



**St Vincent de Paul Society**  
NATIONAL COUNCIL *good works*

ABN: 50 748 098 845

National Council of Australia Inc  
22 Thesiger Court  
Deakin ACT 2600  
PO Box 243  
Deakin West ACT 2600  
Telephone: (02) 6202 1200  
Facsimile: (02) 6285 0159  
Website: [www.vinnies.org.au](http://www.vinnies.org.au)

**Submission to the Productivity Commission**  
*Inquiry into Human Services: Identifying  
sectors for reform*

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## Introduction

The creation of a fair, just and equitable society is critically dependent on human services. Such services are a vital social investment, supporting people to realise their hopes and aspirations, contributing to more cohesive and inclusive communities, and providing advocacy and assistance to those experiencing social and economic disadvantages. Such services also strengthen democratic political processes and contribute to civil society. Historically, the community services sector has played a key role in identifying policy gaps, advocating on behalf of the communities they represent, and improving Australia's collective response to complex social problems.

Maintaining effective and properly resourced human services is imperative to tackling some of the key social and economic challenges that Australia currently faces. Despite two decades of uninterrupted economic growth, inequality is at a seventy-five-year high.<sup>1,2</sup> There are complex and entrenched disadvantages among many vulnerable groups, and new challenges for those left on the margins of Australia's society and economy. Structural economic challenges are heightening social vulnerabilities and, combined with a shrinking social safety net and Australia's ageing population, are increasing the demand for human services.

Given these challenges, it is timely and imperative that governments review current policy settings and examine different options for funding, designing and delivering human services. The provision of high quality and accessible services that respond to people's needs must be the core aim of any reform to the human services sector.

Although the St Vincent de Paul Society welcomes a meaningful debate and discussion around the funding, design and delivery of human services, we have fundamental concerns about the underlying assumptions and objectives of the Productivity Commission's current Inquiry into Human Services.

Firstly, the Inquiry is framed around the premise that more competition and contestability is needed in human services. If the intent is to improve human service provision, a starting point should be consideration of what societal benefits are being sought through the provision of these services, and what the most effective means to achieve these outcomes are. Consideration must also be given to the broader social, economic and policy context that shapes what services are needed, by whom, where and how.

Unfortunately, these questions are omitted from the Inquiry's Terms of Reference. According to the Issues Paper prepared by the Commission, the objective of the first stage of the Inquiry is to "identify services that are best suited to reforms to increase competition, contestability and user choice". The push to expand market-based approaches across human services follows on from the Government's endorsement of the Harper Competition Policy Review, which stated that:

deepening and extending competition policy in human services is a priority reform. Lowering barriers to entry can stimulate a diversity of providers, which expands user choice. Small gains in productivity (driven by competition) in these large and growing sectors of the Australian economy have the potential to deliver large gains across the community.<sup>3</sup>

This narrow focus on competition, contestability and user choice risks substituting ideology and politics for proper decision making, and ultimately precludes consideration of other viable options for the design and delivery services. Pursuing an ideological economic agenda, before any analysis of

what problems may exist and what might be the best way of solving them, does not provide a sound basis for developing a more effective and responsive human services system.

It also deflects attention from other policy considerations that are fundamental to human service delivery in Australia. In particular, there can be no proper consideration of how services are constructed to meet the needs of vulnerable and disadvantaged people without some analysis of both the causes and effects of vulnerability and disadvantage. The Issues Paper offers neither. Similarly, there is no recognition of escalating inequality in Australia, the significant increase in both the numbers and proportion of people living in poverty, nor current debates about the design of welfare policy, the insufficiency of benefits, and the substantial funding cuts to the social safety net and essential human services. These issues are all critically important to determining what services are needed, by whom, where and how best to deliver them.

Ultimately, policy reform needs to be based on a clear understanding of the wider societal benefits of human services and a full consideration of the evidence, costs and complexities that are involved – not a narrowly defined subset of issues that serves to entrench outsourcing and competitive markets as a foregone conclusion. We believe that the myopic preoccupation with competition, choice and contestability comes at the expense of meaningful policy debate around the long-term funding and policy options needed to meet current social challenges and the growing demand for human services.

A further concern about the approach of the current Inquiry is the failure to understand the broader social purpose and public value of human services. The Issues Paper construes human services as commodities that can be broken down into clearly defined components (inputs, outputs and outcomes), with competition driving improvements in choice, efficiency, equity, quality and responsiveness. In turn, the communities who rely on such services are viewed as individual ‘consumers’. This analysis belies the complexity of human services and the wider benefits they provide. It also neglects the profound ethical, moral and collective considerations bound up in policy decisions concerning human services.

In addition, the task of selecting which service sectors are best suited for market reforms risks decoupling different parts of the human services system from each other. People and communities living with entrenched disadvantage are often dealing with multiple and complex needs that require services and support from a range of sectors and entities. A cross-sectoral and collaborative approach is therefore critical in addressing the complex and multifaceted disadvantages that a growing number of Australians face. Competition policy, however, works against this collaborative and coordinated approach. Treating human service sectors as discrete and disconnected reinforces a fragmented and siloed approach to service delivery and funding, thereby undermining a more integrated and holistic approach to service delivery.<sup>4</sup>

Finally, the St Vincent de Paul Society is concerned that the ideological agenda of increasing competition has the potential to create irreversible harm to many organisations and to the communities they serve. The experience of previous market reforms to human services in Australia challenges the claims of proponents of competition, illustrating the unintended harms that can result. Sectors that have been subjected to such reforms – such as employment services and vocational education and training – provide evidence of rorting, entrenched service failures, and poorer outcomes for the most vulnerable and disadvantaged. In a number of instances, service

quality has declined, efficiency gains have not been realised, and inequities in access have deepened.

For community organisations, competition has also placed at risk some of the unique features from which they derive their legitimacy and strength, undermining collaboration, eroding their independence and social justice ethos, and threatening relationships of trust, solidarity and care. As organisations are pressured to compete with other providers and to deliver specified service outputs at minimum cost, there is a risk that the intangible goals of social justice, community cohesion and trust will be ever more marginalised. All too often, the winners of greater competition have not been service users, communities, or taxpayers, but for-profit providers who ‘game’ human service markets to the detriment of those who need the services the most.

We urge the Productivity Commission to draw on the lessons of previous experiences of market reforms. It is our view that applying competition policy principles to a market which operates under a government monopsony, where governments ration access to, and funding of, services and in a context where there is huge unmet demand, will do little to improve the outcomes for those most in need in our communities. Investment in an effective human services system is critical for the wellbeing of all Australians, especially those facing entrenched disadvantage. Developing the policies and services delivery models required to deliver this will ultimately require moving beyond the marketisation agenda that limits the scope of the current Inquiry.

