

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

Organisation: Public Service Association of NSW

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SUBMISSION

Parliament of New South Wales - Legislative Council
Public Accountability and Works Committee

Inquiry into the NSW Government's use and management of consulting services



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Submission to the Inquiry into NSW Government's use and management of consulting services.

The Public Service Association of New South Wales is the primary union within the New South Wales public sector, with coverage of almost 40,000. We have a significant interest in the matters before this Inquiry.

In presenting our case, we draw upon data from a number of sources including reports, as well as peer reviewed evidence from the academic literature. We further note that the Association has in its employment an academic with extensive experience of public policy and government accountability. If afforded an opportunity to do so, it is our intention to have Dr Andy Asquith attend a public hearing to support our submission.

Executive Summary

Whilst in 2011 the newly elected Premier Barry O'Farrell argued that he would move swiftly to make good on the Coalition's promises to 'restore the highest levels of impartiality, ability, accountability and leadership in the NSW public service' – it is clear he failed. In 2023 – after 12 years of Coalition Government in NSW – we have a public sector both demoralised and decimated by a slavish obsession with an ideological model which undermines and demonises both the public service and those employed within it (c.f. Hood, 1991; Pollitt, 1993).

Chief amongst these policies has been the so called "efficiency dividends" implemented on Government Agencies. Originally at 1%, these were ramped up over the term of the previous government to over 3% per year. Each year, those Agencies affected needed to find these amounts in savings yet were expected to deliver the same level of service. Instead of driving efficiencies the 'dividends' resulted in constant restructuring, a cascading loss of specialist positions and the resultant loss of expertise.

Simply put, public service has been devalued in NSW – with capability, competence and capacity continually stripped out. This has had the cumulative effect of undermining the importance of both public service and public servants in NSW – with the on flowing impact on the provision of public services. The ongoing use of consultants to externalise both core public policy provision *and* service delivery has benefitted the few at the cost of all citizens in NSW.

This presents through a number of ways:

- The 'hollowing out' of the public service, whereby traditionally provided expertise has been outsourced to the private sector, leaving the core public service incapable of functioning.
- An over reliance on private sector management consultants to provide politically and ideologically acceptable 'options' to ministers.
- The idea of 'free and frank advice which supposedly epitomises Westminster style government has been at best devalued as senior public servants seek 'friendly' consultants to supposedly offer unbiased advice to ministers – so called 'consultant shopping'.

- Keeping consultants in the government loop aids the revolving door for senior public servants to move with ease into a lucrative consultancy role when they depart the public service.

The upshot of this is that public services are often provided by organisations and individuals driven not by the traditional, noble motivations of public service, but by the profit motive.

On the specific issue of the use of consultants, the Audit Office of New South Wales concluded in March 2023 that most agencies do not use consultants strategically and do not have systems for managing or evaluating consultant performance. We also found examples of non-compliance with procurement rules, including contract variations that exceeded procurement thresholds. Between 2017-2021 over \$1bn **which could be accounted for** was spent on consultants by NSW government agencies.

The PSA believes that the NSW public sector needs to be rebuilt from the ground up, using all the resources available for the purpose. This process needs to occur now as every year will lead to greater levels of institutional and corporate knowledge being lost to the sector. It will require partnership between the State government and the tertiary sector to identify the needs of the sector and rebuild those skill sets piece by piece. They can be assisted by the work currently occurring in the Australian Public Service which is 12 months into a similar rebuilding process.

The PSA has also pursued a long campaign to bring accountability to government programs funded by the public. Currently the Audit Office of NSW does not have the power to review how monies given to private companies to run government programs are spent. The Government should implement “follow the money” laws, as currently exist in other jurisdictions around Australia, to allow the public to ensure money spent in their name is done so effectively and fairly. This would include management consultants having to justify the price of their ‘advice’ and explain exactly what the public gets in return for the cost.

Below we respond to the individual Inquiry Terms of Reference.

