

Submission

No 68

Outsourcing Community Service Delivery

Organisation: Ombudsman New South Wales

Name: Mr Bruce Barbour

Position: Ombudsman

Date Received: 4/05/2012

Contact: Kathryn McKenzie

4 May 2012

Committee Secretary
The Community Services Committee
Parliament House
Macquarie Street
Sydney NSW 2000

By email: communityservices@parliament.nsw.gov.au

Dear Sir/Madam

Inquiry into Outsourcing Community Service Delivery

We are aware of the NSW Legislative Assembly Committee on Community Services' call for submissions in relation to the above inquiry. Having examined the scope of the inquiry, we consider it appropriate to draw your attention to a number of public reports and other documents written by our office that are directly relevant to the terms of reference.

The development of appropriate models to monitor and regulate service providers to ensure probity, accountability and funding mechanisms to provide quality assurance for clients

In November 2011, we addressed the Australian Public Sector Anti-Corruption Conference on the potential for improper influence in the non-government (NGO) sector, which drew on our experience in monitoring the delivery of community services in NSW. A copy of the speech is attached at [Appendix 1](#).

In the paper, we indicated that, while we are not opposed to the devolution of responsibility for delivering a range of human services to the NGO sector, our work has identified significant challenges that need to be addressed in order to provide quality assurance. In particular, our work has emphasised the need for greater consistency in:

- the administration of funding contracts; and
- the systems NGOs have in place for probity checking and screening.

Probity checks and other measures

In this regard, we draw the Committee's attention to our December 2010 special report to Parliament on *Improving probity standards for funded organisations*. A copy of the report is attached at [Appendix 2](#). The report was informed by extensive consultations with NSW government agencies with responsibilities for health and human services; peak bodies representing the NGOs funded to deliver services; and the oversight and regulatory bodies with responsibilities in this area.

In the report, we argued that there should be, as a minimum, consistent baseline checks of all paid employees and others with key responsibilities in planning and delivering services, taking into account the vulnerability of clients who use the services, with the flexibility to strengthen or relax checking requirements in appropriate circumstances. We believe there are strong public interest grounds for introducing a consistent probity checking system across the NGO health and human services sector.

We also argued that improvements in the area of probity screening should take place within the context of strengthening broader risk management and accountability systems. Our report outlined a range of measures for strengthening accountability and improving related guidance for funded agencies. These measures include model clauses in funding agreements and other contractual documents; guidelines to promote good practice; information and resources for NGOs to build capacity in risk assessment and management; and transparent systems for funding agencies to monitor NGOs' compliance with requisite standards.

Improving service delivery to Aboriginal people – and community service delivery more generally

Of direct relevance to this term of reference is our extensive work over many years in examining the delivery of community services to Aboriginal communities. We have attached our special report to Parliament of October 2011, *Addressing Aboriginal Disadvantage: the need to do things differently*, at Appendix 3 for the Committee's reference. Chapter 7 of this report demonstrates the need for more robust and effective leadership, governance and accountability mechanisms to drive action and to measure results in relation to initiatives aimed at improving service delivery to Aboriginal communities.

The report outlines the need for a critical rethink about the way that government works with Aboriginal communities, and for reforms to the infrastructure governing Aboriginal affairs in NSW more generally. The overriding theme of the report is the urgent need to establish a stronger planning, governance and accountability framework. While addressing this issue is important in the Aboriginal service delivery sphere, it also has broader application to the general issue of the government outsourcing community service delivery.

Lessons from the disability sector

The government's reliance on NGOs to deliver services on its behalf is particularly evident in the disability sector. Within the past year, we have tabled two reports to Parliament that have highlighted the need for rigorous systems for monitoring and regulating services to provide quality assurance for people with disabilities and their families. Importantly, both reports illustrate the serious consequences for clients where these systems are inadequate.

- In August 2011, we released a special report on our work over nine years in relation to licensed boarding houses – *More than board and lodging: the need for boarding house reform*. A copy of the report is attached at Appendix 4. The report highlighted our significant concerns regarding the safety, health and welfare of licensed boarding house residents, and pointed to critical failings we had identified in the existing monitoring and regulatory systems to appropriately support and protect residents. We emphasised the need for reform of the broader boarding house sector to develop and implement an improved accommodation, support and regulatory framework. Section 5 of the report details our perspective regarding regulation and compliance of the boarding house sector.

- In September 2011, we tabled our latest report on the reviewable deaths of people with disabilities in care (see [Appendix 5](#)). Our reviews of deaths have identified considerable and continuing problems in how disability services are identifying and managing the risks faced by individuals in their care, and have raised questions about the adequacy of the quality and monitoring systems in place in these organisations. As noted in the Executive Summary and Chapter 3 of the report, these problems were particularly significant in NGO disability services. To reduce the preventable deaths of people with disabilities in care, greater attention is required to improve disability services staff's understanding of effective risk management and associated requirements, and to monitor staff practice to ensure compliance. Recommendations 1-5 in the report are relevant in this regard.

