



Brotherhood  
of St Laurence

Working for an Australia free of poverty

# Human services: identifying sectors for reform

A response to the Productivity Commission  
issues paper

Brotherhood of St Laurence

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## Summary

The Brotherhood of St Laurence welcomes the opportunity for dialogue with the Productivity Commission on the important issue of human services reform. We share the Treasurer's concern about the future sustainability of Australia's human services sector and are keen to begin a national conversation about how we can best address the challenges ahead. Unmet human need generates significant long-term costs and lost productivity, contributing to slower economic growth and widening inequality. If future governments are to have the capacity to meet the needs and develop the capabilities of their citizens, it is vital that we address the inefficiencies in the current provision model and think boldly and creatively about how we can innovate to make better use of the resources available and ensure ongoing sustainability of communities.

The issues paper frames the role of government in human services as the funder, regulator and, in some cases, direct provider. We feel this framing is too narrow and does not capture the government's role as a creator of public value (Moore 1994, p. 296). Public value includes both the economic and social value, which together serve to address market failure, allow society to function and deliver outcomes, rather than outputs, for communities.

From an economic perspective, the issues paper proposes the solutions of competition, contestability and user choice to the challenges outlined above. The Brotherhood recognises that some areas of human service provision may benefit from the increased application of these principles. Market-based provisions may work where services are transactional, meaning they are clearly defined, easily substituted, discretionary and where the cost and consequences for the citizen of changing providers is minimal. However this does not hold true for most human services. Competition poses a particular risk to the effectiveness and efficiency of those services:

- that rely on the intangible qualities of the relationship between the citizen and provider to achieve outcomes
- where people need a multifaceted, multi-sectoral response
- in rural and remote areas where markets are 'thin'.

There are few human services that do not in some way fall under these criteria. Attempting to apply competition to services where these criteria apply is likely to result in market failure and inefficient service provision for government. The case studies provided on VET reform, employment services and consumer directed care (in Appendix A, B and C respectively) illustrate the unintended but significant consequences of applying competition policy to human services. The case studies of VET and employment services demonstrate that the issues arising from competition are not simply a policy implementation failure. Most importantly, the costs of this are borne by individuals, especially the most disadvantaged families and communities.

To avoid these costs, government must recognise the need for diversity among human services providers to foster innovation and choice for people and deliver more efficient, effective and sustainable human services. Government should balance out the efficiency savings it gains from commissioning human services across large amalgamated regions of human service delivery (see Appendix B on employment services) with the efficiency and sustainability delivered through

human services provided by both small and large organisations. Smaller organisations must be recognised for their ability to be efficient, effective and sustainable, by drawing on their local networks and workforce (both paid and unpaid). As market steward, government must ensure that competition does not discriminate against providers that are small and do not have the resources to compete with larger, better resourced organisations. If government proceeds with competitive processes that do not take this into account, human services will likely trend towards a higher cost, lower impact and unsustainable future. Irrespective of size, human service providers must be deeply and locally connected to the communities that they serve in order to develop local capacity to take greater responsibility for the needs of their community. This will help ensure that government intervention can be targeted where it is most needed.

Accordingly, we believe the Productivity Commission should consider an alternative framework for human services that addresses the complex and multifaceted aspects of people's lives as well as the particular needs of local communities. This alternative values both economic and social value and is based on a collaborative relationship between government, provider, citizen and community. The not-for-profit sector has a proven capacity to bring the value of community contribution to human services, by not just harnessing community altruism but also extending the co-delivery of human services to other parts of the community, such as business (PC 2011). This is the only way to make human services sustainable and effective for communities.

The heart of any human service provision needs to be high quality services and programs that provide people with the opportunities to develop their capabilities to improve their wellbeing and thrive. To address this, we have expanded the Productivity Commission's attributes for improving provision of human services to include *sustainability*. For the Brotherhood this is a necessary inclusion to ensure that community stakeholders (including business, local government, local associations and clubs, citizens) are seen as co-delivery agents in any human service. If adequately resourced, thoughtfully designed and implemented, human services with these qualities will empower citizens to participate fully in the economic, social and civic life of their community. The value, both economic and social, of this far outweighs the scope of service provision.

## Recommendations

### 1 The role of government in human services

- 1.1 That the Productivity Commission proceed with extreme caution towards recommending the implementation of marketisation in human services, taking into consideration the potential loss of value produced by organisations and communities that can leverage social capital to create value.
- 1.2 That the Productivity Commission evaluate and quantify the potential impact of competition (being careful not to exclude the role of small embedded organisations) on the efficiency, effectiveness and sustainability of human services.
- 1.3 That the Productivity Commission evaluate and quantify the potential impact of human service amalgamation (being careful not to exclude the role of small embedded organisations) on the efficiency, effectiveness and sustainability of human services.

## 2 On competition, contestability and user choice

- 2.1 That the Productivity Commission consider a range of commissioning approaches, besides further marketisation, as a means of expanding people's freedom to choose the life they have reason to value.
- 2.2 That the Productivity Commission recognise the substantial barriers to user choice, taking into account personal circumstances, such as exposure to family violence, disability or discrimination.
- 2.3 That the Productivity Commission consider the role that structural impediments apart from competition law, such as the lack of secure employment and affordable housing, play in constraining choice in human services.
- 2.4 That the Productivity Commission consider the potential for governments to expand choice and control by fostering the capacity of providers to engage citizens in the co-creation of human services.
- 2.5 That the Productivity Commission recognise that choice is complex and both economic and social considerations may drive choice. Citizens should not have to make a trade-off between a service that is affordable (economic) and a service that meets their needs (social).
- 2.6 That the Productivity Commission urge government to take a broad view of its own role as market steward that recognises its obligation to actively ensure that human services markets deliver improved outcomes and public value.
- 2.7 That the Productivity Commission develop a framework to guide future commissioning of complex human services, which takes account of:
  - the flexibility needed to achieve outcomes
  - the resources required to design meaningful outcomes frameworks
  - the time required for robust evaluation
  - the providers' capacities required to deliver the outcomes sought.

## 3 A framework for assessing the risks and benefits of increased competition

- 3.1 In assessing the suitability of services for increased competition and contestability, the Productivity Commission should exclude human services:
  - that rely on the intangible qualities of the relationship between the citizen and provider to achieve outcomes and/or
  - where people need a multifaceted, multi-sectoral response and/or
  - that serve rural and remote areas where markets are 'thin'.
- 3.2 Where there is insufficient or limited supply of human services or programs, as a result of a small target population; or geographical distance from metro or regional centres; or isolation;

the Productivity Commission should advise that government play an active role in commissioning relevant services.

3.3 Where the success of a service or program relies on high levels of bridging social capital, the Productivity Commission should carefully consider the extent to which competition may erode relationships within networks.

3.4 The government should consider commissioning strategies which harness the trust and reciprocity of the community and providers to improve long-term outcomes.

3.5 That the Productivity Commission recognise the potential of smaller local service organisations to deliver less wasteful higher impact and more sustainable human services, and take account of the proven tendency for competition to favour larger providers.

#### 4 A framework for improved human services

4.1 That in drafting a blueprint for reform, the Productivity Commission give due consideration to collaborative commissioning approaches as an alternative means of improving the effectiveness of human services.

4.2 That the Productivity Commission adopt a definition of quality that embraces both the subjective experience of the user and the public value created by the quality of the service relationship.

4.3 That in assessing the suitability of a service for increased application of competition the Productivity Commission must consider whether marketisation will have an adverse impact on equity.

4.4 That in calculating the potential for savings from marketisation, the Productivity Commission should into account the higher levels of investment required to meet the higher needs of service users experiencing deep social exclusion.

4.5 That the Productivity Commission adopt an expanded definition of efficiency which takes into account the long-term costs of both unmet human needs and untapped human productivity.

4.6 That the Productivity Commission give due consideration to whether the increased application of competition principles has the potential to adversely affect policy implementation and require costly regulation.

4.7 That the Productivity Commission should be required to demonstrate how the broader application of contestability, competition and choice will deliver the necessary efficiency gains to improve the long-term sustainability of Australia's human services.

4.8 That the Productivity Commission should specify how the government will design, develop and implement frameworks to measure short, medium and long-term outcomes to ensure accountability in relation to human service reforms.

## Glossary of terms

<b>Collaboration</b>	<p>Collaboration is an ideal for how organisations can closely work together towards common aims.</p> <p>Compared with less concordant ways of working together (often termed coordination or cooperation), collaboration involves organisations establishing a high level of trust and a strong commitment to sharing responsibilities and risks. Collaboration serves as an alternative to market-based and hierarchical modes of coordinating relationships. As organisations enhance each other’s capabilities, a successful collaboration creates more than the sum of its parts (Lawrence, Phillips, &amp; Hardy 1999; O’Flynn &amp; Alford 2012; O’Flynn 2009).</p>
<b>Commissioning</b>	<p>Commissioning comprises the set of processes from the identification of a social need to the provision and monitoring of government-funded services addressing that need (Dickinson 2014).</p> <p>While commissioning often results in services being provided by non-government organisations, it is distinct from externalisation in two key ways. First, commissioners are ideally free to either ‘make or buy’ as they see fit; to provide a service directly or to engage other organisations to do so (Bovaird, Dickinson, &amp; Allen 2012). Second, commissioning is a more holistic and strategic activity than simply purchasing traditional services: governments reconsider ultimate purposes and undertake a wider range of ‘planning, designing and implementing’ processes, sometimes in collaboration with non-government organisations (Dickinson 2015; Woodin 2006, p. 203).</p>
<b>Co-production</b>	<p>Co-production is the process of involving citizens and non-government organisations in producing (not just delivering) publicly funded services.</p> <p>With co-production, individuals and non-government organisations participate in a ‘steering’ role, as well as their established roles of ‘rowing’ and receiving services (Elstub &amp; Poole 2014). By incorporating community input, co-production aims to make services more democratised and responsive to society’s changing needs. Co-production also provides government with a way to access innovative service ideas from community service organisations (Poocharoen &amp; Ting 2013).</p>
<b>Networks</b>	<p>Networks are a way of conceptualising the non-hierarchical, non-market relationships between actors in a policy field. Interconnected organisations and individuals form the nodes of a network, linked to each other with varied ties, e.g. ‘authority bonds, exchange relations, and coalitions’ (O’Toole 1997, p. 45). High-trust networks of organisations working for common goals are ideally able to decentralise decision-making, harnessing the diverse strengths of their participants and creating social capital (Davies 2011; Rothstein &amp; Stolle 2008).</p>
<b>Public value</b>	<p>Public value is a broad measure of the worth created by government, encompassing social value (see below), cultural value, economic value, and other dimensions.</p> <p>Emerging with the recognition that not all government activity can (or should) be quantified in financial terms, public value serves as an alternative to metrics such as return on investment (Guthrie, Marcon, Russo, &amp; Farneti 2014). While less tangible and more difficult to measure than economic value alone, public value functions as a “rough yardstick” against which performance can be gauged’ and provides a far more holistic view of the good achieved by government (O’Flynn 2007, p. 358).</p>
<b>Social capital</b>	<p>Social capital encompasses the institutions, relationships, attitudes and values that govern interactions between people, or ‘the glue that holds society together’ (PC 2003 p. ix).</p> <p>Bridging social capital exists in the norms and bonds of trust and reciprocity between the members of a social network. Unlike other resources, social capital cannot be possessed by any one individual since its existence depends on the strength of the relationships between actors.</p> <p>High levels of social capital are strongly correlated with more inclusive democratic institutions, improved outcomes in health, education and welfare, and lower rates of</p>

	<p>crime and tax evasion.</p> <p>Social capital is the key determinant of social value, but it also contributes economic benefits through ‘positive externalities’ by reducing transaction costs, facilitating the dissemination of knowledge and innovations, by promoting cooperative and pro-social behaviour in public institutions, in workplaces, and in human services (pp. 15–20).</p>
<b>Social value</b>	<p>Social value is a subset of public value which denotes the non-financial impacts of policies and programs, including the wellbeing of individuals and communities, social capital and the environment (DEMOS 2010, p. 20).</p> <p>These ‘soft’ outcomes are difficult to measure and resist quantification. There are various approaches that attempt to capture social impact so that it can be counted, measured or compared (PC 2011, pp. 51–2).</p>
<b>Sustainability</b>	<p>Sustainability is about meeting the needs of the present without compromising the ability of future generations to meet their own needs (Brundtland 1987).</p>

## The Brotherhood of St Laurence and human services

The Brotherhood of St Laurence (BSL) is an independent non-government organisation with strong community links that has been working to reduce poverty in Australia since the 1930s. Based in Melbourne, but with a national profile, the BSL continues to fight for an Australia free of poverty. We undertake research, service development and delivery, and advocacy with the objective of addressing unmet needs and translating the understandings gained into new policies, new programs and practices for implementation by government and others.