## Who we are

The St Vincent de Paul Society (the Society) is a respected lay Catholic charitable organisation operating in 149 countries around the world. Our work in Australia covers every state and territory, and is carried out by more than 65,000 members, volunteers, and employees. Our people are deeply committed to social assistance and social justice, and our mission is to provide help for those who are marginalised by structures of exclusion and injustice. Our programs assist millions of people each year, including people living with mental illness, people who are homeless and insecurely housed, migrants and refugees, women and children fleeing violence from men, and people experiencing poverty.

## The broader social purpose and values of human services

Human services have a social purpose and embody values that are not captured in a market model or economic framework of analysis. The current Inquiry seeks to identify avenues for strengthening competition across a diverse range of human services on the basis of a narrow understanding of the nature of such services, their broader social purpose, their contribution to civil society and the collective values that they embody and create.

The Inquiry brings together an extremely diverse set of sectors under the category of ‘human services’, and we recognise that there is no single goal or mission that is shared across all the diverse entities that deliver such services. However, a key function of the overall human services system is to develop, maintain and protect the capacity of people and families to participate in a strong and healthy community, particularly those experiencing disadvantage.

Both the public and not-for-profit (NFP) sectors have a key role to play in delivering services. Historically, the NFP sector has played a critical civil society role alongside the state and private sectors – complementing them, holding them to account, and addressing their failures. Within the NFP sector, value is created through service delivery, advocacy and community development activities provided along a spectrum from small specialist community organisations to regional and national peak bodies.

The St Vincent de Paul Society is concerned that the push to impose market principles on human service delivery ignores and threatens the key contributions of the community sector, including its role in strengthening civil society through advocacy, citizen engagement and community development. Reducing the public sector’s role to that of a ‘market steward’ that manages contracts also neglects the wider democratic and social function of government in delivering services.

It is critical that the NFP sector’s ability to create distinctive value is not further eroded by market reforms, and that the pursuit of economic efficiency through greater competition does not come at the expense of community connections, collaboration, specialisation, and citizen voice.

### Advocacy and civil society

An independent and vibrant community sector is essential to a healthy civil society. Civil society has many meanings, and has been described as “a sphere of our communal life in which we answer the most important questions: what is our purpose, what is the right way to act, and what is the common good. In short, it is the sphere of society that is concerned with moral formation and with ends, not simply administration or the maximising of means”.<sup>5</sup> Community and NFP organisations make a valuable contribution, connecting people in ways that build trust and enhance civil society, and providing opportunities for people to come together, build social relationships and promote their conceptualisation of the social good above their own interests.

NFP organisations in the community services sector can also play a valuable role in enabling democratic participation by those experiencing social exclusion. This can be achieved, for example, by engaging in local, community-focused conversations that connect structural issues with local concerns, or by engaging with socially marginalised groups in ways that build their confidence and connect them with wider social networks and supports.<sup>6</sup>

NFP organisations also play a vital advocacy role in identifying gaps or policy shortfalls and drawing these to the attention of government. Such organisations can mobilise public attention and give voice to those who fall through the cracks, holding governments to account and providing impetus to social change. As the Human Rights Law Centre recently stated:

Australia is a far better place thanks to the activism and engagement of Australia's community sector. Many of the rights, laws and policies we now enjoy in areas as diverse as discrimination, family violence, homelessness, consumer protection, disability and workplace safety have been secured after years and sometimes decades of advocacy by community organisations.<sup>7</sup>

If NFP organisations are to continue to perform this advocacy role and represent the interest of their communities and constituents, they must have the independence and autonomy to disagree with government and publicly articulate their concerns.

The key role NFP organisations play in civil society is, however, threatened in a market-oriented environment. The shift to competitive tendering and prescriptive contracts, often funded at below-cost, has led many NFP organisations to downgrade activities such as community development, social research and systemic advocacy, and to instead focus on meeting individual client demands and the performance indicators demanded by governments.<sup>8</sup>

Moreover, competitive tendering can undermine advocacy where it leaves organisations feeling vulnerable to reprisal if they speak out against government policy. In some instances, federal and state governments have used gag clauses in funding agreements to stifle criticism. Some service contracts stipulate outright bans on public advocacy, while others require government approval before a community organisation issues a media release or public statement about the work that is being funded.<sup>9</sup>

There are a number of recent examples that highlight the use of funding agreements to prevent criticism and scrutiny of government policy. Under the former Queensland Government, funding agreements provided through the Department of Health expressly prohibited advocacy by the contracted organisation, regardless of whether the advocacy was funded independently. Similarly, gag clauses have been used by the Commonwealth Department of Immigration and Border Protection to prevent public advocacy by organisations working in immigration detention. Organisations delivering services in offshore immigration detention facilities have been required to pay performance bonds of up to \$2 million, which can be forfeited if the organisation speaks out about government policy.

Stifling advocacy or dissent, however, does not require gag clauses or direct threats. For many organisations, the pressure to temper or silence criticism can be subtle but effective, and speaking out can compromise their success in securing contracts or simply mean funding contracts will not be renewed. Where funding is scarce and organisations are vying for funds in a market environment, a preparedness to criticise government policy and provide social advocacy can be perceived as a competitive disadvantage.<sup>10</sup> Short-term funding agreements, prescriptive contracts and onerous reporting requirements can also deflect the focus and energies away from systemic advocacy and activities that lie outside the demands of funding agencies.

## Mission drift

In a market dominated by competitive pressures and the search for efficiencies, NFP organisations are coming under increased pressure to be more businesslike and to adopt the managerial practices of the private sector.<sup>11</sup>

Such pressures are often compounded by competitive tendering and outcomes-based contracts. Government contracts usually have stringent documentation and reporting requirements that must be met in order to collect outcome-based payments. This results in an increased emphasis on performance-based competition and meeting strictly specific performance requirements at the expense of broader or non-market oriented values and goals.

In some instances, government funded programs have had inherent requirements that conflict with the values and mission of the non-for-profit organisations delivering the services. A prominent example is ‘breaching’ in welfare-to-work employment service contracts. This required participating organisations to financially penalise clients, on income support, who did not fulfil the required number of weekly activities. Imposing such financial penalties reduced the income of people already living below the poverty line and was clearly contrary to social justice values.

As the not-for-profit sector conforms to contractual requirements to become more efficient and accountable, the scope to pursue activities and advocacy that lie outside contractual obligations is often narrowed. Governments are shifting more responsibility on to the not-for-profit sector for market-based outcomes in the delivery of services. At the same time, governments are using funding agreements to exert increased control over identifying priorities and targeting needs, setting standards and linking outcome performance indicators and efficiency controls to the prospects of continued funding. This command-and-control model of funding provides little scope to negotiate priorities and to evolve and innovate beyond prescriptive contractual obligations. Funded organisations are expected to operate as businesses, with a focus on achieving the contracted service outputs at minimum cost.