- a. There is concern that the procurement of services is neither transparent, competitive nor providing value for money. The tendency to use networks is seen as an easier, more convenient solution, rather than seeking out the best solutions. In 2023 the NSW Audit Office Report “The NSW government agencies’ use of consultants” concluded that most agencies do not use consultants strategically and do not have systems for managing or evaluating consultant performance. They also found examples of non-compliance with procurement rules, including contract variations that exceeded procurement thresholds. Between 2017-2021 over \$1bn **which could be accounted for** was spent on consultants by NSW government agencies. Such findings echo previous NSW Audit Office Reports from 2018 (Procurement and reporting of consultancy services); 2022 (Report on State Finances 2021; Internal Controls and Governance 2022; Report on State Finances 2022); 2023 (Design and Implementation of the Transport Asset Holding Entity (TAHE)) - all of which chronicle aspects of the mismanagement of external consultants by the NSW Government. Added to this, is the damning statistic from the that of the 14,913 contractor engagements utilised by the NSW public service in 2020-21, over a 1/3 (35%) were engaged for a period in excess of 12 months involving 6,958 separate contractors (NSW

Public Service Commission Workforce Profile Report 2021). Such a complex arrangement in itself carries considerable legal and financial management transaction costs to administer.

- b. Accountability and transparency - especially in terms of public services – go hand in hand, although one might rightfully expect these values to underpin all organisations and activity – irrespective of institutional setting. Indeed, the Nolan Committee on Standards in Public Life (1995) list both accountability and openness – along with selflessness, integrity, objectivity, honesty, and leadership – as the principles underpinning those active in public life. The NSW Audit Office reports referred to in (a) above all deal either directly or indirectly with the issues of transparency and accountability – none more so than the 2023 Report: Design and Implementation of the Transport Asset Holding Entity (TAHE).

The lack of transparency effectively means that activities are allowed to proceed with little or no scrutiny. Hence, issues around conflicts of interest, demand inflation and the use of inappropriate models or concepts go unchecked. A paper by Sturdy et al (2022) demonstrates the impact of such actions – concluding that overreliance on consultants can lead to *increased inefficiency* and the adoption of strategies and tools which are inappropriate for a public service setting! This is clearly contrary to the arguments underlying the justification for the use of management consultants (c.f. Seabrooke and Sending, 2022).

Within the NSW context, Audit NSW (2023a) refer to so-called ‘double dipping’, where consultants from one organisation are acting for a client proffering contradictory advice – thereby by default, fuelling demand for their services (Sturdy et al, 2022). This is a clear conflict of interest which must not be allowed to occur again.

Increased accountability?

Throughout the term of the previous government (2011 – 2023) there was an ever-increasing reliance across NSW Government Agencies such as the Department of Customer Service, Department of Planning and Environment, Treasury and the Department of Premier and Cabinet in relation to the use of external consultancy firms such as: KPMG, EY, Deloitte and PwC. Often external consultants were engaged in response to areas where the agency had come into notable criticism.

Perversely, there was often the attitude that because these entities are external that there was somehow greater accountability or transparency to the reporting but from an industrial perspective these processes from the terms of reference, participation and obtaining the report were rarely if ever accessible. In an era where there was a significant expansion of the Senior Executive Service it is troubling that the strategic work that should be undertaken by the senior leadership of government agency is outsourced rather than being managed by the agency.

- c. Collectively the NSW Audit Office reports from 2018-2023 referred to in (a) (above) deal with this point in detail – demonstrating a concerted pattern of a laissez-faire approach to

the use of management consultants by the previous Coalition government – a clear ad hoc approach to the use of consultants with no over-arching oversight or strategy.

- d. Again, these issues are comprehensively addressed by the NSW Audit Office reports from 2018-2023 referred to in (a) (above). A blatant example of the failure to provide value for money which has had a direct impact upon our members can be seen in the example below.

Administration Marketplace Panel for Schools – NSW Department of Education.

