

Human Services Inquiry  
Productivity Commission  
Locked Bag 2, Collins Street East  
Melbourne Vic 8003

## **Submission by the Justice and International Mission Unit, Synod of Victoria and Tasmania, Uniting Church in Australia to the Human Services: Identifying sectors for reform Issues Paper July 2016**

The Justice and International Mission Unit, Synod of Victoria and Tasmania, Uniting Church in Australia, welcomes this opportunity to make submission to the *Human Services: Identifying sectors for reform* Issues Paper.

The fundamental tenant of the Christian faith, “to love the Lord your God with all your heart, soul and mind and love your neighbour as yourself” assumes a model of relationships and community. Thus the Synod views privatisation and marketization through the lens of if they contribute to the well-being of the community. The Synod of Victoria and Tasmania, at its meetings of the approximate 400 representatives of congregations and presbyteries, has over a period of time expressed opposition to the privatization of some services.

In 1993 the Synod meeting opposed the privatization of prisons in Victoria:

*93.4.3.3 The Synod resolved:*

*That the Victorian Government be advised that this Synod opposed any moves to introduce privately owned and operated prisons into Victoria.*

In 1994 the Synod meeting expressed concern about the impact of privatization of water and electricity assets:

*94.5.1.1 The Synod resolved:*

*In the light of moves by the Victorian Government to privatise public utilities, to:*

*(a) request the Commission for Mission to develop responses to the broader issue of privatisation and in particular, its impact on financially vulnerable members of the community; and*

*(b) make strong representations to the Victorian Government that access to affordable water and fuel is a basic human right in Victorian society.*

In 1995 the Synod meeting opposed further privatization of electricity, water and gas supplies in Victoria:

*95.6.9.7 The Synod resolved:*

*(a) To express the Synod's opposition to further privatisation of Victoria's electricity, water and gas industries, because it does not believe it enhances community co-operation and equitable access to these essential services, and to advise the Victorian Government accordingly.*

*(b) To request the Victorian and Australian Governments and opposition parties to each provide a clear statement on its policy position on the privatisation of public utilities.*

(c) *To request the Synod Commission for Mission to continue to provide means by which Uniting Church members may be informed on and involved in debate on the issue of privatisation, including the sponsoring of a forum presenting a wide spectrum of opinion.*

In 1995 the Synod meeting also expressed caution at the adoption of the National Competition Policy:

95.6.9.6 *The Synod resolved:*

*To communicate a note of caution to the Australian Government about adopting the National Competition Policy as detailed in the "Hilmer Report" because of the need to balance economic, social and environmental goals.*

In 1998 the Synod meeting expressed opposition to the privatization of water utilities in Victoria:

98.5.8.1 *The Synod resolved:*

*To express to the Victorian government its opposition to the possible privatisation of water supply in Victoria, and:*

(a) *To request the Commission for Mission to undertake detailed research on the privatisation of water supply, including research into the experiences of other states in Australia and authorities overseas, with a view to informing the church, the wider community and the government of the known and potential consequences of the privatisation of water supply and paying particular regard to the theological, health and social aspects of the availability of clean safe water;*

(b) *To request the government of Victoria to maintain the integrity of Victorian water catchment areas, so as to ensure the continued provision of water of excellent quality;*

(c) *To request state and federal governments to continue research and development programs in the problems of salination in rural areas of Victoria and the nation.*

In 1988 the meeting of the National Assembly, of Uniting Church representatives from across Australia, passed a resolution which in part expressed concern about privatization because of its possible negative impacts and it also expressed concern about policies that fostered maximization of profit at the expense of the vulnerable in the community:

(d) *To request the Australian Government and State governments to adopt social justice policies and strategies which:*

(i) *ensure the protection, development and equitable distribution of Australia's true wealth, giving serious consideration to the issues raised in the report "Economic Justice the Equitable Distribution of Genuine Wealth";*

(ii) *discourage business development and government programs which maximize profits at the expense of such wealth;*

(iii) *recognize that privatisation is not simple a matter of current budgetary decisions, but an issue of government responsibility for ensuring accessible services and equitable distribution of and access to wealth, and involving serious questions about the role of government in influencing the shape of Australian society;*

(iv) *reform the taxation system in ways which will ensure that taxation becomes a means of redistributing income and wealth so that all people gain a more equitable share, and so that those on lower incomes do not bear a disproportionate percentage of the taxation burden.*

The Unit acknowledges that delivery of high quality human services can be conducted by government, the not-for-profit sector and private providers, or a combination of these

providers. However, there is not a one size fits all and the Unit is concerned at the neoliberal trend to see government as the provider of last resort, rather than acknowledging there are some human services that are best provided by government. There are also human service areas where for-profit providers are the worst option for government to pursue, based on the criteria for human services listed below. At the same time, as the Issues Paper points out when it comes to services like dental services or psychologists, it makes sense for there to be private providers in the market place, as long as they are well regulated and the government ensures there are high quality accessible services for those that cannot afford to pay a private provider (which has certainly not been the case with regards to dental services).