## Collaboration and coordination

The Issues Paper neglects the importance of a coordinated policy and program response to disadvantage, and the need to work across service silos. As Emma King notes, for community services to work well “we need to go beyond thinking about individual components of the system in isolation, instead considering how all these components link together”.<sup>12</sup>

The way in which the Inquiry is framed effectively precludes this holistic and systemic approach. The Issues Paper sets out a methodological framework for examining each service sector and assessing the relative suitability for further market reform, drawing on an assessment matrix that analyses each area of service delivery according to features such as the characteristics of service users, the nature of transactions and supply characteristics. This approach implies that each service sector can be analysed as discrete and distinct – as a closed system – rather than as part of a wider human services system in which different areas of service delivery are interconnected.

As King observes, one of the greatest risks of competition policy is the tendency to de-couple different parts of the community sector from each other:

If governments take a siloed approach to commissioning services, without considering how that might affect the service eco-system, then the integrated nature of services can be undermined.



Performance-based contracts are developed for specific services or activities as components rather than a whole system of services. This siloed and segmented approach to funding and delivering services is particularly ill-equipped to deal with the complex and multiple issues of people experiencing entrenched disadvantage.

Competition also risks undermining trust and collegiality between organisations, providing disincentives for collaboration and the sharing of knowledge, and giving rise to predatory market behaviours. Competition over contracts and ‘market share’ can compromise longstanding cooperative practices in the not-for-profit sector.<sup>13</sup>

The multidimensional nature of disadvantage, and the complex needs of many of those seeking support from services, underscores the need for human services to be delivered in a way that is integrated, holistic and responsive to the needs of individual clients and local contexts. Community service providers work within a service system and generate “shared or collective values in ways that market based mechanisms neither seek nor have the capacity to”.<sup>14</sup> Increased competition risks undermining collaboration and coordination, and is at odds with a more integrated service model that addresses social barriers holistically and collectively, rather than in isolation.

### **Public sector services and the ‘public good’**

In addition to the distinctive ethos and purpose of services delivered by the NFP sector, the public sector retains a vital role in directly delivering human services. Again, maintaining the public sector’s role in delivering services is not merely a matter of maximising efficiency or productivity, or the product of a technical evaluation of the relative economic costs and benefits. The social values inherent in public services cannot be evaluated in terms of “the economic market place of individual consumers, but (only) in the political market place of citizens and the collective decisions of representative democratic institutions”.<sup>15</sup>

Notions such as the ‘public good’ and ‘public value’ have been invoked to differentiate public services from services delivered in private competitive markets.<sup>16,17,18</sup> Unlike services delivered in private competitive markets, public services are funded and delivered on the basis of need, quality and democratic accountability – not on the basis of profit. Handing over the delivery of crucial public services such as education and healthcare to the private sector reduces citizens to consumers and poses questions about democratic accountability. It also has implications for universal access to essential services and the nature of the relationship between the state and people experiencing disadvantage.

In some instances, the very nature of service delivery incurs ethical and moral responsibilities that governments cannot transfer to a third party. For example, the operation of prisons – where state authority is exercised through the deprivation of liberty – has profound ethical and moral implications and carries human rights responsibilities that cannot be delegated or outsourced to the private sector. Similarly, the public sector should retain exclusive responsibility for delivering certain welfare services such as income support and statutory care and protection services.<sup>19</sup>

In sum, human services have a social purpose and value that transcends the economic calculus of the market. Determining the appropriate model for funding, designing and delivering such services is not merely a matter of maximising efficiency or effectiveness for individual consumers, but involves

wider social considerations and questions of value. Opening up such services to further competition has the potential to undermine the broader purpose and erode the values of the not-for-profit sector and the role of the public sector. Both the public sector and not-for-profit sector have distinctive values and goals that need to be recognised in determining the appropriate way of funding, designing and delivering human services.

## The role of government

### Government is more than a contract manager

The Issues Paper suggests that, as human services are opened up to further competition and contestable markets, the appropriate role for government is that of a ‘market steward’. This echoes the recommendations of the Harper Review, and the Government’s subsequent response, which endorsed the separation of regulation, funding and service delivery.<sup>3,20</sup> In this formulation, the role of government is essentially reduced to that of a service purchasing agency or contract manager. According to this logic, government should take a back seat and ‘steer rather than row’, setting the rules of the game and then allowing providers and users to respond to the incentives this creates.<sup>21</sup>

This approach, however, has concerning implications for accountability, public sector capability, and the ongoing capacity of services to evolve to meet the needs of the community. As governments become further removed from direct service delivery, there is a danger that they will start to lose touch with critical issues and insights that not only impact future policy decisions but also the structure and effectiveness of service delivery systems. The separation between policy development and service delivery, along with a growing reliance on performance-based contracts, undermines relationships between government and service providers and the capacity for the community sector to contribute to the design and evolution of policy. The adverse consequences for communities are amplified in a context of government cost-cutting to social services, education and healthcare.

Ultimately, we maintain that the appropriate role of government in the design and delivery of human services is not merely procurement or contract management. We believe more sophisticated models of governance are needed rather than an ideological or ‘one-size-fits-all’ approach that separates regulation, funding and service provision.

#### **CASE STUDY: IMPRISONMENT AND IMMIGRATION DETENTION**

The problems of limiting the role of government to that of contract management is illustrated by the outsourcing of imprisonment and immigration detention.

Firstly, outsourcing the operation of prisons and immigration detention poses profound ethical and moral questions. The deprivation of liberty by order of the state is a fundamental responsibility of government and represents one of the most radical extensions of state power over individuals. When the government deprives a person of their liberty, it incurs a duty of care to ensure that their dignity and human rights is respected – a duty that cannot be delegated or outsourced. Moreover, privatising detention or prison management connects punishment with profit. Transferring responsibility for punishment and detention to a for-profit entity is, in short, unacceptable on moral and ethical grounds.

A further problem with outsourcing the deprivation of liberty is that it diminishes accountability and transparency. As Arie Freiberg observes, robust accountability and transparency is imperative in prisons and places of detention:

*... the provision of corrective services carries with it greater responsibilities and unusual requirements of accountability than most areas of government services. Because prisons are concerned with the liberty of individuals, issues of authority, legitimacy, procedural justice, liability and corruptibility must play a major role in their management.<sup>22</sup>*

Despite the need for rigorous accountability, services delivered by private contractors are exempt from Freedom of Information legislation and evade public scrutiny under the guise of ‘commercial

confidentiality'.<sup>23,24</sup> Thus, when the government's role is reduced to 'steering' or managing private providers, the public is "usually excluded from regular information about the treatment of inmates in prison", and the limited information that is available "is likely to replace a broader political discourse in a privatised setting".<sup>25</sup>

The use of commercial confidentiality to prevent public scrutiny is highlighted by Australia's immigration detention system. Serco and Broadspectrum (formerly known as Transfield Service) have been contracted by the Australian Government to provide services in immigration detention. Numerous reports have shown that much of what has happened in detention centres is neither recorded by the private contractors nor known to the Department of Immigration and Border Control, which is the agency responsible for monitoring immigration detention contracts. According to the Greens Senator Sarah Hanson-Young, private contractors such as Serco have concealed reports of major incidents such as self-harm and suicide attempts under the guise of 'commercial-in-confidence'.<sup>26</sup>

Contractual compliance and monitoring do not resolve these accountability deficits. Performance indicators typically focus on what is easily counted, such as the number of escape attempts, positive drug tests, or 'critical incidents'. Such data provides limited insights into the quality of the services being provided.<sup>27</sup> Detention and incarceration invariably involve discretionary and day-to-day decisions that can never be fully captured in performance measures. Moreover, given the underlying profit motive and the use of performance-linked fees, private contractors have an incentive to *appear* to be performing well in meeting their contractual obligations. It has consequently been found that the use of performance incentives has often led to an under-reporting of incidents, rather than leading to improvements in service quality.