### Collaboration and the co-production of human services

The Brotherhood is committed to serving the common good. We seek to develop community-based solutions to complex social problems. Our innovative programs and practice models aim to strengthen community networks and harness community altruism to help equip disadvantaged people and communities with the resources they need to thrive. To this end we actively seek opportunities for collaboration and resource-sharing with other community sector organisations, with governments, as well as with those in the private sector who share our goals.

In this spirit, we welcome this opportunity for dialogue with the Productivity Commission on the important issue of human services reform. We share the federal Treasurer's concern about the future sustainability of Australia's human services sector and are keen to begin a national conversation about how we can best address the challenges ahead. If future governments are to meet the needs and develop the capabilities of their citizens, it is vital that we address both existing injustices and inefficiencies in the current provision model and think boldly and creatively about how we can innovate to make best use of the resources available to us.

This reform agenda should not just be about creating better, more effective service delivery. This agenda is also critical to addressing the rising rate of inequality in Australia and promoting a fair and just society. As many emphasise (economic scholars as well as the OECD, IMF and World Bank), inequality acts as a drag on economic growth, undermining productivity, the wellbeing of individuals and communities as well as social cohesion (Saad-Filho 2010). Put simply, we cannot afford to ignore it, for economic, as well as social and moral reasons. And for this reason we cannot afford to get human services reform wrong.

The measure of success for this agenda will be the extent to which we can promote the wellbeing of the most disadvantaged and socially excluded, building their capacity to contribute to the community.

We do not profess to have all the answers, but we are able to draw on knowledge, evidence and our own recent experiences of cross-sectoral collaboration and co-production to propose one way forward. Over the past decade the Brotherhood has partnered with state and federal governments to co-produce a number of innovative policy programs, and we have learnt a great deal about the conditions required for successful innovation. There is, furthermore, a growing appetite within government to reach out to non-government actors, particularly those in the community service sector, to co-create more effective, better coordinated services which harness community effort to produce social value (Smyth 2016).

Our experience has shown us that collaboration is the key driver of invention. Collaboration is especially critical for programs required to address complex and multifaceted social problems; even more so where existing community networks are thin. As the Harper Review Panel (2015, p. 8) has made clear, a competition policy that is ‘fit for purpose’ will stimulate, and not stifle, innovation.

However the mere fact of cross-sectoral collaboration between government, business and community sector organisation is not sufficient to engender innovation.

In our experience the enabling conditions for innovation include: clarity about the distinct roles of government, business and civil society in relation to human services, vertical and horizontal trust between collaborators, a clear authorising environment (networked, inclusive governance) with strong leadership, and evidence-informed design and implementation of service models and practices. Innovative programs are also most often developed by organisations with a deep understanding of the diverse, intersecting needs and circumstances of the people they serve and their communities as well as the capability to leverage real world opportunities for service users. The collaboration of the citizens using these services in the design and implementation of these models is vital (Borlagdan & Key 2015).

Among these enabling conditions, the role of trust should not be underestimated. While difficult to define and capture, its benefits are no less real. For example, before governments can take policy and program risks, they must feel able to place their trust in the integrity and expertise of their non-government collaborating partners. For a high quality, innovative service to have the desired social impact, high levels of trust and reciprocity within the community and between individuals and service providers are also essential.

## Structure of the submission

The first three sections of this submission critically engage with key positions articulated in the paper. The final section presents an alternative strategy for preserving the sustainability of Australia’s human services; an approach which strengthens accountability while also preserving and enhancing the capacity of government to deliver efficient, high quality services.

Section 1 examines the role of government articulated in the issues paper, and underlines the critical role of government in creating public value.

Section 2 examines and assesses the Commission’s position on competition, contestability and user choice in human service markets.

Section 3 critically engages with the Commission’s proposed framework for assessing the suitability of given services for marketisation.

Section 4 proposes an alternative to competition and a revised attributes framework for better human services

The appendices provide four case studies. The first three are examples of the operation and impacts of competition in human services; the fourth is an example of contestable and collaborative human service provision.

## 1 The role of government in human services

The Brotherhood of St Laurence agrees that high quality services and programs are essential if people are to have the opportunity to develop the capabilities they need in order to maintain and improve their wellbeing and capacity to thrive. When adequately resourced, thoughtfully designed and effectively delivered, good human services empower citizens to participate fully in the economic, social and civic life of the community. Moreover, good human services not only provide resources to individuals, but also contribute to the social fabric of communities, creating networks that are vital to community wellbeing and social cohesion.

Government has an enduring obligation to ensure that all Australians can access the opportunities resources and support they need to live ‘the life they have reason to value’ (Sen 2011). Only government is authorised to facilitate, coordinate and regulate the timely production and provision of essential services on the scale necessary to meet an ever rising tide of human need. But it cannot do so alone: Australian governments have always relied on the expertise of the charitable sector, and increasingly over the past thirty years, government have harnessed the capacity of the private sector with the goal of improving the efficiency of public services.

### Government must deliver public value

The issues paper frames the role of government as that of the funder, regulator and, in some cases, the direct provider of human services. The Brotherhood is concerned that this narrow delineation fails to capture government’s role as a creator of public value (Moore 1994, p. 296). Public value encompasses not only public goods, but also policies to mitigate against market failure as well as the institutional arrangements which allow society to function, such as the Courts and the Public Service. In the era of externalisation, the creation of public value thus incorporates government’s dual role as both market steward and commissioner of human services.

Of particular relevance to the present inquiry, public value is concerned with both the economic and social value of policies and programs. More important than outputs are economic and social outcomes that measure the wellbeing of individuals and communities, social capital and the environment. Social value is partly subjective: a service or program may be deemed valuable because is it meaningful or important to the person enjoying it (Alford & O’Flynn 2009, p. 175).

In short, the concept of public value recognises that the economic and the social are inextricably entwined. This point is worth emphasising because it makes clear that governments must take a broad view of the value of human services. For this reason we hope that in considering the economic case for reform the Commission will give equal weight to the social value created by human services.

### Human services needs to be sustainable

The Brotherhood believes that this inquiry represents a valuable opportunity for government to evaluate the quality and value of Australia’s present offering of human services. The nation faces slowing economic growth and widening inequality. Unmet human need generates significant long-term costs as well as lost productivity. Over time it can also erode social capital and cohesion. Current OECD policy advises governments to identify policy areas that can help ‘kick-start growth’

by investing in the capabilities of their citizens (OECD 2015, p. 11). Human services reform presents a timely opportunity for government to turn ‘equity into a driver of economic performance’. Giving people the support they need to develop their capabilities (e.g. services that provide intensive support for disadvantaged jobseekers, or create pathways to education for young people experiencing homelessness) enables them to participate in, and contribute to, the social and economic life of the nation.

But the Brotherhood also understands the imperative for governments to contain spending on human services. This inquiry comes at a time when governments face both declining revenues and spiralling costs due to a range of factors, including the effects of globalisation on the labour market, demographic ageing and climate change. The challenge is immense. Government must somehow improve the efficiency of human services without diminishing equity and quality, erecting new barriers to access for those already living with deep disadvantage, or eroding the social value that good human services contribute to the broader community.

### Most human services will not deliver value through competition

The solution proposed by the federal government is the further application of competition, contestability and user choice.

The Brotherhood accepts that a few areas of human service provision may benefit from the increased application of these principles. Market-based provision may work where services are transactional: clearly defined, easily substituted, discretionary, and where the cost to the citizen and community of changing providers is minimal. In such cases, the risks of market failure are not high.

But we also contend that many areas of human service provision do not fulfil these criteria. Where the needs to be met are complex, and the responses are multifaceted, solutions cannot simply be purchased. Where people face significant barriers to access, and their capacity to make informed choices has been systematically undermined by a lifetime of poverty and disadvantage, the risks are high, and the cost of market failure potentially catastrophic. In such cases the solution is not markets, but networks (Considine & Lewis 2007).

If we are to successfully adapt to the policy challenges ahead, governments will have to become more agile, more flexible and less averse to risk. We need to develop better quality, more effective, more responsive ways of addressing human need, without increasing expenditure to do so. To do more with less we need to innovate. How can we do this? What are the drivers of innovation?

The Commission’s terms of reference appear to imply that choice and competition are the primary drivers of innovation. The Brotherhood contends that competition and choice may, under careful stewardship, drive some short-term efficiency and innovation, but only collaboration can tap the boundless creativity of social networks, and only relationships based on trust and reciprocity can awaken the altruism latent in communities (Poocharoen & Ting 2015, p. 593).

## To deliver public value, the government must leverage both economic and social capital

At the end of the 20th century, governments took on a new role as procurers of human services, entering into contracts with private and not-for-profit providers. At the beginning of this century, the role of government is changing further, into that of the co-producer of services in partnership with the community service sector, and increasingly, through individualised funding, with citizens themselves.

There is no longer 'one best way', but 'different ways for different circumstances' (Alford & O'Flynn 2012, p. 254). The role of government is to maximise public value by evaluating which form of externalisation, what type of provider and which way of working is most appropriate for the service in question, for the individual citizen and for the community.

The Brotherhood is not opposed to the opening up of commissioning to private providers. However, in selecting a provider we strongly advise governments to consider whether the outcomes sought are likely to be best served through markets or networks. Figure 1.1 Public value produced by externalisation of human services provides a framework for considering the different dimensions and outcomes of externalisation.

The Harper Review Panel highlighted the need for caution in attempting to expand competition, contestability and user choice into human services (2015, p. 37). In doing so the Panel recognised not only the monetary value added by community service organisations, but also the incalculable value of the social capital they produce (p. 239). The Productivity Commission itself has recognised the many benefits of social capital, from savings due to the positive externalities of higher trust, to quantifiable improvements in productivity (2003, p. ix). In 2010 the Commission valued the gross economic contribution of not-for-profit social service organisations at \$10 billion (p. 66). But the Commission also acknowledged the social value produced by the sector through connecting communities and expanding social networks (p. 37).

Much of this value has traditionally been produced by smaller organisations, which can be efficient, effective and sustainable by leveraging support and resources from their local communities. The recent efforts by government to amalgamate service regions under competitive human service models (see Appendix B on employment assistance) have not only reduced diversity (and choice) but also excluded smaller organisations from providing human services, as they do not have the geographical coverage or the resources to compete with larger, state-wide or national organisations. This approach runs the risk of making human services increasingly higher cost, lower impact and unsustainable in the long run. The need for a local focus was identified in 2011 when the Commission recommended that the new NDIS seek to capture the value created by community organisations through 'fundraising, volunteering and community networks' (Productivity Commission 2011, p. 220). This role is now formalised in the Local Area Coordination services that complement individualised funding under the NDIS, one of which in north-eastern Melbourne is administered by the Brotherhood.

The Harper Review Panel stated their desire for government to 'preserve and enhance' the contribution of not-for-profit service providers 'while advancing diversity, innovation and choice' (p.247). We believe that these goals can be mutually reinforcing and shares the Panel's view that

increased competition will be counterproductive if it undermines cooperation and collaboration within the sector.

**Recommendation 1.1**

That the Productivity Commission proceed with extreme caution towards recommending the implementation of marketisation in human services, taking into consideration the potential loss of value produced by organisations and communities that can leverage social capital to create value.

