

**Submission  
No 2**

**INQUIRY INTO NSW GOVERNMENT'S USE AND  
MANAGEMENT OF CONSULTING SERVICES**

**Name:** Professor Fran Baum AO PhD and Dr Julia Anaf PhD

**Date Received:** 13 June 2023

---

## New South Wales Legislative Council: PUBLIC ACCOUNTABILITY AND WORKS COMMITTEE

### SUBMISSION: NSW GOVERNMENT'S USE AND MANAGEMENT OF CONSULTING SERVICES

Professor Fran Baum AO PhD, Dr Julia Anaf PhD  
Stretton Health Equity  
Stretton Institute  
University of Adelaide  
North Tce, Adelaide 5005.

7<sup>th</sup> June 2023

The Director, Public Accountability and Works Committee,  
Parliament House,  
Macquarie Street,  
Sydney NSW 2000.

### Introduction

Thank you for the opportunity to make a personal submission to this inquiry. Our submission is informed by research that we are currently undertaking on the health, and health equity impacts arising from the growing use of consultancies to perform public sector roles within Australia and overseas. Our research has been driven by the increasing understanding of the commercial determinants of health, or the systems, practices, and pathways through which commercial actors drive health and equity. These determinants are often products and operations of transnational corporations which produce a range of harmful products, such as alcohol, ultra-processed food, and the negative aspects of extractive industries including pollution and exacerbation of climate change (Climate Home News, 2023).

However, there are growing concerns about large global professional services and management consultancy firms which provide advice to private corporations, but also to governments, and undertake the increasingly outsourced roles traditionally held by public servants (Mazzucato and Collington, 2023a). The growing use of consultants is driven, in part, by the imposition of a public service staffing cap which has undermined the skills and capacity of the public sector. This void has been filled by private consultancy and professional services firms. Our research has identified a range of associated conflicts of interest (COI), and the specific Term of Reference (TOR) which we address is:

TOR (e) Management and measures to prevent conflicts of interest, breaches of contract, or any other unethical behaviour.

Our comments are broad, rather than specific to NSW. However, they are pertinent to the critical importance of consultants' actual and perceived COIs being properly managed.

## TOR (e) Management and measures to prevent COIs of conflicts of interest, breaches of contract, or any other unethical behaviour.

### Understanding conflicts of interest

- One COI arises when private firms advise governments on taxation or other matters, while concurrently offering advice to corporate clients on ways to minimise taxation or other liabilities (West, 2016b). Such advice includes using variable tax rates across different jurisdictions through transfer pricing. Critically, this foregone taxation revenue would otherwise allow for greater health and social investment in the public interest.
- Another COI arises from the wide scope of services provided by large consultancies to governments and the business sector that impose conflicts between what are legally independent or investigative roles, such as auditing; and facilitative, supportive, or consultancy roles. This conflict is sometimes termed ‘walking both sides of the street’ (Mazzucato and Collington, 2023a).
- Critics highlight the COIs inherent in firms’ ambivalence to ask ‘difficult’ questions or carefully scrutinise client records for irregularities, as these may undermine a lucrative financial relationship (Bazerman et al., 2002).
- COIs arise from the size and power of the global consultancy firms which can therefore be ‘too big to fail’ and ‘too concentrated to indict’, which potentially affords them a strange form of legal immunity (Pai and Tolleson, 2012).
- Actual and potential COIs arise from the global phenomenon of ‘revolving doors’ between staff from consultancy firms, government departments, corporate regulators or revenue authorities (West, 2016b, Spinwatch, 2013).
- There are also clear COIs when private consulting firms are major donors to political parties. In 2020 alone four large global firms were granted AU\$750million in Australian Government contracts, and each firm offers large donations to political parties (Consultancy.com.au, 2022).
- In term of our specific interest in the public policies which are likely to reduce growing inequities we note consultancy firms have COIs because they also work for private clients who have an interest in the privatisation of public services and privatised services. Typically, privatised services do not take an equity perspective on their service provision in the way public servants do when responding to a government’s equity agenda. Thus their interest in recommending privatisation could be driven by their contracts with the likely benefits of privatisation.

Governments need to recognise this wide scope of COIs, including those which lead to the de-skilling of public servants and, therefore, loss of institutional memory. Governments and the public sector may become highly dependent on a few large consulting firms, which may not be appointed under a transparent process or demonstrate clear expertise. Our earlier research into health inequities (Musolino et al., 2019) highlighted the ways in which changes to the public sector from the adoption of New Public Management techniques by both state and national governments has reduced public sector capacity to respond to economic and

social challenges, while ‘hollowing out’ state capacity in ways that are likely to have increased health inequities.

Even though consultancy fees are high, these firms are not responsible for failures associated with the implementation of their advice, in the same way that public servants are and who must adhere to jurisdictional codes of conduct.

The myriad of short-term projects contracted out to the private sector means a loss of continuity of policy consideration and the loss of intellectual capital in the public service concerning ways of making systematic, across the board policies to address the growth of health and other inequities.