Reducing accountability to a 'tix-the-box' exercise is clearly inadequate, and developing performance measures that are more substantive and meaningful is inherently difficult. Many human services – such as prisons – cannot be reduced to the instrumental and measurable outcomes that are specified in performance-based contracts: "instrumental goals are usually clear, consistent and easily quantifiable, on the other hand, the goals of human service organisations are harder to quantify, their level of performance does not lend itself to easy evaluation".<sup>28</sup> In regards to prisons and detention, there is an ethical dimension that is fundamental and which resists quantification:

*An emphasis by the prison authorities on correct processes, a demand for operational efficiency, pressure to meet management targets without a prior consideration of ethical imperatives can lead to great inhumanity. A concentration by the prison authorities on technical processes and procedures will lead staff to forget that a prison is not the same as a factory which produces motor cars or washing machines. The management of prisons is primarily about the management of human beings, both staff and prisoners. This means that there are issues which go beyond effectiveness and efficiency. When making decisions about the treatment of human beings there is a fundamental consideration; the first question which must always be asked is "Is what we are doing right?"<sup>29</sup>*

Some critics have argued that privatising prison and immigration detention services is a deliberate strategy deployed by governments to avoid scrutiny. The blurring in lines of accountability has been compounded in instances where the primary contractor has used subcontractors. This further disperses decision making and service delivery across a range of entities and enables the government to distance itself from criticism when things go wrong. This has implications for democratic accountability. As Michael Grewcock from the Law School of the University of NSW argues, the "removal of direct Ministerial control over the daily operation of detention centres not only allows governments to distance themselves from practices that might be condemned as abusive but also has a deadening effect on public discussion."<sup>30</sup>

An example which underscores the adverse implications of prison privatisation is the outsourcing of prison services in Victoria during the 1990s. In 1993, the government set out to change from 'rowing' (delivering services) to 'steering' through the separation of regulation and purchasing functions. This separation of service delivery from policy, standard setting and other regulatory functions allowed private sector providers to enter into the Victorian corrections industry. Between 1993 and 2000, three private prisons were built which the government regulated through performance-based contracts.<sup>31</sup>

Almost immediately, however, the separation of purchasing, regulatory and service delivery functions resulted in major performance problems and broader issues relating to process and accountability. In particular, there were a series of deaths during the first months of operation of the Port Philip private prison, and major safety issues at the Women's Metropolitan Prison that resulted in the prison being taken over by the state. An independent review of the management and operations of private prisons was completed in 2000 and found significant issues with contracting, leadership and coordination across the system. These issues were directly linked to the separation of regulation, funding and delivery functions.<sup>32</sup> The review concluded that the state's duty of care to prisoners was undermined by the arms-length relationship between the regulator and service providers.

The review called for a "renewed focus on collaboration rather than competition, and on promoting the notion of a system rather than an industry". In 2003, significant reforms saw the steering/rowing model abolished in favour of a single corrections entity, Corrections Victoria, which subsequently took a much more direct role in providing oversight of prison operations.

In addition to problems regarding the moral and ethical aspects of service delivery, public accountability and declining service quality, there is little evidence to support claims that prison privatisation is more efficient and cost-effective. The experience of private prisons in Western Australia suggests that efforts to drive down costs and maximise profits can lead to reductions in staff numbers and their terms and conditions, thereby diminishing the quality of services and undermining rehabilitation outcomes. A recent study from the University of Sydney, *Prison Privatisation in Australia*, provided a rigorous analysis of all publicly available data and concluded that there is no evidence to support claims that prison privatisation delivers improved efficiency, quality, effectiveness and accountability.<sup>33</sup>

Finally, in both immigration detention and prisons, the market for contracts is far from competitive and is dominated by a few providers, most of whom have under-delivered on matters of central concern – including costs savings but, perhaps most importantly, in terms of prisoner or detainee outcomes and workplace safety.

In summary, the marketisation of prison and immigration detention services poses moral and ethical challenges, undermines democratic accountability, and allows private interests and commercial concerns to prevail over the public interest. Relegating the government's role to that of contract manager, and separating out the functions of purchasing, regulation and service delivery, contributes to an accountability deficit and does not guarantee more effective, efficient or responsive services.

## Accountability

As the example of immigration detention and prison privatisation highlights, outsourcing human services poses questions around government accountability and democratic legitimacy.

Ultimately, the provision of effective human services is a key responsibility of government. In particular, the government's ability to address disadvantage and support people experiencing poverty and inequality is fundamental to its moral and democratic legitimacy. This is a responsibility that cannot be outsourced or transferred to the private sector or competitive markets. However, the trend toward outsourcing and marketising human services has arguably led to blurred responsibilities and the emergence of "grand alibis", where no one organisation is held accountable for service problems or significant policy failures.<sup>34</sup>

These blurred accountabilities can contribute to a democratic deficit, with implications for the legitimacy of the state. The metaphor of the 'hollow state' has been used to describe the practice of governments divesting themselves of service delivery and retreating to the role of a service purchasing or commissioning agency.<sup>35</sup>

Yet for the public, the government retains responsibility for the spending of public money and for the collective response to disadvantage and social needs. The hollowing out of the state and the distance between the government and service delivery thereby gives rise to problem of democratic accountability and state legitimacy:

privatisation is not just a management problem. It is a problem of democratic accountability in a world where non-governmental entities essentially govern, manage and deliver services that are paid for by taxpayers' dollars. When people no longer think that many of the services they receive are paid for by their taxes, the legitimacy of the state will suffer.

### **The erosion of public sector capability**

One consequence of competition policy that is overlooked in the Issues Paper is the impact of outsourcing on the public sector's capability to design and implement policy and, in particular, its capacity to address persistent disadvantage and meet complex needs.