**Recommendation 1.2**

That the Productivity Commission evaluate and quantify the potential impact of competition (being careful not to exclude the role of small embedded organisations) on the efficiency, effectiveness and sustainability of human services.

**Recommendation 1.3**

That the Productivity Commission evaluate and quantify the potential impact of human services amalgamation (being careful not to exclude the role of small embedded organisations) on the efficiency, effectiveness and sustainability of human services.

**Figure 1.1 Public value produced by externalisation of human services**

Public value produced by externalisation of human services



## 2 The Brotherhood's view on competition, contestability and user choice

The Brotherhood believes a more cautious approach to competition, contestability and user choice is necessary and prudent, as the risk of failure is considerable. Most services will not be suited to the application of competition principles and the approach to considering competition on a 'service-by-service-basis' will likely lead to a more fragmented and lower quality human service provision landscape.

In this section, we examine some problematic assumptions in the principles identified by the Commission: user choice, competition and contestability. First we look at choice and the challenges that can arise where the aspects of choice are not adequately considered. Second we look at competition and the limitations of competition in human services. Lastly we look at the risks associated with contestability.

### Choice is assumed to deliver value

All Australians should be empowered to make informed decisions about how their needs are met, and have the substantive freedom to choose 'the life they have reason to value'. We recognise that consumer choice in human services increases the opportunity for people to find a service that best matches their preferences, with positive consequences for their wellbeing. The dignity of being able to choose is an associated benefit—particularly for those who were formerly denied it.

Though we firmly support policies that expand people's freedom to order their own preferences, we argue that the narrow notion of user choice put forward in the inquiry terms of reference disregards the complexity of the decision-making process. As a result, the issues paper is silent on the wide array of structural factors (e.g. the combination of precarious employment and unaffordable housing) that act as constant impediments to the exercise of choice for many Australians on low incomes, particularly those living on the fringes of our major cities or in rural or remote areas where services may be inadequate or non-existent. We also contend that the terms of reference misrepresent the interests of individual service users as divorced from the interests of the wider community. In our experience people's preferences in human services, as in many things, are more often shaped by the quality of their relationships, and the value they perceive in them, than by an objective cost-benefit analysis. Choice is moderated by the circumstance of the market, the nature of the transaction and the characteristics of the consumer. In the case of human services markets it is also moderated by the policy environment set by governments and by the characteristics of the provider.

We believe that in considering the costs and benefits of expanding opportunities for user choice in services, the Commission must recognise social context in which individuals exercise choice. We also urge the Commission to consider the scope for governments to expand individual and collective freedoms by using a range of commissioning approaches to deliver more responsive services.

### **Recommendation 2.1**

That the Productivity Commission consider a range of commissioning approaches, besides further marketisation, as a means of expanding people's freedoms to choose the life they have reason to value.

### **It matters who chooses.**

No one exercises choice in a vacuum. People only exercise choice as individuals with particular capacities and embedded in a particular social context and community. To assess the value of a particular choice, it is necessary to ask: who chooses; what is the nature of the choice; what is the choice between; in what circumstances is the choice made and under what conditions? We should also ask who is most likely to benefit from increased choice in human services?

It is equally important to recognise the limits of choice, and the nature of the constraints on the individual who chooses; by age, by poverty, by family violence, by disability, or discrimination by residency status. Some barriers to choice may be appropriate, but others contravene our international human rights obligations. In considering the merits of competition reform, we urge the Commission to consider the significant barriers to choice in human services that already exist for far too many Australians. The case study provided in Appendix C on Consumer Directed Care illustrates some of the challenges in relation to choice in a marketised environment.

### **Recommendation 2.2**

That the Productivity Commission recognise the substantial barriers to user choice, taking into account personal circumstances, such as exposure to family violence, disability or discrimination.

### **What are the limits of user choice?**

The notion of choice set by the issues paper is narrow; it relates only to the ability of consumers of human services, to be involved in decisions about the services they use, specifically about which provider to choose and the type of services they want. But even these choices are not pure. They rely on individual capacity and are also made within circumscribed policies, rules and regulations, and pricing structures.

The issues paper does acknowledge that some service users have individual characteristics that make it difficult if not impossible to exercise choice. For example, those who have significant cognitive impairment, seriously debilitating mental illness, multiple and complex needs, or are frail elderly may be unable or have limited ability or desire to exercise choice. They must rely on others—family, carers, advocates, service providers—to act on their behalf and in their best interests. As we well know this cannot always be guaranteed. The case study in Appendix C on Consumer Directed Care illustrates some of the challenges vulnerable older people face in an individualised, marketised environment.

### **Choice can have profound and life-long effects.**

However, the issues paper is silent on the lived capacity of people to exercise choice, whether at an individual or collective level, about many other fundamental aspects of their lives. In an unequal society such as ours, where people's freedoms are largely bound by their personal

wealth, limited choice in these areas of their life has far-reaching consequences for their capacity to exercise choice in relation to service use.

The most important decisions most people make relate to their relationships, their prospects for employment, and where they would like to live. These decisions have significant, often life-changing repercussions for their wellbeing and capacity to thrive, yet too often these are the very choices that are most constrained.

This is particularly true for people who are disadvantaged, on low incomes, with very limited wealth and material resources. Their capacity to choose where they live is severely constrained. Through necessity many live in areas of concentrated disadvantage – on the metropolitan fringe, or rural and remote communities where housing is cheapest.

Lack of choice over where one lives, in turn constrains other life choices: about the range of jobs one can take, about the range of public services one can access, particularly schools, hospitals, public transport and food outlets. Demand for human services in these areas often outstrips supply. For people living in these areas the issue is often whether they can access necessary services at all, whether they can access it in a timely way and for the period they need it (Wood et al. 2014). Choice about the service they want and who provides it is effectively non-existent. This experience is illustrated in Appendix B, the case study on the history of employment services.

### **Recommendation 2.3**

That the Productivity Commission consider the role that structural impediments apart from competition law, such as the lack of secure employment and affordable housing, play in constraining choice in human services.

### **Choice needs to consider a person as a citizen and not just a consumer or service user.**

Under ideal conditions the market may provide the consumer with a diverse array of providers and services to choose between. But where there are few providers, typically but not exclusively in a rural or regional market or where monopsony exists, as it does in most utilities, financial services and retail markets, the consumer's opportunity to exercise choice will be constrained.

The potential for this kind of choice to improve the consumer's quality of life is dependent on the incentives that exist for the provider to offer a personalised service that satisfies their needs. Where incentives are predominantly extrinsic, as in a pure market, providers may not be motivated to provide a service that goes above and beyond the minimum standard.

Some advocates of user choice have suggested that the concept of choice in human services should be expanded beyond consumption, to support co-production. In this context co-production, refers to the involvement of citizens and consumers in creating the public services that they want to consume or will benefit from, usually in partnership with one or more public service professionals (Alford 1998, p. 128).

The Brotherhood contends that the Commission should broaden its understanding of choice to recognise that people access human services not only as consumers, but also as citizens. By engaging people as co-creators of human services, co-production offers a way for governments

and service providers to frame a new social contract based on participatory citizenship. An example of this is provided in Appendix D, the case study of the Community for Children program.

#### **Recommendation 2.4**

That the Productivity Commission consider the potential for governments to expand choice and control by fostering the capacity of providers to engage citizens in the co-creation of human services.

### **Information asymmetry is not the only barrier that people face in making choices.**

The case for the further application of competition principles to human services rests on the assumption, central to neoclassical economics, that human behaviour is dominated by individual self-interest (Buchanan 1978), and that consumers will, if adequately informed, choose services based on a rational calculation of self-interest.

The Brotherhood agrees that information asymmetry too often presents a real barrier to informed choice and hopes that the Commission will give full consideration to the range of challenges many people may face in accessing and making sense of consumer information.

However, we suggest that providing users with access to unmediated data about price, scope, quality, and efficiency may well be insufficient to satisfy most people's criteria for informed decision-making. We refute the neoclassical orthodoxy that people are foremost concerned with their own wellbeing to the exclusion of others, and conceive of their self-interest only in terms of personal benefit. We venture that people often purchase goods and services on an irrational or disinterested basis, sometimes against their best interests, and sometimes for the sake of others. Very often people choose services for emotional and social reasons.

While consumers may choose to purchase some transactional services on the on the basis of informed and calculated self- interest, the nature of many human services dictates that there will often be a strong relational component in the decision-making process. The relational character of human services means that users are likely to assess quality and responsiveness in terms of the social value of the service relationship. In other words where the service relationship is subjectively valued, or benefits the user in some other intangible way, for instance by giving them access to social networks which increase their wellbeing and sense of connectedness to a community, these factors can trump formal measures of quality, efficiency and even price. This is best illustrated in Appendix A, the case study of VET.

It could be argued that such subjective evaluations have the potential to distort the market. The susceptibility of people to act against their individual self-interest may even be viewed as a liability since it has the potential to undermine efficiency. A service user may be very content to patronise a provider that is technically inefficient, so long as their social needs are being met.

However, the Brotherhood would argue that social value, even that generated by technically inefficient providers, should not be viewed as an 'intangible', extra. Rather the creation of social value should be viewed as integral to what human services do, for the reason that regardless of

whether it is produced by not-for-profits or private firms, social value is the means through which human services improve lives and expand freedoms.

We are deeply concerned by the tendency to view service relationships as merely transactional. The danger is that in not properly accounting for the relational nature of human services, and the social value these relationships generate, governments will not do enough to preserve them, and nothing at all to nurture their potential.

#### **Recommendation 2.5**

That the Productivity Commission recognise that choice is complex and both economic and social considerations may drive choice. Citizens should not have to make a trade-off between a service that is affordable (economic) and a service that meets their needs (social).

### **The application of competition to human services needs to be narrow.**

The BSL contends that public value will be eroded by the further creation of human service markets, with negative consequences for the wellbeing and productivity of individuals and communities. However, if competition is pursued in human services, we argue that it must be narrow and must also satisfy the following criteria at a minimum:

- 1 Sufficient demand for a service to sustain a diversity of providers, or else there will be no opportunity for consumers to exercise choice and no incentive for providers to improve their service offer.
- 1 Sufficient diversity of supply to stimulate competition and create incentives for providers to diversify and improve quality and responsiveness.  
It is vital that the service to be purchased can be easily substituted, and therefore purchased from a variety of vendors offering reasonably similar services on reasonably similar terms.
- 2 Minimal barriers to market entry or exit to enable providers to move in and out of the market in response to fluctuations in demand or supply.

### **Markets will always require intervention and regulation**

Several factors which are integral to human services mitigate against the creation of 'perfect' competitive human services markets. As the Commission has noted elsewhere, the scale and geographical spread of markets, combined with the obduracy of human need, will necessitate the continuation of 'block funding' arrangements in many rural and remote locations (2011, p.51). The particularity of individual circumstances may also diminish the likelihood of some specialised services being substituted for another, lessening the incentive for consumers to 'shop around'. And the need for adequate safeguarding of children and vulnerable adults dictates that some controls on market entry will be essential. For all these reasons fully deregulated markets with no government intervention will never satisfy the criteria for good human services.

### **The role of government as a market steward needs to reflect the responsibility to deliver public value.**

The Brotherhood endorses the Harper Review Panel's finding that governments are obliged to play an ongoing market stewardship function in order to ensure that the benefits of competition are evenly shared and vulnerable users are not adversely affected.

However, the tone of the issues paper implies a diminished role for the market steward. Recent statements by the National Disability Insurance Agency seem to limit the role of stewardship to price setting, ensuring minimum standards and monitoring market entry (NDIA 2015). We are concerned that this limited range of activities will not be sufficient to ensure that the benefits of competition are evenly shared between providers and consumers. The recent experience of VET reform in Victoria vividly illustrates the risks of insufficient regulatory oversight (see Appendix A).

