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Commissioners

Productivity Commission Inquiry into Human Services

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SUBMISSION FROM THE HUMANIST SOCIETY OF VICTORIA INC. (HSV): PART 1 – SECTORS FOR REFORM

The HSV is a secular organisation whose members foster an ethical, reasoned and responsible approach to life. It supports human rights, democratic processes, and just and inclusive governance.

HSV seeks to alleviate suffering, to promote well-being and the circumstances where all individuals can attain their full potential. It engages in educational, counselling and charitable activities.

It is widely accepted that we live in an era of “wicked problems” where public policy is more complex and with unintended consequences. The HSV does not claim special expertise in the provision of the human service areas covered by the PC Inquiry; our concern in this submission is about the inclusion of those who do. Expert contributions (including from beneficiaries) need to be drawn on for optimal policy outcomes for those who have serious challenges in the achievement of a good life in Australia, yet below average social and economic influence.

As opponents of supernatural influences in thinking and supporters of rationalism in government policy, HSV is wary of proposals to privatise services where the evidence from overseas is weak and relies more on questionable economic belief systems, rather than a balanced view of current models. One Australian academic says *“There is clearly room for considerable debate on this approach to healthcare, but to date this is an issue that is almost always argued on the basis of political philosophy (often disguised in phrasing about choice and personal responsibility) rather than evidence and public demands and needs.”*¹

Our concerns relate to a number of areas of the Inquiry process and subsequent Preliminary Findings Report:

1. It does not display a balanced assimilation of available knowledge and reports from Australia and overseas.
2. Inadequate responses to the high-order expertise provided to the Inquiry, which reflects long service provider and advocate experience, knowledge of the granularity of context and of interconnections and contingencies.

¹ Lesley Russell 2016, “Social Service Futures: The Marketisation of Healthcare Services: when political mantras win out over evidence and patients’ needs”

3. It has little economic sophistication towards the experiment of human services quasi-markets which mimic competition, or the analytical incorporation of contemporary insights from reviews of market models from the OECD and UN.
4. There is apparently a rejection of the iterative learning from pilot and patch programs recommended by the Harper CPR; this disregards a risk management and safety net approach to the serious human cost of failure.
5. The Key Points of the Report include reforms which will “help people have a greater say over the services they use and who provides them”, but despite its attraction to artificial markets and consumer individualism, it doesn’t promote consumer sovereignty. The “roles and responsibilities of consumers” are included in the Terms of Reference at 2(b), but without consideration in the Preliminary report of how to structurally empower disadvantaged consumers.

Illustrations of the above objections (not a comprehensive list) are below, referencing the above five themes.

ISSUE ONE – KNOWLEDGE ASSIMILATION

International policy adaptations must be, in the apt words of Devaki Nambiar, 'culturally salient and institutionally viable'.² All parties would agree that the devil is in the detail. It is worth drawing attention to some of the academic comments on overseas experience which do not appear to have been addressed.

A paper from Professor Helen Dickinson of Melbourne University (cited in the Report’s bibliography³) explains the elastic concept of “commissioning” associated with the proposed policies, as originating from the 1980s UK CCT process, which developed further into NHS outsourcing. (Interestingly, the UK had a similar list of services to those prioritised by the PC in this report.) It points out that there are regional variations of commissioning and it would be useful to obtain the PC’s view on the merits of these different models.:

“Although often labelled a UK reform process, this model has been most prevalent in England. The Welsh and Scottish governments have actively sought to distance their systems in health, for example, from a purchaser-provider split and towards planner-purchaser structures. These governments reject the notion that market-based philosophies have any place in the design and delivery of public services and believe that separating purchasing and provision functions is a tactic that’s heavily influenced by private sector management styles. They have instead opted to retain a structure where the public sector is still largely the planner and funder and deliverer of services in many cases ... One of the factors thought to be crucial to effective commissioning is the skill base of the individuals involved, yet this is often found to be lacking in practice.”

Professor Bob Hudson of Durham University says *“The key issue now in the UK is how to address the problems that have in significant part been created by outsourcing.”*

The Report has a long bibliography but no rebuttal of other academic critiques in the directly relevant “Social Service Futures and the Productivity Commission” report from the Power to Persuade project at UNSW/Melbourne University.

Other academic comments which need a response are provided under the sub-headings, below.