Service delivery models that consign government departments to narrow contract-management roles foster a disconnect from the on-the-ground experience, expertise and capabilities needed to design and deliver policies and programs that are effective and tackle complex and entrenched disadvantage.<sup>39</sup> As the former Treasurer Secretary Ken Henry has remarked, following decades of outsourcing and waves of public sector redundancies, "many departments have lost the capacity to develop policy; but not just that, they have lost their memory".<sup>36</sup>

Outsourced delivery models not only change the nature of the relationship between the state and its citizens, but also erode the public sector skills, experience and institutional knowledge that are needed to achieve and sustain effective services over the longer term. In an area as complex as human services, it is vital that governments can draw on grounded knowledge and expertise. In particular, funding, designing and delivering services to breakdown and overcome interrelated sources of disadvantage is an incredibly difficult task that requires exceptional capabilities. As government departments become further removed from direct service delivery, there is a danger that they will lose touch with the critical issues and contextual considerations that are vital to the design of effective policy and services. This has particular implications for the government's capacity to address persistent disadvantage and complex needs:

Across human services there has been a continued failure to deliver lasting outcomes for the most disadvantaged. The government's role in ensuring integrated, flexible and holistic human services is more important than ever. But the capabilities it needs to do so are absent – a challenge exacerbated by delivery models that push government agencies into narrow contract-management roles. For policymakers, disconnection from service delivery and limited evidence makes the hard cases even harder to reach. The pendulum has swung too far.

The government's role cannot simply be procurement and contract management. If policy reforms are poorly designed, overburdened by ideological imperatives, and inattentive to the public sector capabilities they need to work, then they will fail.

### **The relationship between government and the NFP sector**

Rather than harnessing local knowledge, the purchaser-provider relationships established under market based models have often led to a devaluation and marginalisation of organisational knowledge. The top-down and managerial nature of purchaser-provider relationships has led to a more adversarial relationship between government agencies and many NFP providers.

Tightly defined contractual requirements often stifle collaboration and innovation to meet people's needs. As Milbourne and Cushman have noted, the move to contractual and commissioning arrangements in the UK has had a corrosive effect on the relationship between NFP organisations and the government, leading to:

an environment where relationships are increasingly governed by competitive interests and excessive levels of control through contractual frameworks and audit, with little attention given to relationship damage or relationship building... the growing distance between providers and purchasers generates services that are poorly understood, defined and evaluated, and a shrinking relational space in which alternative approaches can be valued. Small community groups are being relegated to roles as subcontractors or, disillusioned, are withdrawing, taking valuable local knowledge with them.<sup>37</sup>

The use of prescriptive and inflexible contracts stymies communication between commissioners and providers, undermining the scope for NFP organisations to provide input to service design and policy, and limiting the scope to adapt and modify services to better meet community needs. Providers carry both reputational and financial risks for performance outcomes and for future funding success. As a result, they may experience pressures to maximise their appearance of meeting performance targets, even if this means obscuring service failures from which other organisations or public agencies might learn.

The need to rethink the relationship between the public sector and NFP sector was set out in a speech earlier this year by Victoria's Secretary of Premier and Cabinet, Chris Eccles. According to Eccles, governments need to "set aside our instinct for command and control in the way we design and run public services" and work toward a relationship with the non-government sector based on trust, collaboration, and reciprocity. This relationship is critical to ensure policy making and service design and delivery is informed by on-the-ground knowledge and expertise:

Today the public sector typically works alongside non-state bodies to deliver public value. These bodies are very often the best repositories of information, knowledge, understanding and experience of what specific problems need to be addressed and how. They know, often better than anyone else, what will work and what won't work.<sup>38</sup>

Eccles' comments suggest that, rather than adopting rigid models that prescribe what the role of government should be, there needs to be a greater emphasis on developing reciprocal relationships between government, service providers and the wider community. The model of governance here is not one of rival service providers competing in markets policed by government stewards, but more a "network model" where government and non-government organisations collaborate and "co-design" policies and service delivery models.

The collaborative model articulated by Eccles is a response to some of the shortcomings in market-based approaches to service delivery. However, moving beyond the rhetoric is a formidable challenge. Doing so would require a fundamental shift in the way governments engage with the NFP sector, including a willingness to devolve power, the development of public sector skills in negotiation and collaboration, and considerable investment in the time and resources. Giving real meaning to collaboration and partnership takes considerable time, even if the longer-term outcomes may be beneficial. In an overarching climate of fiscal austerity, funding cuts to human services and the public sector, and short-term political priorities, the prospects of achieving a more deliberative and collaborative approach to human service delivery appears remote.

## The relationship between government and citizens

A survey commissioned by the Centre for Policy Development in 2015 showed that there is a strong public expectation that Australian governments retain responsibility and the capability needed to provide social services. Profound service failures call into question government legitimacy and represent a basic failure of governance. For service users, the type and effectiveness of services available “not only impacts their quality of life but also reflects the nature of their relationship with government and fellow citizens”.<sup>39</sup>

Perhaps, in the rush to steer, governments are forgetting who owns the boat. Government belongs to its citizens and, accordingly, the public sector has a key role to play serving and empowering citizens as they design and implement policy. In other words, “with citizens at the forefront, the emphasis should not be placed on either steering or rowing the governmental boat, but rather on building public institutions marked by integrity and responsiveness”.<sup>40</sup>

This points to a much broader role for the public sector – a role that extends beyond that of contract manager as advocated in the Hilmer Report and reiterated in the Issues Paper prepared by the Productivity Commission. As the OECD has suggested, “we must not forget that the fundamental purpose of the public service is government, not management. This means paying attention to fundamental values like fairness, equity, justice and social cohesion to maintain confidence in the governmental and political system as a whole. Managerial aspects, while important, must be considered secondary.”<sup>41</sup>

## The adequacy of government funding

In assessing the role of government, a core consideration must be the adequacy of funding and the corresponding level of unmet need. We believe one of the most pressing issues in human services is the growing level of unmet need and the inability of those who are vulnerable and disadvantaged to access essential support services. Despite this, the impact of levels of current funding is not raised in the Issues Paper. At the same time, the Government has signalled its intention to impose further cuts on human services. With the unrelenting focus on budget repair and reigning in spending, there is a fear that the market reform agenda is simply a pretext for delivering funding cuts across a swathe of human service sectors.

The underfunding of human services by all levels of government has resulted in significant and chronic unmet demand for those seeking support from a range of service sectors. In its 2014 survey of the community sector, ACOSS found that 43 per cent of respondents were unable to meet service demand; services prioritising or targeting people with low incomes or specific needs reported the greatest difficulty meeting demand. The survey indicated that that 48 per cent of counselling services, 72 per cent of community legal services, 40 per cent of family support and child protection services and 51 per cent of accommodation services were unable to meet demand.<sup>42</sup>

While the Harper Review makes no recommendations regarding the overall levels of funding for human services by governments, it acknowledged that “funding levels and methods can have important implications for choice, diversity and innovation in human services markets”. It is our view that inadequate funding of social services will have a major bearing on the functioning, or otherwise, of any service, irrespective of the whether that funding is delivered via a competitive funding model. While funding remains scarce and unmet demand is high, increasing competition has the potential to further fragment services and lead to poorer outcomes among those who rely on such services.