We conceive of the market stewardship aspect of government's role as encompassing a wider range of roles and responsibilities than those of a conventional regulator. Governments have an enduring obligation to guarantee that all Australians have access to the resources they need to flourish, and as market stewards, governments must play an active role in ensuring that human services deliver improved long-term outcomes and public value for citizens (Gash et al. 2014). For this reason we liken the role to being less that of a steward, than of a shepherd; not supervising service delivery from afar, but guiding the direction of the market so as maximise public value.

To meet these obligations, the market steward must:

- 1 Provide citizens with clear, accessible and up-to-date information about the quality and performance of providers to enable them to exercise informed choice;
- 2 Provide linkage and referral services to support decision-making;
- 3 Actively monitor markets to ensure that there are sufficient providers for competition to deliver benefits for consumers, especially incentives to improve quality and responsiveness  
Eg. Guarding against monopolies or monopsonies;
- 4 Act to supplement 'thin' markets either by commissioning specialist services or offering seed funding to encourage new market entrants, especially innovative social enterprises;
- 5 Actively promote innovation and the dissemination of best practice within markets, by commissioning experimental pilots and promoting communities of practice.

#### **Recommendation 2.6**

That the Productivity Commission urge government to take a broad view of its own role as market steward role that recognises its obligation to actively ensure that human services markets deliver improved outcomes and public value.

### **Contestability encourages diversity but poor commissioning undermines outcomes.**

The Brotherhood supports the principle of contestability. We believe that a diversity of providers is essential to the healthy functioning of all human services sectors. Support for diversity is crucial not only for choice and accountability, but also to protect the contribution of those smaller providers embedded in local community networks. However contestability should not be pursued at the expense of rendering services ineffective or unworkable. We suggest that commissioners carefully consider the nature of the outcome sought when engaging service providers to ensure that the length of the contract, the timeframe allowed for evaluation, and the degree of flexibility permitted, are all gauged to maximise the chances of success.

There are, however, a number of pitfalls which governments must avoid if contestability is to successfully promote diversity and accountability without undermining scope for collaboration,

flexibility and innovation. An example of how this might look for government is provided in the Communities for Children case study in Appendix D. A large body of literature confirms that if poorly executed, some aspects of competitive tendering may actually undermine long-term outcomes by, for instance, weakening incentives for not-for-profit providers to share resources, favouring larger and bureaucratic community sector organisations at the expense of smaller ones, and encouraging providers to ‘game’ the system (Bode 2014; Butcher 2006; Considine 2003).

The consequences of poor commissioning are more pronounced when the services in question serve populations who are already vulnerable. The recent experiences of AOD and mental health services in Victoria are a salutary reminder of how thoughtlessly enacted commissioning can needlessly disrupt the work being done by providers and weaken social networks that may have taken years to build (Silburn 2015).

Ultimately the form commissioning takes will depend on the characteristics of the service to be provided. Our experience suggests that governments should consider the following when commissioning human services:

- 1 The degree of flexibility should be adequate for the provider to achieve desired outcomes. This will depend on the nature of the service being commissioned. Where needs are multifaceted and the outcomes sought complex, commissioners should consider granting providers greater flexibility to trial new ways of working. The degree of risk in doing so will rely on the level of trust that exists between commissioner and provider.
- 2 Outcomes must be appropriate for the nature of the service. Governments face considerable challenges in designing meaningful outcomes measurements for human services. Commissioners must be prepared to invest considerable time and resources to develop outcomes frameworks that measure the impact on wellbeing over the long term.
- 3 The length of contract should be appropriate for the outcomes sought. Where the nature of the service and the outcome desired demand an innovative approach, contracts must be long enough to allow providers to develop and implement a service model. Contract length should also allow for timely evaluation.
- 4 The type of provider commissioned should suit the outcome sought. Some human services may be provided equally well by for-profit providers as by not-for-profits. More complex areas of provision that require expertise in working across agencies and through networks may be best served by a provider with demonstrated capacity to work collaboratively in the common good.

#### **Recommendation 2.7**

That the Productivity Commission develop a framework to guide future commissioning of complex human services, which takes account of:

- the flexibility needed to achieve outcomes
- the resources required to design meaningful outcomes frameworks
- the time required for robust evaluation
- the providers’ capacities required to deliver the outcomes sought.

### 3 The Brotherhood’s framework for assessing the risks and benefits of increased competition

The Brotherhood agrees that the Commission should consider the characteristics of the service user, the transaction and the supply in evaluating the likely benefits and costs of the increased application of competition, contestability and choice. In this section we examine the proposed framework and provide additional elements (highlighted in Figure 3.1) to strengthen the framework when considering either competition or contestability in human services.

**Figure 3.1 The Brotherhood’s framework (adapted from p.10 of the Issues Paper)**



## The characteristics of the individual using the service

The Brotherhood contends that the criteria identified by the Commission for assessing the potential of a given individual to benefit from increased competition should be broadened to take into account other unintended consequences that are often the result of the introduction of competition.

## The nature of service transactions

The Brotherhood wishes to contribute to the Productivity Commission's framework for distinguishing the types of services which may be suitable for the increased application of competition principles, and those which are definitely not. To those listed on page 10 of the issues paper, the Brotherhood proposes a number of additional factors which should be taken into account:

- **Whether the desired outcome of the service is clearly and narrowly specifiable and relatively easy to deliver.** Such services may be easily substituted for one another and therefore offered by a diversity of providers. For example, competitive markets in employment services generally work for low-needs clients, but not for disadvantaged jobseekers whose barriers to employment are complex and require specialised knowledge. Where human needs are complex and multifaceted, even modest success may require a considerable investment of additional resources, and any improvement may only be discernible over the long term. An example might be a young homeless person with a history of trauma, mental illness and AOD abuse who needs support to reengage with education.
- **The nature of resources necessary to deliver a favourable outcome.** Does the program or service rely on cross-sectoral collaboration or harnessing informal social networks? For example, Youth Development workers in the BSL Foyer program have to work across domains and leverage both formal and informal networks which rely on community altruism. Where a successful outcome is contingent on high levels of trust between actors, competition between agencies will be counterproductive.
- **The risk of unintended adverse consequences.** What are the potential consequences where flawed market stewardship or regulatory failure create perverse incentives for providers to put profitability ahead of the wellbeing of service users? Where service users are already vulnerable (e.g. children under protection orders, women experiencing domestic violence, homeless young people), the cost of market failure could well be catastrophic and the risk unacceptably high.

### Recommendation 3.1

In assessing the suitability of services for increased competition and contestability, the Productivity Commission should exclude human services:

- that rely on the intangible qualities of the relationship between the citizen and provider to achieve outcomes, and/or
- where people need a multifaceted, multi-sectoral response, and/or
- that serve rural and remote areas where markets are 'thin'.

## Supply characteristics

In considering whether service users will benefit from increased competition, contestability or user choice, the Commission should reflect on how these changes will affect supply, and how supply will in turn impact on equity, quality and efficiency.

The Brotherhood shares the Commission's view that both the nature and location of demand must be considered in deciding on the suitability of a particular reform.

Where the target population for a service is relatively small (e.g. children experiencing homelessness), or the location of the service remote (e.g. support services for homeless young people in regional or rural Australia), a pure market will not be sufficiently deep to guarantee supply, let alone user choice.

### Recommendation 3.2

Where there is insufficient or limited supply of human services or programs, as a result of a small target population; or geographical distance from metro or regional centres; or isolation; the Productivity Commission should advise that government play an active role in commissioning relevant services.

## The potential costs of increased competition, contestability and user choice

The Brotherhood believes that the potential costs identified by the Commission (p. 10) do not capture the full extent of what may be lost if competition principles are applied to unsuitable service areas. We submit that the present framework in no way accounts for the potential destruction of social capital if competition is allowed to erode trust and reciprocity between community-based providers. The destruction of social capital has both economic and social costs to users, communities and governments.

If government wishes to 'preserve and enhance' the contribution of not-for-profit providers, and harness the social value which community organisations help create, it must consider the broader repercussions of competition.

### Costs to users

- **Loss of relationships with existing providers as provision changes over to a market model.** To some extent the PC consider this to be an inevitable part of adapting to new arrangements, but this arguably misses the extent to which interpersonal relationships are often integral to the subjective value users derive from human services.
- **Loss of access to social networks as community service providers are compelled to compete with one another and with private firms.** Research by Wickramasinghe (forthcoming) demonstrates the rich social networks developed over time by community aged care professionals which enable them to develop tailored, joined-up support for clients.

### Costs to the community service sector

The Brotherhood is concerned that the further application of competition to human services will have a deleterious impact on the diversity of the community service sector as smaller agencies are 'crowded out' and compelled to amalgamate in order to survive.

In the right commissioning environment, smaller community organisations may hold the key to less wasteful, higher impact and more sustainable human services. Because of their close links to their community, small, local not-for-profit organisations are able to garner additional resources, which may not be available to larger providers. By drawing on their deep reserves of social capital, such providers thus have the capacity to develop more efficient and effective local responses to social problems. These efficiencies flow in part from their greater capacity to attract volunteers: and their lower transaction costs because of the higher levels of trust and reciprocity between the agency, service users and the broader community (PC 2003, pp. XI, 8).

Yet despite this demonstrated potential to generate higher efficiencies, contestable contracting already places smaller and medium sized not-for-profit providers at a competitive disadvantage relative to larger, wealthier providers. We fear that increased competition will worsen this imbalance, and place undue pressure on smaller providers to amalgamate, with the subsequent loss of the added value they produce.

In fact competition favours larger over smaller service organisations for a number of reasons that have nothing to do with efficiency or quality of outcomes. These include:

- **Government preference for fewer, larger providers.** The contraction of the public service in recent years has created an incentive for departments to deal with fewer large organisations, or with a lead organisation representing a consortium of smaller agencies. This preference is reflected in the relative success under competitive tendering of larger welfare businesses compared to smaller, less well-known charities, and the subsequent growth of 'Big Charity', typically 'large, multi-service, national social service organisations' (Butcher & Dalton 2014, p.1) which have a vested interest in 'crowding out' smaller competitors (p. 3). For instance in employment services the number of providers fell from around 80 in Job Services Australia in 2014 to around 40 in jobactive in 2015 (Jobs Australia 2015).
- **The disproportionate burden of compliance.** The competitive tendering process itself disadvantages smaller agencies which must commit a greater proportion of their resources to apply. Once successful, smaller providers likewise shoulder a higher relative burden in meeting ongoing compliance requirements, diverting time and resources away from front-line service delivery and relationship building.
- **The difficulty of transporting social capital and resources.** Smaller agencies' most valuable asset is their capacity to leverage social capital. Social capital resides in social networks that must be built up over time and is 'contextually embedded' in lived human relationships which are 'unique to the setting in which they are formed' (Cook 2014, p. 212). Unlike economic capital, social capital cannot be relocated or reinvested if commercial opportunities evaporate in one location or service area.

Competitive tendering thus carries disproportionate risks for smaller agencies since any sudden change in funding arrangements is liable to threaten their viability. While a larger agency may have sufficient capital reserves to regroup and reinvest resources elsewhere, a smaller organisation may have no choice but to shrink its operations, or even close, in the process cutting ties with clients, staff and the wider community.

### Costs to community

- **Loss of capacity to build social capital.** The shift from block to individualised funding will plunge many smaller organisations into financial instability, diverting time and other resources into staying viable. This will have a harmful impact on organisation's capacity to put energy into developing and sustaining community networks.
- **Loss of opportunities to create bridging social capital.** While many organisations may strive to maintain positive relationships across the sector, competition will create a practical barrier to continued cooperation, as well as future collaboration. Competition risks not only the destruction of already-existing social capital, but the loss of future opportunities for collaboration and innovation.
- **Loss of trust between providers and the broader community.** There is some evidence that when not-for-profits become more businesslike in order to comply with contracts or compete with private firms, they drift from their social mission (Maier et al. 2014). This can lead to an erosion of trust and goodwill, and an associated loss of capacity to harness community altruism, particularly in the form of volunteers.