ISSUE TWO – ENGAGEMENT WITH EXPERTS

The ACOSS submission reported the replacement of higher skilled nurses with low skilled care workers in for-profit aged care homes, and envisages more of this. Unions in the disability sector have expectations of the same as NDIS is rolled out. Disgruntled workers are obviously not a good basis for service provision to vulnerable people, and quality

² Nambiar 2016, ‘Evidence-based policymaking in health systems is a myth’, The Power to Persuade at <http://www.powertopersuade.org.au/blog/evidence-based-policymaking-in-health-systems-is-a-myth/23/10/2016>

³ Dickinson, H. 2015, *Commissioning Public Services Evidence Review: Lessons for Australian Public Services*, March, Melbourne School of Government, Melbourne.

in human services is closely related to the application of skills, and therefore their development. The Australian Centre for Social Innovation submits that the contractual process sacrifices long term outcomes for short term outputs in its various sectors of operation. The PC should state how development of staff through training and quality provision is to be protected and enhanced, where shareholder interests are likely elevated in the decisions of private operators.

Modern innovative thinking supports greater opening up of the government decisionmaking 'black box', including collaboration with stakeholders in co-production of policy – has the PC considered workshops and more informal means to develop its views? Or reviewed the switch from a consumer focus in government provision to a citizenship alternative, as outlined by Chris Eccles, the Victorian head of Department of Premier and Cabinet?⁴ Professor Ian Marsh and colleagues have submitted on related issues.

ISSUE THREE – ECONOMIC FRAMEWORK

The PC Inquiry follows on from the Harper Competition Policy Review of 2015 which, according to Assoc. Prof. Lesley Russell (see citation above), says *“commissioning decisions are generally structured to achieve best value rather than best outcomes, and the decisions are not made by consumers... it is very difficult for patients to engage in comparison shopping. Informed intermediaries are needed.”* She says that patient-centredness is not the same as consumer choice and notes that:

- *for private providers in US hospitals, “their risk management strategies are usually based around dollars, not patients’ needs. The largest risks and costs such as those for long-term high-intensity care, the indigent and the geographically isolated are consistently left to the public sector... this push to competition could well lead to the very situation the United States is working to undo”.*
- *“Some cautions from private consultants with expertise in this area should help to set the tone for future efforts. A 2012 review from McKinsey found that the level of provider competition that is healthy varies depending on the clinical setting. A recent Australian Deloitte report Contestability in Human Services is supportive of the ways in which contestability can be used to improve service delivery but cautions that there is much more sophisticated work to be done, especially by governments”*

In a submission to this Inquiry and in press articles, leading Australian economist John Quiggin has critiqued the PC approach to human services as being an inappropriate and simplistic economic model, as well as empirically disproven by examples provided to the PC from US and UK practice. We hope the PC will respond to this eminent scholar.

Former senior PC economist Robert Kerr, now with the Brotherhood of St Laurence but submitting in a personal capacity, had some similar comments to Quiggin about mission-driven service providers, explaining their effectiveness:

the focus of contracts with government and what gets measured from the point of view of efficiency may not capture the wider benefits (what economists call positive externalities) that the Community Welfare Sector brings to their mission... The cost/benefit framework underpinning government policy choices is inclined to leave in the ‘too hard’ basket the positive externalities that the Community Welfare Sector embodies – (as the traditional anecdote of the interpersonal benefits of meals on wheels reveals). Externalities from a long - term perspective in the form of community relationships, including in support of the spiritual element of people’s lives, are not to be found.

Kerr also says *“Government has never excelled at contracting out, as copious Auditors-General reports attest”* which is similar to the ACTU’s view, drawing on a Deloitte’s international study.

⁴ Chris Eccles, The Mandarin, ‘Getting buy-in for family violence a moral duty’, at <http://www.themandarin.com.au/64071-chris-eccles-buy-co-design-family-violence/>

Sometimes the PC concedes a deficit in the market model:

Scott, Yong and Mendez (sub. 87) also observed that more research is required on the effects of competition in hospital services. They warned that it will not necessarily lead to better patient outcomes because most of the assumptions of economic theory that are necessary for competition to work do not hold in the case of healthcare...

yet chooses to remain captured by its premise: *“The mixed findings in the empirical literature indicate that good market design... is critical to achieving benefits.”* Since decisionmakers presumably read PC reports but not the submissions, it would be useful for the PC to pass on that Scott, Yong and Mendez also suggested *“In deciding the scope of sectors for reform, the Commission should include those areas where competition seems to exist, but where competition may not encourage efficiency.”*