Investment in a productive and efficient human services system is critical to the wellbeing of all people, especially those facing entrenched disadvantage. Applying competition policy principles to a market which operates under a government monopsony - where governments ration access to, and funding of, services – and in a context where there is huge unmet demand, will do little to improve the outcomes for those most in need in our communities.

## The limits of a market-based approach to human services

### The contested notion of ‘choice’

The Issues Paper identifies increasing consumer choice as a core priority and a means of enhancing service outcomes. Increasing choice is equated with a more ‘person-centred’ approach. However, the paper glosses over key factors that shape the ability of people to exercise choice and access quality services, and provides little insight into the social, logistical, cultural and organisational barriers that affect the way choices are exercised.

The Issues Paper conflates choice with the ability to choose a particular service provider. The assumption is competitive markets will empower individuals to choose from a diverse array of providers, thereby gaining access to services that best meet their needs. According to logic adopted in the Issues Paper, user choice will allow consumers to ‘vote with their feet’, leading to improved and more responsive service provision as providers compete for clients.

This market-oriented notion of choice, however, neglects the social, structural and contextual factors that operate in human services. A competitive market does not produce genuine choice in the absence of the social relations and structural conditions in which it can flourish. Genuine choice is dependent on the level of control accorded to service users by both government and/or service providers, and by the availability of the right service types to meet users’ needs.

In many areas of human service delivery, people may experience vulnerabilities or disadvantages that impact on their capacity to choose. This may be because of personal circumstances (for example, having advanced dementia), the immediate need for assistance (requiring urgent medical care or crisis accommodation if they escaping domestic violence), or limited access to information and the skills needed to navigate complex service systems (limited English-language proficiency or lack of internet access).

User choice is also difficult to exercise when services are in scarce supply. Adequate levels of funding are crucial to ensure genuine choice – both in terms of funding for services or, when there is a fee-for-service, on their own financial resources. Insufficient funding poses a barrier to providing genuine choice for service users. The scarcity of services in certain geographic areas, such as in rural and regional areas, is also a key consideration.

Genuine user choice also relies on good quality, accessible and independent information about services, and people need to be willing and able to understand and process the information to make rational and informed decisions. Such information is not very well developed in many areas of service delivery. The contexts and situational pressures of people’s lives can also limit their ability to carefully consider all the available information to make an informed choice.

In a competitive market that includes for-profit providers, there is also scope for services to take advantage of informational asymmetries and exploit service users’ vulnerabilities. Limited access to or comprehension of information, personal circumstances or traumatic events may affect an individual’s capacity for critically assessing information. This may in turn expose service users to manipulation by unscrupulous suppliers. The opening up of the vocational education and training market illustrates the way a competitive market can lead to the exploitation of people with

vulnerabilities. In this instance, unscrupulous operators used dubious sales techniques to dupe people into enrolling in online courses they had little prospect of completing.

Further, competition does not automatically guarantee a diversity of service options. Competitive markets often reduce diversity as smaller or more specialised organisations struggle to compete with larger organisations. This can restrict diversity and lead to more generic options, or can favour providers who are driven by the imperatives of profit and efficiency, rather than by non-market values such as community development and social justice. In such instances, competition limits the scope for diversity and genuine choice.

### **CASE STUDY: National Disability Insurance Scheme (NDIS)**

The NDIS is a market-style system where government funding no longer goes directly to disability service providers, but instead to the client, who can choose the providers they want. The scheme is predicated on the idea that users should be able to move from provider to provider, receiving the services they want, and how they want them – as long as these services are deemed “reasonable and necessary”. Because the NDIS assigns funding to individuals, traditional service provider agencies will lose their government contracts and have to compete in a market environment to attract customers.

One of the appealing aspects of personalisation or self-directed care is that it is a departure from top-down, paternalistic control, transforming service users from passive recipients of ‘care’ into active agents of their own wellbeing. As various commentators suggest, choice is a very appealing value in contemporary culture.<sup>43</sup> It also aligns with the disability rights movement’s emphasis on person-centred approaches to disability services delivery. These person-centred approaches have developed in response to earlier models of service delivery criticised as inflexible and at times oppressive.

Despite the benefits attributed to self-directed care, concerns have been raised about forms of personalisation and approaches to self-directed care that are overly dependent on individualism and market based solutions. Linking people with individualised resources does not produce choice in the absence of the social relations and structural conditions in which it can flourish.

Accordingly, some commentators and disability advocates have argued that disability politics extends well beyond the meeting of individual need and that confining reforms to individualistic measures will consistently fail to address the broader disabling barriers of oppression and discrimination. For instance, Bigby<sup>44</sup>, Lymbery<sup>45</sup> and Ferguson<sup>46</sup> among many others have warned that individual budgets alone cannot achieve social inclusion if not implemented in tandem with innovation and investment in the collective, community and structural transformations required to address discriminatory barriers to inclusive communities.

Others have maintained that that individualised arrangements are most effective when ‘embedded’ in the community and resourced beyond the provision of individualised payments.<sup>47</sup> This suggests the need to attend to wider structural and contextual factors:

*To be clear, by concentrating solely on personalising services to individual needs, personalisation holds the danger of taking the focus away from disabling barriers that affect all disabled people and obscuring possible alternative agendas. (p.263).<sup>48</sup>*

In her study of individualised support packages (ISPs) in Victoria, Christina David found that cost and risk – as well as benefit – were individualised within the ISP framework.<sup>49</sup> She documents many examples of individuals and families bearing the costs and consequences of economic efficiencies and decisions made at the government level. Cost-shifting was a recurrent theme, with hard rationing decisions regularly pushed down onto individuals and families such as, for example, sacrificing limited community access hours for essential personal care. Such trade-offs highlighted the benefits of flexible funding but also the personal and social impact of an under resourced program. A related risk for policy

evaluation and research is that the private nature of this cost shifting phenomenon makes it difficult to measure the consequences of inadequate funding.

In addition, there are concerns that much of the critical planning, coordinating, linking and bridging work of self-direction is generally not well enough acknowledged, planned for, or resourced, in terms of individual funds as well as investment in the independent community services and infrastructure required to support these activities. Instead, much of the cost and effort of this work was absorbed into the existing load of families, services, and individual workers with very little additional recognition or support. These extra responsibilities further stressed already burdened support networks which should have instead been strengthened to continue not only their existing support role but also the new work involved in promoting increased independence and community participation. This study found limited evidence of ISPs formally resourcing the needs of family carers and taking into account how the additional needs and challenges of self-direction could be more creatively and holistically supported.