### Costs to government

The Brotherhood believes that if competition principles are applied injudiciously, the costs to government, and therefore to the broader community, will be substantial. The costliness of this adventure will stem principally from the destruction of existing bridging social capital embedded in networks between community-based providers and the communities they serve and the forgoing of the social value they might have generated. This may include the following:

- **Loss of efficiencies generated by commissioning not-for-profits.** This is likely to occur whether or not community providers lose market share to private competitors as not-for-profits increasingly act in ways indistinguishable from for-profits. Not-for-profit providers are currently able to sustain lower running costs by appealing to the altruism of their employees and volunteers drawn from the broader community. Providers that prioritise profits over mission may struggle to attract volunteers and altruistic staff.

This includes the loss of the positive externalities associated with community sector service provision since high levels of trust help reduce transaction costs, and thus operating costs, for not-for-profit providers. Providers that have access to well-developed networks and can rely on high levels of community goodwill will be more able to elicit cooperation and thus contain the cost per service.

- **Loss of the social value produced when community providers act in the common good.** When not-for-profits compete with one another and with private firms for contracts or consumers, they are more likely to act out of self-interest rather, than altruistically. The

wrong commissioning environment or market conditions can stymie attempts to establish networks and stifle altruism as providers struggle to stay viable.

This has already occurred to some extent under the contracting paradigm favoured since the 1990s, a phenomenon described as ‘killing the golden goose’ (Smith and Smyth 2010). There is a strong consensus in the policy literature that the compliance requirements for not-for-profit providers has diverted resources away from social capital building (Considine et al. 2014; Butcher 2006; Cribb 2006).

- **Loss of opportunities for innovation.** The terms of reference set by Treasury assume that innovation is inevitably stimulated by competition. This may be the case for many simple, transactional services and consumer goods. However our long experience of devising innovative programs suggests that where complex human services are concerned, collaboration may be far more effective in stimulating new approaches.

Anecdotally there is a consensus in the sector that competitive tendering for human service contracts has already undermined the willingness of community providers to share knowledge and resources. Any change in policy which further undermines incentives for cross-fertilisation reduces opportunities for collaboration.

### **Recommendation 3.3**

Where the success of a service or program relies on high levels of bridging social capital, the Productivity Commission should carefully consider the extent to which competition may erode relationships within networks.

### **Recommendation 3.4**

The government should consider commissioning strategies which harness the trust and reciprocity of the community and providers to improve long-term outcomes.

### **Recommendation 3.5**

That the Productivity Commission recognise the potential of smaller local service organisations to deliver less wasteful higher impact and more sustainable human services, and take account of the proven tendency for competition to favour larger providers.

## 4 The Brotherhood's framework for improved human services

The last section of this submission draws on our recent experiences of collaboration and co-production to set out an alternative framework for human services reform. The framework reflects our fundamental belief that the interests of the individual are served best when policy serves the common good; that the quality of individual outcomes ultimately rests on the quality of their relationships, and on the capacity of the broader community to help meet their needs. We hope that the Commission will give thoughtful consideration to these arguments in considering the merits of increased competition and marketisation. However the Commission advises government to proceed, there will be services which do not satisfy the criteria for commodification or competitive tendering. For these cases, commissioners will need to trial new ways of working in order to maximise public value. This section proposes an alternative to competition to deliver public value and the attributes that should be sought for better human services.

### An alternative to competition to deliver public value

Our recent experiences suggest that a different way of commissioning human services is possible (Borlagdan & Key 2015). In fact some governments have already begun to move away from competitive tendering and compliance-driven contract management, towards collaboration with non-government networks and more flexible, though still contestable, funding arrangements in which accountability is based on trust (O'Flynn & Alford 2012; Gallet et al. 2015). There is growing recognition that collaborative, cross-sectoral governance arrangements with a shared goal allow for more effective joined-up policies and services. As the recent Victorian Royal Commission into Family Violence made clear, coordination and collaboration between services are vital: fragmented service delivery, short-term and piecemeal funding, no measurement of outcomes and a lack of investment in service coordination were all found to have contributed to the failure of government to support the victims of family violence (RCFV 2016, pp. 245–6).

Proponents of this way of working view government as compelled by a sense of larger moral purpose, rather than as an impartial economic manager (Eccles 2016). They recognise that the paradigms that have dominated Australian policy for the last seventy years, those of the Keynesian welfare state and the Friedmanite public manager, are exhausted, and look forward to a new model of governance which does not rely only on governments or on markets (Smyth 2016). The new way of governing combines idealism with pragmatism: it embraces new technologies, enlists the capacities of the entire community, and forges partnerships with non-government entities around shared goals as a means of stimulating innovation. This will make human services sustainable in the long term.

Initial research suggests that such collaborative arrangements generally improve services and restore citizens' trust in government (Gazley & Brudney 2007). The federal Communities for Children (CfC) initiative (detailed in Appendix D) combines contestability and collaboration by engaging non-government organisations as 'Facilitating Partners', whose role is to work with communities to develop local solutions by strengthening coordination and cooperation between existing services, and enlisting families in the co-creation of services. A national evaluation of CfC

found that Facilitating Partners were most effective when they already had a profile in the community, were trusted and were able to draw on existing relationships with other agencies (Muir et al. 2010). Moreover, the high levels of social capital built up at successful sites also yielded positive effects for the whole community.

#### **Recommendation 4.1**

That in drafting a blueprint for reform, the Productivity Commission give due consideration to collaborative commissioning approaches as an alternative means of improving the effectiveness of human services.

### **What would better human services look like?**

Like the Productivity Commission, we believe that it is useful to develop a clear, transparent set of attributes to guide the development, implementation and assessment of good public service delivery. The five attributes identified by the Productivity Commission—quality, equity, efficiency, accountability and responsiveness—constitute a valuable means of distinguishing ‘good’ public services generally, from those that would fail the test of public value.

However, we contend that the descriptions of these attributes in the issues paper are limited; most are suited to transactional services rather than transformational human services. Those human services delivered by the community or social services sector typically differ from other types of more transactional public services in a number of important ways. These differences, outlined below, need to be captured in the definitions as well as in the assessment and measurement of these attributes.

In recognition of the human dimension of human services, we propose a more expansive understanding of these attributes. We have also added a sixth attribute—sustainability.

#### **Quality**

As the Commission suggests, there is no agreed measure of quality across the human service sector. There are, however, various quality frameworks, informed by evidence and expertise, that apply within specific sectors either at national or state and territory level. Each has a set of domains with indicators or outcome measures that guide service design and delivery and frame programmatic policy.

As we look across these frameworks, it is evident that many of the assessable categories (e.g. workforce characteristics) and the actual indicators or measures align. Some of these frameworks reach for a set of measures that capture the subjective experience of the people using the services, as well as the ways that human service providers engage, work with and strive to meet the needs of these service users.

Across the human service sector, there is a clear understanding, underpinned by a diverse and largely qualitative evidence base, that the nature of the relationship between an agency and its service users as well as between actual front-line workers and users is a key component of effective, transformational services. It is particularly important for those highly vulnerable service users who cannot draw on the support of family friends or community to meet their needs.

A wide range of studies across different human service fields (e.g. homelessness, aged care, employment services, early childhood services, disability services) identify a consistent set of ‘hard’ and ‘soft’ characteristics of quality, transformational relationships between human service providers and service users. Hard characteristics typically include knowledge and skills. Softer but nonetheless important skills include respect, trust, recognition of value, flexibility, listening skills, empathy and reliability. Among these, continuity of care is consistently reported as important for quality service provision. The nature of the relationship over time is key to both quality and effective service delivery.

While they are an important dimension of human services, we contend that relationships between provider and user are not sufficient to create high quality or efficient human services. A quality human service should develop the capabilities of citizens, enabling them to thrive through access to opportunities and resources. Resources in this context mean in-kind community-based resources and networks as well as funding.

The development of a consistent framework to guide the assessment of the efficacy of human services under all forms of commissioning—competitive, contestable, or collaborative—will require a clear, consistent and measurable definition of quality. We could usefully begin this process by refining and consolidating existing quality frameworks across human services, by life stage (e.g. children, youth or adults), human service area (e.g. corrections, housing, child protection) or program type (early intervention, prevention) and aligning key domains and measures.

The definition of quality in a framework for effective human service delivery must accommodate the subjective experience of the individual and view intangibles such as relationships as central, and not marginal, to the public value created by human services. It should also include the extent to which a service fosters capability and wellbeing. How we measure these characteristics of good human service will be critical.

#### **Recommendation 4.2**

That the Productivity Commission adopt a definition of quality that embraces both the subjective experience of the user and the public value created by the quality of the service relationship.

### **Equity**

Equity—fairness or justice and impartiality in the way people are treated—is a core principle of a just and fair society. As the Commission notes, this principle is or at least should be at the heart of human service design and delivery. This raises several key questions: What does equity actually mean in these contexts? Is it equity of access, opportunity and/or outcomes? Importantly, how is equity achieved and maintained in human services? And is equity promoted or diminished by competitive human service markets?

The issues paper describes equity as ‘providing the same service to all members of the community on the same terms’. However, this description implies that all citizens who might use a given service (e.g. primary health care or education, or domestic violence services) have the same capabilities, as well as material resources or assets, and real opportunities to access the service.

And it implies that when they engage with a particular service their needs will all be addressed in the same way. As such this description effectively conflates equity with sameness. It reinforces a notion inimical to the ideal of promoting choice in human service delivery, that to achieve equity all citizens should be provided with a one-size-fits-all service rather than one tailored to, and priced to reflect, their needs.

This is not to suggest that we should develop a plethora of specialist services targeted at specific populations. Rather, in the interests of equity we believe that universal services, including health, education and employment services, must address their exclusionary practices, to ensure they provide access and opportunity for all.

Any determination of equity in relation to human services must recognise the different barriers that people face in accessing and engaging with the services they are entitled to. Where individuals face complex barriers, especially those experiencing disadvantage, deep social exclusion or discrimination, they may need additional resources and specialist support to access services which other groups may find more straightforward. For example, services that require access through a web 'portal' can be particularly inequitable as they assume all users have access to technology as well as the baseline skills and capability to use the portal.

To achieve equity for people facing barriers to human services, the unit cost for service delivery will have to reflect the actual cost of meeting their access needs. This is not consistent with the principle of technical efficiency, though it might well be more cost-effective in the long term. The marketisation of Australia's employment assistance services was found to have lowered unit costs, but failed to address the needs of disadvantaged job seekers who required more intensive support (Horn 2013).

But equity in human services cannot simply be purchased. We contend that equity in human service also relies upon leveraging networks—personal, business, government and community—to address people's needs and source real world opportunities.

**Recommendation 4.3**

That in assessing the suitability of a service for increased application of competition principles the Productivity Commission must consider whether marketisation will have an adverse impact on equity.

**Recommendation 4.4**

That in calculating the potential for savings from marketisation, the Productivity Commission should take into account the higher levels of investment required to meet the higher needs of service users experiencing deep social exclusion.

**Efficiency**

The Brotherhood recognises the need for human services to deliver the best possible outcomes at the lowest possible cost. For this reason we believe that government should recognise the extra

public value generated when community service organisations harness the resourcefulness and altruism of community networks.

However we would advise the Productivity Commission to look beyond the short-term yields of technical and allocative efficiency to consider the long-term costs generated by unmet human need. When planning services for the most vulnerable people and those whose needs are multi-dimensional and complex (particularly in rural and remote areas where markets and existing community structures are typically shallow) it is invariably more efficient in the long term to invest in carefully commissioned wraparound services than to leave provision to the market.

The longstanding application of competition principles to federal employment services illustrates many of the pitfalls of trading short-term efficiency for long-term effectiveness. As the case study in Appendix B details, both the original Job Network and the later Job Services Australia programs may have driven down the unit costs of assistance, but they have not delivered any marked improvements in employment outcomes (Horn 2013). Moreover they have consistently failed to support disadvantaged clients into sustainable or adequate work.

#### **Recommendation 4.5**

That the Productivity Commission adopt an expanded definition of efficiency which takes account the long-term costs of both unmet human needs and untapped human productivity.