Administration Marketplace Panel for Schools (AMPS) is designed to ease the administration of NSW public schools' user externally provided software. However, the department insisted that schools had a choice of three systems for Student Finance (this is the first module that schools have been told they need to select), there is still only ONE supplier listed (School Bytes) that "meets core requirements" on the AMPS webpage – the others are listed as "do not support the requirements".

Despite this, our members are being urged to go out and do research, wasting valuable time when the Department should clearly be announcing the only suitable vendor. The PSA suspects no-one is game to make this bold statement, as it begs the question, why does the Department demand that schools choose a product when there is only one that is fit for purpose? In addition, our members were encouraged to attend Roadshows with vendors who cannot deliver the desired outcomes.

PSA delegates do not believe schools are struggling to make a choice; they are however reluctant to select a product that does not have the full support of the department in terms of technical support, onboarding and ongoing training. Many schools will simply select what their neighbour has chosen, in order to ensure uniformity when it comes to knowledge transfer between schools.

It would be helpful to all schools for the department to have shown some leadership and guidance on this matter, with clear and direct information about the product available. The failure to do so led to schools wasting scarce resources away from the education of our children, on pursuing ill-suited externally sourced options which would clearly fail to provide value for money.

- e. There are two key themes which are dominant here: the overriding ethical context and the so-called 'revolving' door involving public servants moving seamlessly into positions within consultancy organisations when they leave the public service.

In terms of the former – the importance of an ethical public service which is both transparent and accountable for its decision making and conduct is paramount. The repeated actions of the NSW Government over the previous 12 years have served to undermine the context upon which the public service has traditionally operated and do not adhere to the Nolan Principles (1995) which were outlined above, nor do they reflect the models of public service referred to by the Thodey (2019) and Podger (2023) reports, which

examined the Australian Public Service, nor the Coaldrake Report (2023) which deals with the Queensland Public Service respectively.

We would emphasis here too the clear distinction between the ethical and moral motivations endemic within the Senior Executive Service (SES) and the public sector at large. Since the implementation of the Government Sector Employment Act 2013, the SES has had the idea of traditional public service – and the objective to always provide ‘free and frank’ advise to ministers - removed.

Rather the SES in NSW is a shadow of its former self, populated by individuals solely dependent upon ministerial, political patronage. Hence the SES enjoys no permanence – a cornerstone of the Westminster model of public administration, with senior public servants who are dispensable and disposable, dependent upon the political whim of the minister. At the very least, this effectively runs the risk of politicising the public service and negates any concept of institutional knowledge. It is possible to draw a clear line between such a short term, political driven SES and the use of consultants (and consultant shopping) referred to elsewhere in this submission to ensure the provision of politically acceptable ‘solutions’ to ministers, irrespective of issues such as probity, integrity, ethics or appropriateness.

- f. The use of consultants has had two distinctly negative impacts upon the NSW Public Service: an undermining of the public service ethic which has traditionally underpinned public service provision and a ‘hollowing out’ of capability across the public service – both themes identified by Thodey (2019) and Coaldrake (2023). ‘Hollowing out’ can best be described as: “deliberate political, ideological strategy of weakening the government’s *internal* ability to function strategically by undermining the policy making capability, competence, and capacity role – typically at the expense of external, private sector providers”.

In terms of hollowing out (Rhodes, 1994), this serves not only to reduce the capacity, capability and competence of the public service, it also reinforces the need to acquire externally provided expertise from the management consultancies. This in turn creates a vicious circle, as increasing amounts of internal expertise are deemed to be no longer required when they can be acquired on an ‘as and when’ basis from external providers. The upshot of hollowing out is that it ultimately leaves public services incapable of functioning, and thus open to replacement by organisations deemed more capable of meeting the demands of users. To those of a particular ideological persuasion, the management consultants therefore provide a ready alternative to traditional public service provision which provide a ‘refreshing’ alternative to what are seen as traditional, antiquated ideas and practices (Dickinson, 2023; Shields et al, 2023).