When a market perspective is adopted and the individual is defined as a consumer, outcomes are likely to reflect the structural disadvantages and access inequities evident in wider free market systems. The market is under no obligation to respond to the wants and needs of individuals and will only do so if it is economically worth the effort. In relation to individual budgets, those who do well in negotiating with providers are likely to be those who are advantaged by education, English literacy, financial resources, gender, transport, geographic location, family supports and access to technology. The voluntary nature of individualised payment schemes in the UK has resulted in non-uniform levels of uptake and outcomes across different groups in terms of age, ethnicity and type of disability, suggesting that individualised payments schemes may be more attractive to particular groups and potentially place other groups at a disadvantage.<sup>50</sup> Whilst it appears that many will experience an improved quality of life as a result of controlling an individual budget or package, positive outcomes cannot be assumed for the marginalised groups who experience other structural disadvantages alongside disability.

Focusing on the choice of providers is at best insufficient and, when framed in terms of a market oriented consumerism, is potentially counter to the goals of achieving greater control and self-determination. This implies a problem, not with the concept of choice as such, but with the specific emphasis given to the market model of individual agents making free purchasing decisions. Issues of equity, power relations and the public nature of exercising choice need to be given greater attention if genuine choice, control and self-determination are to be realised.

Beyond the issue of choice between different services, a further consideration is how the approach within a particular service impacts on people's sense of control, agency and empowerment. A central aspect of strengths-based practice models is putting the client, their goals and aspirations, at the centre of planning and service delivery. There must, however, be adequate resourcing to make this a reality, particularly in terms of specialist services and more intensive and flexible services for those with complex and multiple needs. In addition, the capacity or willingness to seek out services and exercise choice cannot be taken for granted. The nature of help-seeking behaviours varies, and flexible entry points and assertive forms of outreach are required to engage people who may be otherwise reluctant to seek out support.

These issues are illustrated by the disability services provided by St Vincent de Paul NSW via *Ability Links*. *Ability Links* is a program that works within local communities to assist people with disability, their families and carers to be valued and active members of their community. *Ability Links* coordinators, known as 'linkers', work with people with disability, their families and carers to plan for their future, and help people become more confident, supporting them to achieve their goals and access support and services in their community. Linkers also work alongside communities and mainstream services, supporting them to become more welcoming and inclusive.

As the case-studies below demonstrate, developing a sense of control and self-determination is about much more than simply having a choice of service providers. Supporting individuals to feel a greater degree of control and self-determination requires taking the time to develop relationships and build on strengths in a ways that can be complex and time-intensive.

### **CASE STUDY: Ability Links disability service**

#### Melvin's Story

*Melvin was born with intellectual disability caused by a genetic condition, and also is said to have mental health difficulties. Now in his 50s, Melvin has been isolated from social life and lacking in social support services all his life. He has had little or no opportunity to experience the world outside a tight local circumference, and has played no part in setting his own course.*

*Melvin was referred to Ability Links by a case manager to assist Melvin to develop his interests and links in community life, while some of the larger concerns about his living situation were being addressed by his case manager.*

*Melvin was invited to participate in a project that would enable him support himself and take more control to make decisions about his own life. Melvin and his Linker, Eileen, spent two hours each week for months exploring what he would like to do and developing his awareness of his role in influencing what could happen in his life. During this process, Melvin told Eileen that he liked the idea of being a stronger person and not having to rely on others so much. Eileen focussed on small decision-making with Melvin, supporting him to identify interests within his home. By building on these interests Eileen was assisting Melvin to understand that he was making and enacting decisions.*

*Eileen assisted Melvin to see his doctor about health concerns. Historically Melvin had been quite passive when visiting the doctor but Eileen supported Melvin to prepare his own thoughts and questions that he wanted to ask the doctor.*

*Eileen was aware that there was a strong possibility that the Guardianship Tribunal may be approached to substitute decision-making orders placed on Melvin. This meant his housing and family situation could be changed by someone with the authority to apply substitute decision-making on his behalf.*

*Melvin was in an unusually complex situation. His ill-health was starting to become apparent, and Melvin still did not have access to his own money or a phone. He spent many days alone in the small flat that he shared with his family, while they were at work.*

*Eileen gently advocated for Melvin's will and preferences to be explored, identified, and acted upon. Eileen supported Melvin to understand his right to know where his money was and how it was being spent. With this information Melvin was able to explain that he did not think he could manage all his money himself, but he did want to know how his money was spent and was able to speak up about this.*

*In discussing his living situation, Melvin made it clear that he liked his family living with him and at that time did not wish for things to change.*

*Despite being sensitive, accommodating and encouraging, Eileen was struggling with Melvin not initiating what he wanted to do. However, after he was given an iPad and had access to lots of visual stimulation, Melvin suddenly opened up about wanting to go on a holiday. Melvin and Eileen talked about the destination and experiences he was looking for, and his needs while there, including having a support worker. The next week Melvin chose a destination and directed Eileen to assist him to arrange his holiday.*

*An essential part of this process has been building Melvin's capacity to identify which people he would approach to make his needs and desires known. Eileen supported Melvin to retain his legal capacity and to have influence on his own quality of life. Eileen's role was to communicate and facilitate negotiations between Melvin, his family members and his case manager, in order for Melvin to progress his own wishes, including where his money is kept and how it is spent.*

### Debbie's Story

*Debbie was working with Tony, an Ability Linker, for three months. One day they were talking about the idea of taking part in supported decision-making, involving learning to express your own preferences and having them heard., Debbie responded: "you mean, I can say no? I have never said that." Whether or not she meant it literally, it is an expression of how little power Debbie felt she had over her own life.*

*Debbie was recovering from mental ill-health and has some cognitive impairment. She had been taken to hospital after living by herself in squalor and was then moved to an aged care facility, even though she was only about 50, which is far away from her preferred area. She was under guardianship. Ability Links was contacted to assist Debbie to create some community links in her new area. Debbie could not really think much about her interests or passions at the time, and developing a relationship of trust with her took many months.*

*When Tony first met Debbie she seemed quite disconnected and had trouble being part of the conversation. Tony spent many visits inside the aged care home, developing some idea of Debbie's history and her desires. A mobile phone was the first thing Debbie said she wanted. She felt her isolation keenly, and Tony supported her to negotiate with her guardian about this. One of the conditions of having the phone is that Debbie is not allowed to take it out of her room.*

*Next, Debbie indicated to Tony that she would like to take trips out into the local area but each time Tony arrived for the trip, Debbie would decline. Tony has since changed the routine which has made a big difference to Debbie, allowing her the space to articulate her fear that someone she wanted to avoid lives in the area. Soon Debbie's interests picked up. She could talk to the other services in her life about some of her immediate goals, like visiting a nearby café. While Debbie often declined to go out with Tony, she did make it to the café with another service provider. This gave Debbie quite a boost, and she started writing many goals, small and large. Tony supported her to start prioritising her goals.*

*Debbie soon started to build confidence in getting out and about in her local area. Recently she has reported that she has been visiting the café by herself – a major leap forward – and has been sampling their food.*

*Debbie was unhappy about the quality of the food at the aged care home, but she reported that she had spoken up about the food and as a result changes to the menu were made.*

