Disability announced that the St Vincent de Paul Society has been selected for the provision of Ability Links NSW in the Hunter Region.

ADHC together with the St Vincent de Paul Society are working towards the July 2013 launch date.

The procurement process used to identify and engage the St Vincent de Paul Society will develop and support the procurement process for the state wide expansion of Ability Links NSW.

Ability Links NSW will be fully operational across the state by 1 July 2014.

ADHC is continuing the community engagement strategy to source Aboriginal non-government organisations to deliver the 27 Aboriginal Ability Links NSW Coordinator positions.

- **Can you expand on your statement that many funding principles will no longer apply within the disability system, as funding is provided directly to clients (QoN, p16)**

For disability services, following the transition to the NDIS across the whole of NSW, funding will be provided directly to clients to purchase supports from NGO and other mainstream providers. There will ultimately be no contractual relationship between the NSW Government and NGO providers.

**QUESTION 10: A recurring theme in submissions to this Inquiry is that NGOs are informally expected to supplement the shortfall in their government funding by relying on fundraising.**

- **While the Committee appreciates your view that NGOs are responsible for their own business arrangements, is this an issue that you are aware of?**
- **What has your experience been in relation to this? (QoN p20)**

FACS considers that it is entirely appropriate for any organisation funded to deliver services to the Department's target group, to bring added value to support clients. In many respects that added value may be financial, for example through fundraising revenue, or in-kind, such as volunteer contributions.

The NGO sector is exclusively placed to deliver social outcomes for vulnerable people and shares responsibility with the community for supporting people who need assistance. That includes directing fundraising and other resources to support their clients. The diversity of the sector and its capacity to leverage social capital should be supported and encouraged by Government.

FACS is aware that a small number of organisations may experience difficulty from time to time in meeting the costs of service delivery without additional resourcing. ADHC for example, has worked with a number of organisations in the past to address historic viability matters. In such cases of hardship, FACS works with NGOs to manage the continuity of service. That may involve a renegotiation of funding arrangements. However, any decisions in that regard are made in the context of contemporary government policy and reform priorities. Any renegotiation would not however remove the expectation that the NGO contribute social capital to deliver the added benefit to clients.

**QUESTION 11: It has been suggested that if NGOs are busy sourcing donations, this can have a negative impact on their service provision (QoN, p31).**

- **Do you have any way of monitoring this aspect when assessing programs?**
- **Do you receive qualitative feedback from NGOs?**

As stated in the NSW Government response to the previous Questions on Notice (p 31), It is the responsibility of NGOs to ensure a balance between providing quality services and maintaining independent or external sources of income.

Fundraising by the NGO sector can be highly effective in raising the profile of the organisation and the needs and aspirations of their clients. It can assist the community in better understanding the issues facing vulnerable people and a broader community acceptance of marginal groups. The NSW government submission makes the observation that NGOs can 'provide direct and indirect value back to those making contributions'.

In most NGOs the staff involved in fundraising would be separate to the staff involved in direct service provision.

FACS does not collect information on the donation sourcing activities of NGOs and does not receive qualitative feedback from NGOs on this matter., however local contract managers may discuss particular issues with the NGOs that they have funding responsibility on if specific issues arise.

**QUESTION 12: You have previously explained that a differentiated approach is used for organisations of different sizes and risks.**

- **Can you elaborate on what these types of risks are, particularly those considered to be high risk?**
- **You also note that a differentiated approach should consider the value of the funding and what controls are in place to ensure the wellbeing of the clients. Are such considerations currently considered in your differentiated approach, or are they planned to be? (QoN p 28)**

As stated in the NSW Government submission to the Inquiry, due to the focus and diversity of the sector, a 'one size fits all' approach to FACS NGO reform and management, including risk management and regulation is not appropriate. The NSW Government submission outlines the quality, monitoring and regulation systems for FACS service delivery (page 35, section 7). Examples of mechanisms to differentiate risk, and the types of risks that are considered include:

- *Risk Identification and Monitoring Guidelines* for disability service providers. These provide a standardised but not prescriptive approach to identify and manage risk at the individual provider level. The focus of this approach is to reflect the proportionate risk presented by each NGO, moving away from a one-size-fits-all approach to one that allows ADHC to direct contract management resources to organisations based on an assessment of the identified risks including consideration of client safety; workplace health and safety; service provision; financial; regulatory and compliance; and governance issues;
- *Performance Monitoring Framework* for Out of Home Care providers – which is used to monitor risk associated with size, viability and experience of funded NGOs, and risks to the program associated with market share of individual providers; and
- *The Registrar of Community Housing*. The level of requirements for each performance area is proportionate to the scope and scale of operation associated with the registration class of an organisation. Importantly, not all classes of registration involve organisations meeting all requirements.



**QUESTION 13: You note that it is difficult to apply a star rating system across disparate communities and needs.**

- **In what ways can information be communicated in a clear and readily understandable manner to allow clients to understand and make informed judgements about what is available?**

There are a range of methods for communicating the availability of services and support within local communities that could be achieved without requiring a determination on the part of government about the relative quality of NGOs.

FACS has developed a range of products to assist clients to understand and make informed judgements about what is available including:

- Housing Pathways and the NSW Housing Register which has established a single application process and statewide waiting list for people seeking housing assistance;
- A disability services supplier directory that will enable people to search a database to identify providers that offer services that may be suitable to a client's needs and circumstances; and
- Strategies to ensure that Out of Home Care carers receive accurate and consistent information about Out of Home Care services.

Particularly, the disability reform puts decisions into the hands of people with disability. Fundamental to making decisions is access to information. Through the *Living Life my Way* consultations undertaken with over 4000 people with disability in 2012, the overwhelming view of people with disability was that information was needed, not only on specialist services and supports funded by government but a range of other community based supports, activities and mainstream services.

The majority of people with disability consulted through that process saw value in being able to access feedback from others who have used a support or service.

Any system that was focused on NSW government funding arrangements would not provide a complete view of the services, supports and organisations operating within a local community.