Within NSW the hollowing out process – and the need to utilise the services of external consultants was exacerbated by the abolition of Senior Officer graded positions (contained within the now rescinded Crown Employees (Senior Officers Salaries) Award 2012) and senior technical roles (through the rescission of awards containing highly paid, highly technical roles such as the Crown Employees (Technical Officer – Treasury) Award. This in effect removed a raft of specialist and technical roles from the State’s employment –

roles and functions which were, and continue to be, essential in the provision of public services to the citizens of NSW. As such, the public sector is compelled to seek the necessary expertise from the private sector – with all the pitfalls identified elsewhere in this submission this entails. This is an excellent example of the Coalition Government both undermining the capability, competence and capacity of the public service whilst simultaneously promoting short term private sector ‘solutions’ which do not have a commitment to the longevity of solutions to issues.

Hood and Jackson (1991) do however offer an insight into the consequences of hollowing out – something which we have witnessed here in NSW. As the raft of NSW Audit Reports 2018-2023 noted above outline in finite detail – hollowing out leads to institutional fragmentation, which in turn results in a failure to provide joined up government – the idea that service co-ordination is both necessary and desirable if governments are to successfully tackle the more challenging policy issue they face, with individual departments acting as autonomous power baronies (Asquith, 1994; Asquith, 1997).

Such an agenda typically presents through the adoption of misguided, ideologically driven pursuit of corporatisation and privatisation, deregulation, cost cutting and the (selective) goal management for political objectives – aided and abetted by a SES dependent upon political patronage and devoid of the traditional public service values around the provision of free and frank advice – irrespective of how ideologically unpalatable this may be. Here we would again emphasise the position of the SES in contrast to the majority of NSW public servants who are following their vocation, serving (often the most vulnerable sections) of the community without the need for *political* patronage. This selfless work is perhaps best illustrated by the actions of the many front line public servants during the catastrophic bush fires (2019) and the NSW floods (2022). These are extreme examples of the activities of our members every day throughout the State.

Closely associated with this, is failure of both political and managerial accountability – no one knows who is responsible for what as any false belief in an overarching strategy of central coordinating capability is lost. Such a situation, all too often ends in catastrophe, with the failure to offer joined up government. This all too often has manifested itself in the failure in the provision of services – the latter often impacting most on the most vulnerable sections of the NSW community.

- g. The issue of ethics has been addressed elsewhere in this submission. However, it is also worth noting the extent to which both the ‘revolving door’ between the public service and external organisations – including but not limited to management consultants – can impact upon both the formulation of government policy and its actual implementation. We would again highlight the ethical distinction between the SES – ethically dependent upon the incumbent political – and the ethical motivations of the vast majority of NSW public servants who are driven by a vocational sense of improving the lives of their fellow NSW citizens.

In addition, the ‘revolving door’ which has seen the recruitment of retiring senior public servants by consultancy firms to use their knowledge and contacts to gain further Government contracts is one of questionable ethical standards (Shields et al, 2023).

Simply put – it may be seen to be in the interests of a public servant – as opposed to the Government or the NSW population at large – for a public servant to award contracts to a consultancy in the expectation of future reward in the form of a post public service career role within that consultancy. To the disbenefit of both the public service and the NSW population at large, it could be argued here that the imposition of the Government Sector Employment Act 2013 has had a negative in that the in effect, temporary nature of SES appointments (as opposed to the traditional public service model of ‘jobs for life’) by default encourages the revolving door strategy.

In a similar vein – an element in the on-going scandal involving PwC has elements of the revolving door too. Hence, the motivations and ethics of those public servants engaging external management consultants needs to be questioned. In their seminal paper ‘Rich country corruption’, Graycar and Monaghan (2015) highlight the way in which acts such as lobbying – a key component of the revolving door – can impact upon the policy making process. In addition, Richardson and Jordan (1979) demonstrated the unhealthy influence on policy making held by external parties which often involved the revolving door.