It needs to be explained how a market model centred around individual choice rather than a coordinated program can avoid “silos” and produce the right mix of services for people with complex needs which ACOSS has said *“usually include issues beyond treatment and care such as education and employment, housing, post imprisonment services, domestic violence and poor nutrition.”*

It is too easy for the PC to respond to these comments by saying *“Each of these concerns is legitimate but may be minimised or removed by designing appropriate systems to provide human services.”*

ISSUE FOUR – RISK MANAGEMENT

In recent years we have all watched the slow train wreck of “reform” in the VET sector, with slow responses by state and federal regulators and politicians, showing that the risks of policy failure and serious damage to vulnerable people remain with us. The Centre for Policy Development submission shows how ineffective regulation of the employment services market proved to be.

Dr Philip Toner has submitted a substantial case study of the difficulties in creating, monitoring and regulating efficient contracts, but without response in the Report.

Respect for the authority of expertise and evidence needs to drive policy, which has practical implications. What lessons does the PC absorb from regulatory failure, and what are its proposals to avoid them? How can stakeholders have confidence in disruptive change without an exemplar or vision for best practice regulation in this field?

ISSUE FIVE – DEMAND SIDE EMPOWERMENT

Unfortunately, the discretionary exercise of power by government derived from its monopoly funding of human services has often been applied to inhibiting free expression and useful front-line feedback loops from service providers and clients alike. For example, the Humanist Society recently approached the CEO of a peak body in the Human Services field to speak at our monthly Public Lecture program after the person was scathing in a private forum about a forced and peremptory reorganisation of the sector, but our requests received no response.

Advocacy on behalf of clients has been threatened in recent times by government decisions to severely reduce funding to some service providers eg. by 90 percent in the case of the Refugee Council of Australia, on the grounds that they have a conflicted interest in also being advocates.

The formal model is simplistic, often premised on the notion of an individual informed consumer. Reflecting Public Choice theory, it sometimes seems that governments see group advocacy as a self-interested and unnecessary intermediary, to be made redundant by the market model. But certainly for minority and marginalised groups who live in communities where group solutions and decisionmaking operates, local groups and leaders should be recognised as stakeholders who are able to give “voice” to service users and bring effective results.

“In the UK under Direct Payment Legislation Local Authorities were found to be most successful when they listened to democratic organisations of people with disabilities... If communities real, imagined and created are the locus of enriched lives and experiences there is a hidden market around peer support and community building which is yet to be built”

and on “Gagging clauses” in Australian advocacy funding on top of the 2014 budget which cut \$6 million from community legal centres, \$15 million from legal aid commissions and \$43 million from advocacy services:

‘At the same time the following was taken out of contracts: ‘The Commonwealth is committed to ensuring that its agreements do not contain provisions that could be used to stifle legitimate debate or prevent organisations engaging in advocacy activities.’ This undermined the Not-for-Profit Sector Freedom to Advocate Act 2013 and therefore silences potentially important voices.

“Australia’s success owes much to the activism and engagement of Australia’s community sector and civil society. Behind many of the rights, laws and policies we now enjoy and often take for granted, lie years and sometimes decades of hard work –campaigning, organising and advocating to raise awareness of problems and to push for reform”, Human Rights Law Centre (2016) Safeguarding Democracy...All of this gagging of the vulnerable ignores, the pressure corporations, multinationals and large businesses might use in lobbying, the pressure placed by advertising etc. Not a level playing field! ‘

Information is a necessary but not sufficient condition for the consumer side to be empowered. Those who think of the current models as a variant of the command economy - versus the user-driven and responsive model they seek - are clearly obliged to provide a blueprint for high functioning mechanisms of consumer sovereignty. How does the PC propose to ensure the demand rather than supply side drives outcomes?

CONCLUDING COMMENT

The central point here is that the Australian Government’s principal economic advisory body should make policy prescriptions based on dispassionate and thorough analysis rather than doubtful belief systems, and be an exemplar in accountability and transparency in its response to critiques. Ironically for a body seeking to reform existing relationships of service provision, its approach seems to be a path-dependent one, repeating outdated frameworks and understandings. Hopefully the PC request for further written comments will be addressed in the final report.

Yours sincerely

STEPHEN STUART

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⁵ Ramcharan 2016, “The Opportunities and Challenges in market-driven consumer-led service delivery: Choice and Control” Centre for Applied Social Research, RMIT