Strengthening reporting and oversight systems in the disability sector

In the context of the current disability sector reforms under *Stronger Together*, we have written to ADHC about the need to strengthen the reporting and oversight systems relating to serious complaints and incidents. We consider that there would be considerable benefit in establishing systems for reporting serious complaints and incidents in disability services and licensed boarding houses; including allegations of serious abuse, assaults and neglect, and other critical incidents.

In relation to serious incidents, we note that there are robust systems in place for reporting and overseeing the handling of such incidents in the employment-related child protection area, as outlined in Part 3A of the *Ombudsman Act 1974*. However, no comparable system currently exists in relation to particularly vulnerable individuals with disabilities who receive disability support. A copy of correspondence to the Chief Executive of ADHC on this issue is attached at [Appendix 6](#).

The development of appropriate levels of integration among service providers in rural and regional areas to ensure adequate levels of supply and delivery of services

Our office has conducted a significant amount of work in relation to rural and regional NSW, and has released reports addressing this term of reference.

Our Bourke and Brewarrina inquiry

In December 2010, we tabled a special report to Parliament detailing the findings and recommendations of our *Inquiry into service provision to the Bourke and Brewarrina communities* (see [Appendix 7](#)). The inquiry was instigated in response to longstanding concerns held by Aboriginal leaders about the quality of service delivery to vulnerable children and their families in both communities. While our report focused on addressing the critical challenges in Bourke and Brewarrina, its recommendations are directly relevant to other high-need rural and remote communities in NSW.

Our report made a number of recommendations relevant to this term of reference, including the need to:

- identify a mechanism for guaranteeing a more comprehensive identification (and ongoing analysis) of critical community need in rural and remote areas; and
- examine the potential for developing (and driving) more effective integrated service delivery, together with the potential benefits of establishing cross-agency multi-

service outlets and/or creating local service coordinator positions to facilitate access to a wide range of services from across the service system.

Lessons learnt from an inquiry into the provision of disability services to Aboriginal people

In 2010, we tabled a special report to Parliament on *Improving service delivery to Aboriginal people with a disability*, from our review of the implementation of Ageing, Disability and Home Care's (ADHC) *Aboriginal Policy Framework and Aboriginal Consultation Strategy* across NSW (see [Appendix 8](#)). One of the key findings of our review was that there was a lack of knowledge and understanding within Aboriginal communities about ADHC and the disability service system – in particular, the services available to Aboriginal people with disabilities and their families, and the availability of specific entitlements. We found that this problem was more acute in rural and remote areas, and included important services such as community transport and home modifications.

Enhanced capacity building and social integration in the delivery of services by local providers

Chapter 7 of our report on *Addressing Aboriginal Disadvantage* notes the difficulties associated with an unintegrated approach to service delivery, including: inefficiency and a lack of coherence in service delivery; the risk of duplication and over-administration; and the continued funding of services that are failing to provide a good quality service. The report highlights the need for an integrated approach to decision-making about the local planning, funding and delivery of services. The report also notes that a more centralised approach to funding would help to deliver a more coordinated approach to building the capacity of the Aboriginal service sector. Our views are set out more fully in section 7.1.2.3 of the report.

Our report on *Improving service delivery to Aboriginal people with a disability* is also relevant to this term of reference. In section 2.4.2 of the report, we highlighted the valuable role of Aboriginal local support coordinators in connecting Aboriginal people to services. Local support coordinators play a critical role in facilitating the access and inclusion of people with disabilities to local mainstream services. Part of this important work involves building the capacity of these providers to respond to the needs of individuals. Against this background, we welcome the recent NSW Government initiative of Ability Links NSW, which will fund NGOs to deliver local support coordination; including 27 Aboriginal identified positions.

I trust that the Committee will find the attached documents and the information outlined above to be useful.

Yours sincerely

Bruce Barbour
Ombudsman

Steve Kinmond
**Deputy Ombudsman
Community and Disability Services Commissioner**