- h. Consultant shopping is the act of essentially selecting someone who will provide the answer to an issue which you want to hear. An excellent example of this practice in operation in NSW is illustrated by the Audit NSW Report ‘Design and implementation of the Transport Asset Holding Entity (TAHE)’ (2023). It is a classic example of ideology triumphing over evidence – and runs contra to the best practice notion of evidence-based policy (Banks, 2009; Newman, 2020). If we are to pursue world class, best practice policy processes in NSW – then it is imperative that we move away from consultant shopping – indeed we would contend that consultants should be a last resort and have a permanent SES dedicated to the key principle of providing ‘free and frank’ advice, irrespective of how unpalatable it may be from an ideological and political perspective.

The recent initiative being taken by the APS in developing the Australian Centre for Evaluation (Bogaards, 2023) illustrates the shift needed to overcome both the limitations of consultant shopping and the push towards policy being driven and underpinned by hard, peer reviewed empirical evidence rather than simple ideology and political whim. It should also be noted that alongside the Australian Centre of Evaluation, the APS is also developing an internal management consultancy capability which is a model of considerable merit – negating the need to resort to external providers (Macdonald, 2023). The Institute for Government Report (Sasse et al, 2020) offers sound advice on the processes of returning to in house provision or insourcing of government services and functions previously privatised or externalised – such as the functions provided by management consultants.

- i. We would suggest that given the strength of a number of Reports from Audit NSW – and the way in which these have largely been ignored by the previous Coalition Government – there is clearly a case – again, linking to the importance of evidence-based policy making – to tighten the legal framework surrounding such reports. We would suggest that best practice dictates that a course of action – as unpalatable as it may be from an ideological perspective – then that course of action be followed.

- j. Unfortunately, the timing of the release of Government documents, policies and announcements to on occasions be politically beneficial to the incumbent administration is a well-worn activity. A well-resourced Opposition, independent and effective integrity agencies and a free press all contribute to limiting the ability of Government to act and to provide a healthy system of checks and balances in place.
- k. We feel that the wide range of issues dealt with above adequately addressed this final 'catch-all' point. We are however more than willing to respond to, and provide additional material and commentary should the Inquiry wish.

Summary.

Those charged with the administration or management of the public sector act as trustees of the public good and have a responsibility to look beyond the short term. They are in short, the stewards of the public interest, assets and institutions. To look at anything other than the long term is in effect an abdication of this stewardship function.

The Public Service Association of NSW would welcome the opportunity to be involved in developing a new framework for not only ending the use of management consultants by the NSW Public Service, but also for developing a new framework to shape the ethos of public service going forwards. It is clear from the evidence provided, that many aspects of the traditional public service values within the NSW Public Service have been allowed, even encouraged to deteriorate – to the benefit of a few, but at a cost to the many.

Recommendations:

- **End all government “efficiency dividends” as part of the budget cycle and restore funding to Agencies for permanent, on-going roles.**
- **That the NSW Public Service be rebuilt so that it is capable of performing the functions of government without the need of external management consultants for all but the most niche policy decisions. The example should be the current Commonwealth initiative to rebuild the APS led by a public servant who both understands and supports the requirements of a public.**
- **Review the recommendations proffered by The Australia Institute (Shields et al, 2023) to the Senate Finance and Public Administration Committee be scrutinised closely as they offer sound advice and guidance on past failings and a desirable future pathway.**
- **Work with the NSW tertiary sector to identify those areas where the public service has been ‘hollowed out’ in order to rebuild both capacity and capability within the public service.**
- **Reverse and/or review all decisions involving consultants where the progress of the project allows that to occur.**
- **All use of external consultants must be supported by evidence that in-house capability is lacking but proceed only with an accompanying case for rebuilding that internal capacity and capability as part of the project.**
- **Introduce and pass legislation that allows the NSW Audit Office and other government regulatory agencies to “follow the money” and review any organisation undertaking projects with public monies.**
- **Review and where appropriate, restore Senior positions to Agencies through a system of Awards that ensures the status and security of the roles, restoring the conditions needed to receive well informed frank and fearless advice to the government of the day.**
- **The NSW Government follows the lead of the APS in developing an in-house consultancy service to remove the need to engage external management consultancies in the future.**

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