*Supporting Debbie to identify as a decision-maker has taken approximately a year. Before this, Debbie was unable to contribute to discussions about her goals, and had few expectations about her quality of life. Tony reports that Debbie has identified that she would like the type of support that would gently challenge her to move forward with her goal, and that she responds better to goals that are written on the calendar in her room. She has gained insight into her own behaviour and likes the style of support she has been provided by Tony.*

*Debbie has now formed friendships and has grown fond of an elderly man. They go out to the café together, where they are known and welcomed. Debbie is building social capital and she is also sharing it, encouraging her friend to share his skills in language teaching with their fellow aged care residents. Debbie is also taking an active role in her relationship with her accommodation service provider and her local community.*

## **Restricting diversity**

Despite the emphasis on competition driving diversity and greater user choice, the push to increase competition, when coupled with a tight fiscal environment, is likely to favour large scale for-profit providers, with poor consequences for quality, diversity and choice. Ironically, rather than creating a true market with many services from which the consumer can chose, competitive funding may simply result in a reduction in the number and diversity of services that are funded. The experience of employment services in Australia bears this out.

Competition favours the more efficient service providers over the less efficient. Larger organisations gain efficiencies of scale and, from the perspective of funding bodies, are seen as more reliable, with firm business risk-management protocols in place. Organisations are thus driven to grow or amalgamate to survive. In addition, the pressure for efficiency encourages governments to reduce the number of contracts and engage with a few larger providers, thereby reducing transaction costs.<sup>51,52</sup>

In this competitive market, smaller or specialised organisations are likely to get squeezed out. As Tony Nicholson has argued:<sup>53</sup>

If the trajectory of agglomeration and amalgamation of organisations is allowed to run its course over the next two decades, I fear we will see a welfare arms race in which the lion's share of government funding will go to super-sized welfare businesses, some of which will be 'for-profit' in nature, and the smaller, community-based and faith-based organisations will be marginalised or left completely undone...This is a world in which these large Not for Profit organisations, for all intents and purposes, function and look little different from similar sized 'for-profit' organisations.

Smaller agencies have fewer resources available and possibly less expertise to compete on a level playing field in the tender processes. In addition, the experience of many smaller and locally embedded community organisations is that the typical performance measurement apparatus overlooks critical information such as the importance of building relationships, a sense of belonging, community development and social justice. Instead, such reporting systems usually favour simple counts of 'client throughput' and 'occasions of service' that are easily quantifiable and comparable.

### **Eroding working conditions and secure employment**

A further consequence of the trend toward market-based contracting regimes is the reduction in wages and the erosion of working conditions. For proponents of market reforms, a key advantage of outsourcing services via competitive tendering is that more services can be delivered at a lower price. All too often, however, there is a gap between the funds received from government contracts and the actual cost of service provision. In such instances, NFPs are forced to cross-subsidise the costs of service delivery or to rely on volunteers and private donations. Savings are also achieved by reducing wages to front-line workers. As Onyx et al note, there is "a consistent tendency for reductions in costs to be made at the expense of a deregulated labour market with front line workers experiencing declining pay and conditions, and often depending on the actual caring being performed on a voluntary basis".

The burdens of grappling with scarce funding and ever-expanding demands is invariably placed on workers. Governments control the purse strings, agencies compete with agencies to win the tenders, and management have to oversee the labour completing the work. Low-cost funding models prevail in the NFP sector and in order to complete contractual obligations, providers often seek to contain costs by reducing expenditure on human resources. The result is heavy workloads, low wages and poor conditions for workers.

### **Cost efficiency and the 'race to the bottom'**

Marketisation risks compromising service quality by 'bidding down' the cost of delivery, which can in turn encourage 'parking', 'creaming' and 'churning' behaviours.

There is strong evidence that profit motives can lead to gaming of services to maximise revenue at the exclusion of more difficult groups, who are often those most in need of assistance. 'Creaming'

refers to provider behaviour that prioritises clients with fewer barriers and who are therefore deemed easier and cheaper to achieve an outcome and the associated payments. Government contracts can encourage creaming behaviours, with organisations avoiding complex cases in favour of simpler cases in order to more readily meet performance targets and specified outcomes. Another manifestation of this is ‘parking’, which refers to provider behaviour that deliberately neglects giving time, energy or resources to clients with more substantial barriers. This is because it requires considerable, and usually expensive, support to realise an outcome and therefore a payment.

When competition is tight, workloads are heavy, and incentives are low, providers are not encouraged to go looking for the clients that need the most help. This results in ‘hard to reach’ clients tending to miss out on services. In early intervention and prevention literature, the ‘hard to reach’ typically fall into three categories: the underrepresented, the invisible or overlooked, and the service resistant<sup>54</sup>:

- The **underrepresented** are people that are marginalised, economically disadvantaged or socially excluded, whose disengagement from opportunity makes them underrepresented in social programs.
- The **invisible or overlooked** are people who may slip through the net when service providers overlook or fail to cater for their needs.
- The **service-resistant** are those who choose not to engage with services, including those who may feel wary about service involvement (for example, for fear of children being removed).

### **Accountability requirements diverting resources from service delivery**

Reporting requirements can conflict with the achievement of desired outcomes. The amount of time, expense and effort required to participate in the tendering process and to monitor and account for specific programs can reduce the ability of organisations to respond to community needs. Prescriptive and inflexible contracts are often administratively onerous, resulting in staff spending a disproportionate amount of their time managing reporting systems rather than delivering services. For smaller organisations, these effects can be particularly acute, diverting resources that would otherwise be used in responding to community needs.

The inability of governments to streamline their own regulatory processes, their tendering processes, contract management and program monitoring has been a persistent problem across the human services sector. For example, Considine and Lewis found that in the first ten years of outsourced employment services in Australia, the proportion of time that caseworkers spent on administration increased, while the proportion of time spent with jobseekers dropped from 50.1 per cent to 45.7 per cent.<sup>55</sup> While it would be expected that government contract administrators would want caseworkers spending as much time as possible helping jobseekers find work, they nevertheless designed systems of administration and reporting that worked against this.



## Conclusion

We recommend that:

1. competitive tendering for social and community services is acknowledged as being inefficient, expensive and results in less diversity of service provision;
2. any future reforms do not erode the values and civic mission of NFP organisations, nor undermine the wider role of human services in building individual capabilities, cohesive communities and a more civil society;
3. for-profit organisations should not be able to tender for community services, and every dollar of Government funding for human services should go to supporting people in need – not profits for shareholders;
4. organisations delivering human services need longer-term secure funding, as the current short-term funding model has deleterious effect on service providers capacity to plan for and provide community services;
5. the existing diversity of social and community services (both small and large, generalist and specialist) should be protected; and,
6. in instances where services impact significantly on the rights of people, where power imbalances exist, or where the government owes a duty of care, there should be a strong preference for government delivery unless a strong case to the contrary exists, and provided accountability is not diminished and safeguards are in place.

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