### **Accountability**

The Commission defines accountability as responsiveness to the people who fund human services, namely taxpayers. The Brotherhood's view is that this ought to encompass not only the accountability of external providers to taxpayers through their elected representatives in government, but also the accountability of government to taxpayers.

When citizens or permanent residents pay tax, they enter into a social contract with the expectation that government will provide services which meet their needs. Human services reform is an opportunity to restate the responsibility of government to provide all Australians with the resources they need to develop their capabilities.

In an externalised human services market, accountability for inadequate or underperforming services should ultimately rest with government. Governments must take care to ensure that in externalising services they do not give up their ability to hold errant providers responsible for bad behaviour.

The widespread use under Job Network of 'cherry picking' or 'creaming' more employable job seekers, while 'parking' more disadvantaged clients in training programs, is indicative of how attempts to use competition to incentivise quality can backfire (Horn 2013). Likewise, the recent VET reforms in Victoria illustrate the powerlessness of an ill-equipped regulator to stop fraudulent colleges from 'gaming' individualised funding arrangements to profit at the expense of disadvantaged students and taxpayers (Yu & Oliver 2015).

#### **Recommendation 4.6**

That the Productivity Commission give due consideration to whether the increased application of competition principles has the potential to adversely affect policy implementation and require costly regulation.

### **Responsiveness**

The Commission defines responsiveness as being responsive to the needs and wants of service users. The Brotherhood's view is that publicly funded services ought to do more than 'service' users. We would stress that the users of public services are citizens as well as consumers.

We are in favour of people being able to exercise the maximum control that is practical, over the services they need. Not only should agencies and private firms in receipt of public funds be responsive to the citizens they serve, but wherever feasible, citizens should be encouraged and supported to participate in the co-design and co-production of services.

The capacity to innovate is essential if providers are to respond to the diverse needs of their client base. While competition may spur providers of simple and discrete services to innovate, it may prove counterproductive where service outcomes rely on an agency's capacity to leverage relationships based on trust.

### **Sustainability**

The sustainability of Australia's human services is fundamental to the future wellbeing of its citizens. The Brotherhood recognises that we are entering an era of unprecedented challenges to the viability of the welfare state. There is real pressure on governments to use whatever levers are available to them to ensure that human services provide better value for money.

The issues paper contends that further application of competition principles, and the creation of human services markets wherever possible, will deliver great efficiencies and help contain costs. While the competition reforms of the 1990s may have delivered modest efficiency gains (Aucoin 2011; Pollitt & Dan 2011), social expenditure per capita actually has continued to grow (Smyth 2013, p.30; Whiteford et al. 2011; Stebbing & Spies-Butcher 2010).

It is time for governments to consider a new approach. We propose that governments should invest in community development and work alongside non-government actors to harness the creativity and altruism of social networks as a means of adding value to human services. We believe that this strategy has the potential to significantly improve human services while also improving sustainability.

#### **Recommendation 4.7**

That the Productivity Commission should be required to demonstrate how the broader application of contestability, competition and choice will deliver the necessary efficiency gains to improve the long-term sustainability of Australia's human services.

## Standardised outcome measurement will not deliver the value being sought.

The Brotherhood strongly supports the notion that human services should always pursue opportunities to improve outcomes. Where governments provide funding for human service delivery, meaningful quantitative and qualitative indicators should underpin funding agreements, to drive not only best practice but also innovation.

The challenge for governments commissioning human services is how to enshrine good quality outcomes into agreements or partnerships to ensure public value is delivered. Governments have struggled for many years to design good outcomes frameworks for contracts, often hindered by the lack of evidence and internal capability. The result has generally been a series of vague outcomes that require significant interpretation (and are open to misinterpretation) coupled with a series of output measures that merely track how much activity is occurring, rather than whether lives and wellbeing of those receiving the services are improving. This is largely due to the fact that many human services outcomes are ‘soft’ outcomes and are, by nature, difficult to measure quantitatively, evaluate or compare.

If the Productivity Commission were to recommend that some human services are subjected to competition, then the experience and time it takes to design outcomes-based frameworks and contracts must be recognised. Governments will need to consider the development of a baseline for outcomes, intermediary outcomes and longer term outcomes and how these outcomes interact with the broader service system(s) that exist within communities. Governments must also be prepared to watch providers fail to meet minimum targets and seek to understand the complexity and causal explanations before progressing to retendering. This is particularly the case when governments adopt fee for service or performance payment arrangements, where the payment regime is untested by the service system before it is implemented.

Increasingly, there is a tendency to develop standardised outcomes frameworks for services or service systems. The Bankwest Foundation (2015, March Social Impact Series) report summarised the benefits and risks of such an approach:

<b>Benefits of standardisation in outcomes frameworks</b>	<b>Risks of standardisation in outcomes frameworks</b>
Can be cheaper to apply on an ongoing basis	Cannot capture the subjective nature of social change
Allows summation and aggregation	Does not recognise the diversity of organisations delivering human services programs
Ease of reporting	Tends to create a preference to value the quantitative over the qualitative
Ease of verification and assurance	Can drive ‘gaming’ of the system and undermine innovation
Comparable across multiple organisations	Burdensome and rarely funded
	Not relevant or useful for organisations or communities

There is a danger under a competitive model that standardised approaches to outcomes frameworks will be seen as the solution. This is likely to lead to government policy priorities being

linked to generic targets or outcomes that do not adequately reflect the local circumstances and communities where the human services are to be delivered. There is also a risk that outcomes measurement will become a barrier to entry for smaller organisations as larger organisations will be able to dedicate more resources to outcomes measurement compared with their smaller counterparts, thereby excluding through competitive tendering processes the smaller organisations that may have stronger local connections and the ability to deliver on outcomes.

**Recommendation 4.8**

That the Productivity Commission should specify how the government will design, develop and implement frameworks to measure short, medium and long-term outcomes to ensure accountability in relation to human service reforms.

## Appendix A: Vocational education and training system case study

### Area of service/population group

Vulnerable, higher needs and young learners constitute the core of VET participants:

- In 2013, over 40 per cent of students in the Victorian VET system were from the two lowest socioeconomic quintiles. (NCVER 2014a)
- Young people aged 15–24 make up 40 per cent of VET students in Victoria and over 40 per cent of all VET students in Australia (in excess of 770,000). (NCVER 2014a)
- Completion rates for under 25 year old students is at a five-year low, at 40%. (NCVER 2014b)
- Between 2009 and 2014, the number of unemployed students enrolled in VET more than tripled, and the number of Aboriginal and Torres Strait Islander students, students with a disability and CALD students also significantly increased (43 per cent, 75 per cent and 124 per cent respectively). (DET 2015).

### Funder

Victorian VET delivery is underpinned by both Australian and Victorian Government funding. Training services are principally purchased through a student-held voucher/training entitlement. There is a mix of oversight by Australian and Victorian regulators.

### Service model

VET is a student-demand driven system, in which government funding is provided through a fully contestable model for funding accredited training providers, thereby creating a competitive market (Yu et al. 2015). VET is provided by public, not-for-profit and commercial training providers; however, 'for-profit' providers dominate, making up 3210 of the 4570 providers nationwide. The VET system puts the student at the centre, with both choice and control. Ideally students are attracted to high quality training and choose accredited training that aligns to future job prospects and employment. The assumption underlying the move to a competitive market was that it would efficiently match training supply with demand, and in doing so meet the needs of developing industries and employers.

The Australian Skills Quality Authority (ASQA) is responsible for managing the regulation relating to VET that deals with any potential market failures. This regulation is largely driven through minimum standards, mostly relating to hours of training delivery or duration of training courses, with significant discretion and interpretation resting with the VET provider. VET providers are audited by ASQA upon registration and when new training courses are added to their scope. Beyond this, compliance audits only occur if ASQA assesses there is a risk that a VET provider will fail (or is failing) to comply with the VET standards.

## History

The first market-based VET systems came from the introduction of the National Training System in the early 1990s (AEU 2015). In 2012 the Council of Australian Governments (COAG) agreed on the National Partnership Agreement on Skills Reform, also based on a market-driven funding model.

These changes led to rapid expansion and diversification of the VET sector. The growth was primarily in the private, for-profit training market, with the number of registered training organisations (RTOs) providing government-subsidised places increasing from 201 in 2008 to over 500 in 2015 (Hetherington & Rust 2013). Over the period 2008–12 annual training sector enrolments increased by almost 300,000, with student numbers growing by 14.7 per cent per annum (NCVER 2014a). Funding for VET grew from \$477m to \$1,400m between 2008 and 2012 (AEU 2015).

In response to the unsustainable costs of VET for the states and territories, many states initiated funding cuts. In Victoria's 2012–13 Budget, nearly \$300m was cut from the state's spending on VET, mostly from the TAFE sector, which was seen as costly and inefficient (Hetherington et al. 2013). The result was a decline in training enrolments, particularly in regional Victoria (DET 2015).

## Results of competition

Although the VET sector has scaled up to meet student demand, the accountability, quality and equity of VET have been compromised. Phillip Toner (2014) has concluded:

in general, publicly funded VET does not meet minimum conditions for effective contracting out. The economic and social consequences of inadequate quality VET provision are potentially severe.

A summary of the negative consequences of competition is provided below, in relation to the attributes set out in the issues paper:

**Accountability:** *Inability to regulate to manage or prevent gaming under a competitive market model:* In the market system there is an incentive for providers to maximise income, which has led to a corresponding decline in quality as providers seek to deliver courses at the lowest cost and providers with no experience in education enter the market to chase profits. A recent Senate Committee inquiry found there has been 'rampant abuse, unethical behaviour, accelerating costs and a doubling of bad debt' (Senate Education and Employment References Committee 2015). Misuse of the system has created profits for RTOs and liabilities for students and taxpayers. Exacerbating this is the absence of regulations stipulating minimum duration of courses, leading to extraordinary short cuts by providers, and qualifications awarded before students have reached competency.

**Quality:** *Poor quality, inefficient outcomes delivered by the market:* On the supply side, employer groups have expressed declining confidence in the qualifications delivered by the current VET system; and employers consistently report seeing students arriving in workplaces with skills 'considerably below those expected of their certificate level' (NCVER 2014a). On the demand side, completion rates have steadily declined since 2011, with 51% of courses commenced in 2014 not completed (DET 2015). The completion rate for students under 25 years is at a five-year low, at 40% (NCVER 2014b). Surveys consistently reveal student and employer satisfaction with the

quality of training in Victoria has declined (DET 2015) although ACPET (peak body for private providers) has data to suggest student satisfaction is high. In response to findings of the VET Quality Review conducted by Deloitte, the Victorian Government has had to restore training entitlements to 10,000 students who received inadequate government-funded training (DET 2015).

***Equity: Market-based system prone to information failure:*** The sector has become more complex and is based on the incorrect assumption that participants are well informed about the system and their choices. Asymmetries in information access mean that individuals do not have adequate information about quality, fit or labour market relevance of the courses on offer. Inducements, such as iPads, online delivery and no up-front fees, and the role of brokers have also influenced choices.

## Appendix B: Employment assistance through Job Network and Job Services Australia case study

### Area of service/population group

Active labour market interventions, particularly employment assistance programs, have gained broad acceptance across post-industrial western economies in response to sustained increases in underutilisation of labour since the 1970s. Long-run social changes within a globalised economy, characterised by increased mobility of money, goods, knowledge and labour, have exacerbated the mismatch between paid work opportunities and the 'job-ready' supply of labour. This is most felt by particular groups of job seekers, such as young adults with low skills or qualification; women returning to the workforce after caring responsibilities; mature aged workers; those living in areas with few job vacancies; and those with health issues, learning difficulties or poor English.

### Funder

The design, resourcing and monitoring of employment assistance through the Job Network and later Job Services Australia has been the sole responsibility of the Commonwealth Government through its employment portfolios. The gateway for people to access social security payments, including income support, and hence gain access to employment assistance is Centrelink, which has not been privatised. However, some aspects of the assessment—for example, work capacity of those with a disability, have been outsourced in the past.