### Measures to prevent conflicts of interest

In considering management of, and measures to address COIs, members of the Committee may be informed by the work of tax ethicist George Rozvany (cited in Fowler, 2017), as well as other experts on the practices of the consulting industry, including the ways in which they impact the public good, public health, and health equity (Mazzucato & Collington, 2023). The taxation ethicist George Rozvany (Fowler, 2017, West, 2016a), who has a wide-ranging professional background in the corporate world, argues that the following regulatory and taxation principles should apply to large consultancy firms:

*Regulatory Principle 1:* All jurisdictions should ensure that an accounting or professional services firm or organization does not provide both taxation and audit services to the public.

*Regulatory Principle 2:* All jurisdictions must ensure that there is sufficient competition in both taxation and audit services to provide an orderly market.

*Taxation Principle 1:* All jurisdictions should encourage ethical tax behaviors by way of economic incentives through discounts in the corporate tax rate or other real incentive measures.

*Taxation Principle 2:* All jurisdictions should ensure that appropriate punitive measures reflecting the fraudulent nature of aggressive taxation behaviours be implemented.

*Taxation Principle 3:* All expenses originating from a jurisdiction internationally characterized as a tax haven will be denied a tax deduction in the home jurisdiction.

As well as adopting these principles, a range of other recommendations have been suggested including rebuilding the capability of public sector organisations, beginning with recognising that governments create value. Strong action must be taken against breaches of COI by consulting firms, as well as improved ‘whistle-blower’ protection in the public interest. To mitigate the risks related to consultancies providing services pro bono or below market rates in what are termed ‘land and expand’ tactics to attract further contracts, public sector clients should calculate in advance the appropriate economic value for work the while still seeking a competitive price (Mazzucato and Collington, 2023b).

It is critical that public sector organisations are also empowered to take risks. To drive innovation, governments can engage with research institutions in genuine partnerships, not only consultancy firms. To avoid COIs, public servants must once again be able to provide

‘frank and fearless’ advice to government under a system enforcing greater transparency and accountability. There are no clear rules mandating consulting companies to disclose information about for whom they work and this must be rectified (Mazzucato and Collington, 2023b). Unfortunately, the advice from consulting companies is unlikely to be ‘frank and fearless’ given that a substantial amount of their business is with firms whose interests are often quite different to those of governments.

Adopting these recommendations will begin to address these firms’ negative health and equity impacts.

Thank you again for the opportunity to provide a submission, and we would be pleased to provide any other assistance.

Yours sincerely

Professor Fran Baum AO PhD,  
Dr Julia Anaf PhD,  
Stretton Health Equity  
Stretton Institute  
University of Adelaide

## References

- BAZERMAN, M., LOEWENSTEIN, G. & MOORE, D. 2002. Why Good Accountants Do Bad Audits. *Harvard Business Review* [Online].
- CLIMATE HOME NEWS. 2023. *Consultants close to industry shaped Australia’s controversial carbon credit policy* [Online]. Available: <https://www.climatechangenews.com/2023/03/30/revealed-consultants-close-to-industry-shaped-austalias-controversial-carbon-credit-policy/> [Accessed 30/3/2023 2023].
- CONSULTANCY.COM.AU. 2022. How much PwC, KPMG, EY and Deloitte donate to political parties. *Consultancy.com.au* [Online]. Available from: <https://www.consultancy.com.au/news/4891/how-much-pwc-kpmg-ey-and-deloitte-donate-to-political-parties> [Accessed 13/2/2022 2023].
- FOWLER, N. 2017. #ParadisePapers and the Big Four: in the words of a former insider. *Tax Justice Network* [Online]. Available from: <https://taxjustice.net/2017/11/15/paradisepapers-big-four-words-former-insider/> [Accessed 3/4/2023 2023].
- MAZZUCATO, M. & COLLINGTON, R. 2023a. *The Big Con: How the Consultancy Industry Weakens our Businesses, Infantilizes our Governments and Warps our Economies*, Allen Lane.
- MAZZUCATO, M. & COLLINGTON, R. 2023b. Public submission to the Finance and Public Administration References Committee: Inquiry into the management and assurance of integrity by consulting services. Australian Capital Territory.
- MUSOLINO, C., BAUM, F., FREEMAN, T., VAN EYK, H., WOMERSLEY, R., FLAVEL, J. & EARL, C. 2019. SA: The Heaps Unfair State: Why have health inequities increased in South Australia and how can this trend be reversed?
- PAI, K. & TOLLESON, T. 2012. The capture of government regulators by the big 4 accounting firms: Some evidence. *The Journal of Applied Business and Economics*, 13, 84-94.
- SPINWATCH 2013. Who Really Runs This Place? A short report on the Big 4 accountancy firms and their ties to government.
- WEST, M. 2016a. Interview with George Rozvany.
- WEST, M. 2016b. *Oligarchs of the Treasure Islands* [Online]. Available: <http://www.michaelwest.com.au/oligarchs-of-the-treasure-islands/> Accessed 13/9/2016 [Accessed 11th July 2016 2016].