List of Appendices

- Appendix 1: Speech delivered by the NSW Ombudsman at the Australian Public Sector Anti-Corruption Conference on 16 November 2011, *Risky business: the potential for improper influence in the non-government sector*. Accessible online at:
http://www.ombo.nsw.gov.au/publication/PDF/speeches/SP_APSAC_speech-Improper_influence_in_the_NGO_sector_16_11_11.pdf
- Appendix 2: The Ombudsman's special report to Parliament tabled in December 2010, *Improving probity standards for funded organisations*. Accessible online at:
http://www.ombo.nsw.gov.au/publication/PDF/specialreport/SR_ImprovingProbityStandards_Dec10.pdf
- Appendix 3: The Ombudsman's special report to Parliament tabled in October 2011, *Addressing Aboriginal disadvantage: the need to do things differently*. Accessible online at:
http://www.ombo.nsw.gov.au/publication/PDF/specialreport/SR_Aboriginal%20disadvantage%20report.pdf
- Appendix 4: The Ombudsman's special report to Parliament tabled in August 2011, *More than board and lodging: the need for boarding house reform*. Accessible online at:
<http://www.ombo.nsw.gov.au/publication/PDF/specialreport/SR%20Boarding%20Houses.pdf>
- Appendix 5: The Ombudsman's *Report of Reviewable Deaths in 2008 and 2009, Volume 2: Deaths of people with disabilities in care*, tabled in September 2011. Accessible online at:
<http://www.ombo.nsw.gov.au/publication/PDF/annualreport/2010-2011%20annual%20reports/Report%20of%20reviewable%20deaths%202008%20to%202009%20volume%202%20Disability%20deaths.pdf>
- Appendix 6: Correspondence from our office to the Chief Executive of ADHC, dated 5 April 2012. See attachment.
- Appendix 7: The Ombudsman's special report to Parliament tabled in December 2010, *Inquiry into service provision to the Bourke and Brewarrina communities*. Accessible online at:
http://www.ombo.nsw.gov.au/publication/PDF/specialreport/SR_ServiceProvisionBourke_Dec10.pdf
- Appendix 8: The Ombudsman's special report to Parliament tabled in September 2010, *Improving service delivery to Aboriginal people with a disability: A review of the implementation of ADHC's Aboriginal Policy Framework and Aboriginal Consultation Strategy*. Accessible online at:
http://www.ombo.nsw.gov.au/publication/PDF/specialreport/SR_ImprvServDelAboriginalPeopDisability_Sept10.pdf

Contact: Kathryn McKenzie

Our ref: 2012/018198

Mr Jim Moore
Chief Executive
Ageing, Disability and Home Care
Level 5, 83 Clarence St
SYDNEY NSW 2000

Attention: Coordinator, Client Relations
Public Accountability Branch
Office of the Chief Executive

Dear Mr Moore

Development of systems for reporting complaints and serious incidents in disability services

In response to my previous correspondence in relation to this matter, on 23 February I met with Samantha Taylor, Helene Orr, and Robert Wright to discuss options for strengthening the management and oversight of complaints and serious incidents. I appreciate the advice that they provided.

As discussed at the meeting, we consider that one of the goals in the current disability sector reforms should be to establish a complaints reporting system for ADHC provided and funded services that is compliant with Australian complaint handling standards and NSW disability services standards. In this regard, we expect that the work we are undertaking to develop a disability complaints training package for the sector will provide a useful framework for the development of a core industry complaints model.

As indicated in our previous correspondence, the Victorian complaints reporting system for disability services provides a useful starting point for consideration of a potential framework for NSW. As agreed at the meeting, we will liaise with the Victorian Disability Services Commissioner to facilitate a meeting with your staff to examine the scope and operation of the reporting system established by his office.

On a related note, there would also be considerable benefit in establishing a system for reporting serious incidents in disability services – this system would need to be integrated with any broader complaints system. Such incidents would need to include allegations of serious abuse, assaults and neglect, and other critical incidents.

We are of the view that, in developing systems for reporting complaints and serious incidents, there will also be a corresponding need to ensure that, at least, the handling of serious incidents is actively oversighted. In this regard, we believe that consideration needs to be given to the oversight arrangements in place under Part 3A of the *Ombudsman Act 1974*.

Related to the need to look at systems that could drive service improvement insofar as complaints and serious incidents are concerned, the meeting was also productive in enabling us to discuss the work we are currently undertaking to produce a number of factsheets on basic requirements relating to the management of, and effective response to, critical health and safety risks. This is an area that we have consistently raised in our reviewable disability deaths reports; particularly in relation to swallowing, falls, medication, and respiratory risks.

At this stage, it is our intention that the factsheets will be targeted to residential support staff in ADHC-operated and funded disability accommodation services; staff working with residents in licensed boarding houses; and health professionals.

After development of the factsheets, two further steps will need to be taken: development of a strategy for ensuring sector-wide education in relation to this material; and assessment of the level of 'coal-face' take-up of the key messages.

I am keen to get your views on the specific issues and proposals discussed in this letter. Given the significance of these issues, I believe that it is absolutely essential that there be a strong partnership between ADHC, the sector and this office around ensuring that we achieve significant improvements in these areas, consistent with person-centred support.

I would appreciate your early advice on these issues, either via a further meeting or through correspondence.

Yours sincerely

Steve Kinmond
Deputy Ombudsman
Community and Disability Services Commissioner
5 March 2012

cc: Minister for Disability Services