### Service model

The core model of *employment assistance* funded by the Commonwealth Government comprises one of five categories of active labour market interventions and focuses on job search assistance, job placement and case management support to resolve barriers to employment. While this category of assistance for job seekers may be considered separately to the other categories— incentive reinforcement; occupation; human capital development and paid work experience—there is significant overlap and interdependence across these policy settings. In particular, demand side strategies are critical to create job opportunities matched to the capabilities of highly disadvantaged job seekers (Horn 2013, pp. 224–5).

In essence, the core model of employment assistance provided by the Job Network and its two successors (Job Services Australia and the new jobactive) comprised:

- 1 assessment of eligibility for assistance and work capacity
- 2 measurement of labour market disadvantage for streaming or classifying job seekers into the level of assistance matched to their circumstances (barriers to work)
- 3 provision of job search assistance, job placement and intensive case management support according to their 'job readiness'.

### History

In 1998, Job Network was contracted out to over 300 organisations, including a mix of private for-profits, community not-for-profit and a new public provider Employment National (Considine 2001, pp. 122–4) to replace the Commonwealth's case management, job subsidy and training

programs. The introduction of the Job Network can be viewed as a staged approach to privatisation of employment assistance to improve efficiency and outcomes through a suite of design elements, including commissioning; a differentiated payment structure; a performance system (Star Ratings); and assessment processes to stream job seekers to an appropriate level of assistance (Horn 2013, pp. 226-7). These reforms were accompanied by tighter eligibility criteria and stronger mutual obligation requirements (including penalties for non-compliance), reflecting an ideological shift in favour of behavioural explanations for unemployment necessitating robust activation measures.

Substantial changes to the Job Network were implemented through contract renewal, changes to guidelines and new approaches to address emerging weaknesses in the core program (for example, introduction of the Personal Support Programme aimed at the unemployed who were assessed as not job-ready. The Rudd Labor government undertook a review of employment assistance in 2008 to respond to growing concerns about the Job Network's shortcomings. This led to recommissioning services through the new iteration Job Services Australia from 2009. Key changes included some consolidation of programs; reconfiguration of the assistance Streams; a stronger focus on the long-term unemployed through the payments system; a flexible Employment Pathways Fund; and some softening of participation obligations to focus on re-engagement rather than coercion (DEEWR 2008).

Job Services Australia and the separate Disability Employment Services programs were renewed from July 2012 with relatively minor adjustments to contract provisions. The main innovation through the contracted model was to introduce payments to for-profit and not-for-profit providers for outcomes achieved with their clients rather than block funding based on outputs, despite the fact that the introduction of competition with payment by results has not been shown to improve effectiveness (Thomas 2007). Quality control and program improvement was largely based on the 'star rating' system, which has subsequently been used to alter contract allocations and eliminate poorly performing providers. Over successive contracts and program changes, the number of contracted providers has shrunk from a mix of around 300 community, private and government providers to 80 under Job Services Australia in 2014 and to 44 in the new job active (Jobs Australia 2015). The ethos underpinning the contracted model has been to place emphasis on 'work first' delivery of help to quickly get job seekers into a paid job with an assumption that strong mutual obligation provisions are necessary to encourage job seekers to engage in assistance and actively seek work.

## Results of competition

While there are a number of indicators of the success or otherwise of employment assistance contracted out to the marketplace, the most important measure is effectiveness in achieving paid work outcomes for job seekers in the Job Network and JSA over time. In the 12 months to September 2015 (the final data on the JSA program), 42.8% of Stream 1-4 job seekers were in employment three months after exit (DoE 2011). This aggregate outcome rate is five percentage points *lower* than measured four years previously. Horn (2013, pp.232) assessed the effectiveness of the JSA and Job Network, concluding that 'the marketization of employment assistance services has driven down the unit costs of assistance, but has resulted in only relatively small improvement in job outcomes'. The outcomes data show that for the more disadvantaged cohort

of job seekers, both programs have been largely ineffective in enabling a transition into sustainable paid work. Thus, looking at the most recent data for the JSA, one in five Stream 4 jobseekers obtained paid work and less than one-quarter of these had a permanent job (DoE 2011). Again these outcomes are worse than those in 2011.

Looking at client satisfaction with employment services, the most recent government data indicates a consistent relatively low satisfaction rate—ranging between 56 and 69% across the satisfaction measures (DoE 2011). This picture of job seeker outcomes achieved by the JN/JSA is consistent with those achieved by the equivalent ‘pay by results’ UK Work Programme (DWP 2016).

Rigorous comparisons between outcomes achieved pre and post marketisation are methodologically not possible. However, two conclusions can be drawn from the reported outcomes data: first, both the Job Network and JSA programs *did not* support pathways into sustainable or adequate work for disadvantaged job seekers. Second, outcomes *did not improve significantly* over the period of both programs—despite regular adjustments to the model and contracts (Thomas 2007). Hence, it is highly questionable whether contracting out to the open market leads to improvements over time: competition in this form has not resulted in improvement in quality. This conclusion points to key systemic aspects of commissioning employment services that have had a negative impact on performance and thus points to the inherent risks of introducing competition in this domain of human services.

There is solid overseas evidence that labour market programs, including employment assistance, are effective in helping job seekers into paid work (De Koning 2007). However, there is scant empirical evidence that commissioning of employment assistance achieves better outcomes for job seekers (Bredgaard et al. 2008).

There are several explanatory factors for the relative weakness in the delivery of employment assistance through the Job Network and JSA, relating to efficiency, accountability, quality and responsiveness, as outlined in the issues paper.

**Efficiency:** *Under-investment and poor resource allocation.* Australia under-invests in active labour market programs compared with other OECD nations: the leading countries spend about three times the level of funding as a proportion of GDP and the majority of this funding is spent on job creation, transitional work pathways or supported employment. Despite some shifts to program design and payments, most of the Australian effort is focused on short-term job matching. Thus the competitive funding model has been designed with a focus on greater efficiency rather than on sustainable outcomes distributed equitably across job seeker groups. The competitive tendering of service delivery drives down the unit costs for government. Then providers have to reduce their most important and costly expense—front-line staffing. Thus employment advisers typically have a lower skills base and higher caseloads than previously.

**Accountability:** *Inability to regulate to manage or prevent gaming under competitive market model.* The performance drivers for commissioned programs inevitably encourage concentration of assistance on ‘job-ready’ clients. Creaming or ‘cherry picking’ job seekers with fewer barriers to work and the opposite ‘parking’ of highly disadvantaged job seekers have characterised the UK Work Programme and may well be an inherent limitation of commissioned models reliant on

outcome payments (Meager et al. 2013). It may be argued therefore that this model of commissioning fails tests of equity and appropriateness. In addition the complex contractual arrangements including reporting and accountability requirements impose a higher burden on providers, leading to a far higher proportion of resources being spent on contract management rather than on front-line assistance (NOUS 2011; Considine et al. 2011).

**Quality:** *Insufficient integration and inadequate quality improvement.* As a result of the highly prescribed and regulated privatised model, employment assistance providers are less willing to focus on job seekers that have multiple barriers to employment; and the competitive nature of the commissioned approach prevents collaboration or integration of assistance at a local level.

The relatively low level of client satisfaction (cited above) signals the lack of focus on the needs of individual job seekers, in particular those ‘hardest to help’. This continual challenge for employment services shows up in at least two key areas of assistance. First, the focus on efficiency of the overall system (including Centrelink) leads to mis-assessment of employment barriers of disadvantaged job seekers and therefore to ineffective help. This weakness has been regularly acknowledged by government departments, for example with the introduction of vulnerability flags. However, as researchers overseas have noted, more systematic reform is needed to programs to ensure collaborative delivery (Horn 2013, pp. 232–233). Poor integration has become evident through the level of training churn, whereby job seekers are ‘encouraged’ to take up vocational training places that are poorly matched to their aspirations or learning needs. Increased credentials and skills (foundational and vocational) are essential, but have to be matched to individual circumstances as well as to job opportunities. Integrated assistance has been missing from the Job Network and subsequent iterations. Such integration or ‘wraparound’ support is particularly important to address the health related barriers faced by highly disadvantaged job seekers and to create local job opportunities.

**Responsiveness:** *Insufficient employer focus.* Employer bodies have regularly complained that the commissioned employment assistance model fails to understand business needs and too often refers applicants who lack the foundational skills to be employable (BCA 2011). In spite of some attempts to increase the level of employer focus, the core approach inevitably will focus on short-term outcomes as a *transaction*, rather than on building strong relationships with local employers to enable better job matching and sustainable outcomes over the longer term.

**Responsiveness:** *Lack of an open market and choice.* One of the key claims made for commissioning of employment services based on outcome payments has been that it will replace inefficient government service delivery by creation of a competitive marketplace. In practice, the government is still the only ‘customer’ in what is a ‘quasi-market’ in which job seekers cannot exercise their right or choice about the service on offer (Le Grand 1991, pp. 1256–67). In fact, choice has been severely limited for job seekers as the number of separate agencies providing assistance has shrunk from around 80 under HJobServices Australia in 2014 to 44 in the latest version (jobactive) (Jobs Australia 2015). This consolidation has limited diversity and flexibility for job seekers. Further, under JSA and jobactive, job seekers are categorised into a stream which determines the quantum of assistance but does not take into account their aspirations or capabilities. Active participation obligations intrinsically take away job seekers’ perception of choice, and they are unable to choose between providers based on performance or quality.

## Other considerations

The commissioning of employment assistance is only one approach that might improve the outcomes for job seekers and deliver long-term value for money to the community. As the above overview has indicated, additional investment of resources in service provision—especially aimed at the hardest to help into work—through better coordinated, wraparound service models based in local communities would deliver longer term benefits. The UK Work Programme adopted this approach through the AMI-DEL switch, whereby prospective savings of income support benefits were used to provide upfront expenditure on employment assistance. However such funding mechanisms can be implemented without commissioning of human services into a quasi-market.

It might be argued that the profits extracted by private employment service providers over the past 20 years could have been better invested in service delivery focused on sustainable job outcomes based on rigorous evaluation of innovative delivery models.

It should be noted that state governments have reacted to the relatively poor performance of Commonwealth delivered employment services by implementing their own programs to address local needs—for example, the Work and Learning Centres focused on local neighbourhoods with high levels of public housing in Victoria (BSL 2012).

## Appendix C: Consumer Directed Care in Community Aged Care Services case study

### Area of service/population group

Older people who need services to remain living in their own homes are eligible to receive a Home Care Package.

### Funder

Home Care Packages are funded by the Australian Government. Eligibility criteria are set out in the *Aged Care Act 1997*. There are four different levels of Home Care Packages, funded to reflect the intensity of care needs. Since 1 July 2014 the government has required consumers to make an income-tested contribution to the cost of their package. Supplements are available for consumers with a cognitive impairment associated with dementia and other conditions, veterans, and those requiring oxygen or enteral feeding.

Home Care Package funding, together with any personal contributions, determine the budget a person has available for supports such as case management, personal care services, home assistance, meal assistance and transport.

### Service model

Australia's approach to supporting older adults living in their own home is changing. At the core of the reform is individualised funding, which provides for aged care clients' individual choice and control of their government-subsidised Home Care Packages. The framework for service model is Consumer Directed Care (CDC), which is defined as:

... a way of delivering services that allows consumers to have greater control over their own lives by allowing them to make choices about the types of care and services they access and the delivery of those services, including who will deliver the services and when (DSS 2014, p. 7).

Currently, people who are assessed (by the Aged Care Assessment Team) as eligible for a Home Care Package are placed on a waiting list in their region. Providers that are funded to deliver services in that region contact them when a package becomes vacant.

Since the initial phase of reforms in August 2013, consumers with a Home Care Package have been enabled to make decisions about their care plan, including the type of services and the degree of case management support they require, as well as to plan and monitor their budgets.

The next phase of reforms commences on 27 February 2017. The key change is that, instead of being allocated to providers, Home Care Package funds will follow the consumer. This will enable people to select their preferred provider and to change providers if they wish. Once the provider is chosen, funding for the Home Care Package is 'banked' in the consumer's name by the provider. Any unspent funds move with the consumer if they change providers. Consumers will continue to decide on the range of services and level of support they need. Home Support workers cannot be

employed directly by consumers but must be registered, and contracted or employed by Home Care Package providers.

## History

The Australian Government has a long-term plan to develop a single aged care service system that is market-based and driven by consumer choice. This approach is driven by the belief that a competition-driven, contestable market will improve choice and quality for consumers and increase efficiency and lower costs to government (Aged and Community Services NSW 2015).

Providers of Home Care Packages currently receive an allocated quantum of packages to deliver care in a particular region. This has been based on the outcomes of a contestable bidding process (the Aged Care Approvals Round) the last of which was concluded in March 2016. Providers need to demonstrate their suitability and meet quality standards.

From 2017, provider organisations will no longer receive an allocated number of packages from the government. Instead packages will be directly allocated to consumers who will be able to move their funds to any provider at any location as they wish.

## Results of competition

In 2016 the Brotherhood reported on the experiences of consumers on Brotherhood Home Care Packages as they adjusted to the first phase of reforms outlined above (Simons, Kimberley & McColl Jones 2016). Consumers will face additional impacts with the next phase of reform, as they seek to navigate the benefits and drawbacks of different providers, and as the service offerings of providers adapt to the new environment.

CDC has had mixed results for different groups of consumers.

The report found that the CDC, in its initial phase, may yield benefits for capable adults, provided they have the means and support to exercise meaningful choice and control. Many consumers appreciated the flexibility to coordinate their own services, including being able to organise them quickly in response to an urgent need, or to ask care attendants to undertake tasks as needed, rather than a fixed set of tasks for each visit. Having a say gave many consumers a sense of independence and confidence in their own ability.

However, the report also found that for some consumer groups, the transition to CDC brought particular challenges and the risk of adverse consequences. A summary of the benefits and risks to CDC based on the report is provided below.

<b>Consumers experiencing the fewest issues with the CDC system</b>	<b>Consumers more likely to experience difficulty or adverse impacts with the CDC system</b>
Consumers whose needs were met within their budget	Existing consumers who were over budget, mostly as a result of their complex care needs and medical conditions
New consumers who had only known the individual budget CDC model	Consumers with low levels of literacy, numeracy and especially financial literacy

<b>Consumers experiencing the fewest issues with the CDC system</b>	<b>Consumers more likely to experience difficulty or adverse impacts with the CDC system</b>
Consumers who had some personal financial resources or who could access support from family members or other networks to supplement the package subsidy	Consumers who were financially disadvantaged and lacked personal funds or a support network to cover the full range of their care requirements
Consumers who had a carer or who could fully manage the package (Level A), releasing more funding for services and activities	Consumers who had no carer or who had cognitive impairment and did not have the capacity to self-manage and therefore had to allocate a larger portion of their subsidy to case management fees
Consumers willing to make changes and to work with their case manager to do this	Consumers who were resistant to the change and not prepared to work with their case manager to manage their budget

To address many of the risks identified in the table above, the report suggested that CDC be accompanied by increased practical support to enable positive risk taking and to safeguard against abuse, as well as continued investment in appropriate governance and regulation.

**Equity:** *Competition can reduce participation and make services and programs inaccessible for those who need them most:* One of the adverse impacts of CDC was the reduced participation of the Brotherhood Home Care Package clients in a Brotherhood Social Inclusion Program which had been designed for service users who were socially isolated. Under earlier funding models the Brotherhood had been able to subsidise participation, but with the full cost now having to be met from individual packages, many consumers have decided they cannot afford to participate. Consumers now need to cover the full cost not only of the social activity but also of attendant care and transport; for many this makes the cost prohibitive even for a simple morning coffee. The impact is magnified for those who are unable to self-manage their packages and therefore incur higher management costs.

The consequences may be serious, especially for consumers with mobility limitations and those who live far from family and friends. Social isolation has been shown to constitute a major risk factor for health, rivalling well-established risk factors such as cigarette smoking, blood pressure, blood lipids, obesity and physical inactivity (House, Landis & Umberson 1988); and social networks of discretionary relationships contribute to longer life expectancy among older Australians (Andrews et al. 2005; Due, Holstein & Lund 1999).

**Efficiency:** *Anti-trust behaviour of competition creates inefficiencies when coordinating complex care arrangements:* Recent Brotherhood research examined the likely impact of current reforms on service delivery and community engagement by providers of Home Care Packages (Wickramasinghe, forthcoming). It explored the social capital of community aged care providers, particularly the bridging social capital among staff that is used to connect consumers to a network of resources and opportunities. The report highlights the reliance of providers on strong networks to deliver quality, coordinated services and to leverage resources to meet the changing needs of older adults.

The need for collaboration was recognised by the Productivity Commission in its 2011 report, *Caring for older Australians*, which noted (at p. xxvi) that ‘coordination of aged and health care,

and of the providers of that care, becomes increasingly important for older people as the scope and complexity of their needs increase'. However, the Brotherhood's report finds that the shift towards marketised service provision and individualised funding may conflict with the multi-sectoral links and collaborations which are fundamental to quality community aged care services; and it may deplete existing social capital, thereby reducing economic and social value. Competition between providers to attract and retain customers may undermine collaboration, discourage referrals and hinder the sharing of resources (such as new ideas, information, knowledge and skills). Provider organisations will have less incentive to draw on each other's resources, coordinate care and work together to find solutions for their clients.

The Productivity Commission's 2003 report, *Social capital: reviewing the concept and its policy implications*, warned of the risks of public policies that 'can either reinforce or undermine social capital, depending on their design' (p. ix). It highlighted the need to ensure 'that government policies, programs and regulations do not unnecessarily and unintentionally erode social capital, and that any beneficial side-effects on social capital are taken into account' (p. 68).

**Efficiency:** *Individualised funding with limited investment in social capital and place-based activities reduces the value delivered to government.* Some community aged care providers have leveraged the understanding of the different groups that they work with, which enables them to facilitate place-based approaches and to inform the development of related public policy. Individualised funding will likely undermine this capacity.

The Brotherhood's aged care services have run programs to build social inclusion. For example, clients with dementia or disability are supported to participate in their community by linking them to volunteering opportunities (such as gardening, woodwork), developing peer support groups (such as dementia support groups, support networks for carers) and developing programs with benefits that flow into the wider community (such as awareness raising on dementia by engaging with local schools and libraries). These activities create social and economic value that extends beyond the service.

**Responsiveness:** *Information asymmetry is not adequately addressed to support user choice:* The recent Competition Policy Review found that access to high quality, independent information is essential for the effective operation of a marketised system. It also highlighted the need for additional measures to support those experiencing disadvantage to make informed choices.

There is limited information available through the My Aged Care website (backed by a phone service) to help consumers navigate the available providers. Providers must disclose all relevant charges up front and make these charges public on the My Aged Care website. Providers can set minimum periods of service, notice periods for ending the contract and any associated charges.

It is unclear whether there will be impartial information available regarding the quality of providers, their approach and the range of services and supports they offer. Therefore, it is not known how consumers will be supported to make informed decisions based on quality and performance of different providers. The reliance on digitised information will create particular challenges for those older people with limited digital literacy or limited access to the internet.

## Other considerations

A couple of years prior to the introduction of CDC, the Brotherhood instituted a choice and empowerment-based model predicated on Amartya Sen's capabilities approach. Rather than care being an end in itself, it is conceptualised as a 'tool for living'. Each recipient of Brotherhood delivered aged care services is engaged in the co-production of an individual 'MyPlan' (care plan) with their case manager. The plan is built on the individual's life story, their values and what gives meaning to their life. Their aspirations are reflected in the possibilities open to them and an action plan built on their choices of Home Support and other services and activities to achieve their own particular vision of 'a life of value'. This is an alternative way of delivering choice.

CDC, if well implemented, effectively mandates choice. If consumers are properly supported to exercise choice and control, the CDC model is consistent with a capabilities approach.

Opportunities for provider organisations include the potential to seek alternative forms of collaboration that are viable and sustainable. This requires providers to forge collaborations with organisations with similar philosophies of care to work together for the best interests of their clients and carers.

## Appendix D: Communities for Children case study

### Area of service/population group

Communities for Children (CfC) is designed to enhance the development of children in 52 disadvantaged community sites around Australia. The initiative aims to improve the coordination of services for children 0–12 years old and their families, identify and provide services to address unmet needs, build community capacity to engage in service delivery and improve the community context in which children grow up.

### Funder

The Department of Social Services is the only direct funder of CfC; however CfC draws on a range of existing programs (funded by state, federal and local governments) to deliver outcomes.

### Service model

Non-government organisations (NGOs) are funded as Facilitating Partners (FPs) to develop a community-wide approach in consultation with local stakeholders. FPs act as brokers, engaging communities to develop local solutions, taking into account the service system and assets of the community (SPRC 2007). CfC differs from traditional service models by focusing on service coordination and cooperation.

FPs establish CfC committees with broad representation from community stakeholders, generally including clients, parents and caregivers, government representatives, local businesses and service providers (SPRC 2007). FPs are responsible for overseeing the annual service planning and distributing the funds based on the agreed allocations. Most funds are allocated to local service providers that deliver the activities specified in the annual community service plans (Muir et al. 2010). CfC is underpinned by the assumption that effective human service delivery requires not only a range of different services, but also those services working as networks to deliver a coordinated approach to the many needs of the communities.

### History

CfC commenced in 2004 with an investment of \$140m until 2008 for 45 sites for children aged 0–5, their families and community. In 2009, CfC was extended to include children up to 12 years, and put out as a contestable tender round to 30 June 2012. In 2013 CfC was retendered and extended to 30 June 2018.

### Results of competition

Although CfC is a contestable model, it operates on a lead agency approach, working with a network of actors, partnerships and arrangements. Within this, the CfC FP's role is vital. The FP gives community organisations a sense of ownership, and small agencies are able to attain funding, develop networks and build capacity. FPs have been most effective when the non-government organisations have been well known in the community, when they have had administrative support and when they could build on existing interagency collaborations, even in the context of a contestable model (Muir et al. 2010). In this way, the model stays true to

Harper's stated desire that competition should preserve and enhance the contribution of the NGOs (Harper et al. 2015).

The CfC commissioning model is flexible and encourages diversity and innovation within community. This flexibility means the risk of market failure (potentially requiring government intervention or regulation) is low, and there are lower administrative costs for government.

Within CfC, stakeholders have a responsibility to co-produce the various elements of the annual service plan, ensuring that citizens determine which public goods are valued and that unmet needs are addressed. By ensuring citizens have a role in co-production, governments may achieve a more sustainable and efficient outcome, as costs and effort traditionally borne by governments are transferred to citizens. The 2010 evaluation of CfC showed that it not only produced comparable outcomes to other early years/children's programs but also showed an improvement in family and child outcomes across the community, irrespective of whether a child or family actually received services from CfC (Muir et al. 2010). Many communities also demonstrated positive changes in parental involvement in community activities, joblessness and social cohesion that would be described as indirect outcomes of CfC (Muir et al. 2010). Provision of contestable services on their own would not have achieved this outcome. This suggests that networked approaches to commissioning deliver more social value than a contestable single service commissioning model.

Most of the concerns about CfC relate to challenges of the local economy and geographical locations—for example, limited infrastructure, high costs, difficulty in recruiting and retaining staff, and extreme seasonal weather—which a market would be unlikely to address.

***Efficiency: Inefficient administrative processes impacting on outcomes.*** CfC sites reported that arbitrary administrative boundaries that were imposed by government(s) often hindered service delivery and coordination. FPs reported that excessive administrative burdens of reporting and management diverted resources from delivering outcomes. This was particularly the case for smaller non-government organisations, which struggled to recruit the necessary staff with skills to manage the contractual requirements.

***Anti-trust result of competition.*** CfC communities also reported that the repeated competitive tendering process often gave rise to tensions and sometimes had an impact on the trust within the community.

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