**The Commission is seeking participants' views on what constitutes improved human services. Do the concepts of quality, equity, efficiency, responsiveness and accountability cover the most important attributes of human services? If these are the most important attributes, how should they be measured or assessed?**

The Unit notes with some concern that the principles proposed by the Productivity Commission appear to largely mirror the UK Open Public Services agenda, which are articulated as:<sup>1</sup>

*Through the open public services programme, government is:*

- *increasing choice and giving people control over the services they use*
- *allowing local decision-making, decentralising power to the lowest appropriate level*
- *opening up public service provision to a range of providers*
- *giving everyone fair access to public services (which means ensuring the most disadvantaged don't miss out)*
- *making public service providers accountable to users and taxpayers*

Given the negative feedback the Unit has received from the UK about much of the privatization of human services, we hope this is not a sign the Commission plans to recommend pursuing the same path.

The Unit's comments on the principles proposed are as follows:

### *Quality*

The discussion paper correctly identifies that 'quality' of a service can be hard to define, which makes it hard for governments to set quality standards where the human service is turned into a market or even when the service is tendered out. A provider of the service that is not dedicated meeting the needs of their clients, but who wants a contract or is driven by profit maximization, may therefore gain a price advantage by providing a lower quality service. Such a provider may seek to 'game' government quality standards, looking for loopholes that allow a price advantage at the cost of a poorer quality service.

The discussion paper also correctly identifies that there will be intangibles, such as courtesy and cultural sensitivity, that will be hard for government to specify by measurable outcomes within quality standards. Although in some cases surveys of the users of particular services could help identify if a provider of the service is meeting the expectation of its users.

### *Equity*

We agree that equity is well defined by when services are "accessible to all people who need them".

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<sup>1</sup> <https://www.gov.uk/government/organisations/open-public-services/about>

### *Efficiency*

Ideally efficiency should mean that a service of a given level of quality can be provided in a way that uses less resources or that is more innovative. It could also mean that for a given level of resource a more efficient service is one of higher quality.

Too often in reality what efficiency really means is lowest cost by any means possible including:

- Employing staff with lower qualifications so that wages can be reduced;
- Pressuring staff to work extra unpaid hours or illegally underpaying employees;
- Cutting out quality assurance measures and measures to ensure occupational health of safety or the safety of the users of the service from abuse;
- Breaching government quality assurance standards; or
- Cutting costs by using suppliers that are engaged in illegal activities, such as using a cleaning business illegally underpaying its workforce on temporary work visas.

### *Accountability and Responsiveness*

The Unit agrees with the definition that responsiveness is how well the service responds to the (reasonable) needs and wants of service users.

We also agree that accountability is the responsiveness to the concerns of the people who fund the human service, which in our view can be government, private funders or users of the service. Services that are funded by government should be responsive to government, not 'taxpayers'. Governments are held to account by citizens. To limit enfranchisement to the ideological construct of 'tax payers' is to disenfranchise people who are citizens but are unable to pay tax because of their current circumstances (such as being retired). Many of this latter group are likely to be users of human services. To ensure accountability to citizens, transparency of service providers should be a consideration in any privatization or marketization of human services. Wherever possible contracts to provide human services should be publicly available, so that citizens can know what arrangements are being entered into by government on their behalf.

### *Benefit to our Society*

In addition to the measures outlined by the Commission the Unit would add that human services should also be assessed by their overall benefit to society. To a degree this may be subjective, but it will include things that are not captured by the other factors. For example, a reduction in regulation of disability service providers may result in reduced administration costs for such providers, but if this comes at the cost of a net increase in the prevalence of abuse and neglect of services users then, in our view, there is a net loss to the type of society we are. Similarly, if turning the provision of a human service into a more competitive market drives up illegal exploitation of people working in that sector there may be a benefit to users (through reduced costs) and to government (through lowering funding being needed), but increased illegal exploitation is a negative impact in our society. Thus, privatizing human services or turning them into markets, when they are not natural markets, needs to be considered not only from the perspective of individual services competing in the new system, but also what trends the changes drive and if those trends benefit the society as well as the users of the service.

Such consideration should also take into account the increasing behavioural science evidence that the imposition of market norms in place of social norms drives behaviours that

are selfish and self-reliant.<sup>2</sup> The question then needs to be asked if our society benefits when our human service providers become more selfish and self-reliant as a result of privatization and market imposition. If this reduces the sharing of best practice, rather than the normal assumption that it will drive innovation, then society and the users of the service will be worse off (although the propagation of best practice might happen when staff move between services). The question needs to be asked if our society benefits if service providers look to treat people using the service as customers to whom the service needs to be provided at the lowest possible cost, as opposed to seeing them as people in need of a service and support.

Also, imposing market norms in human services can cause perverse behavior in users of the services as well, which should also be considered before further privatizing or marketising human services. An example, comes from Israel where a child day care centre introduced a fine for parents who arrived late to pick up their children as a market signal to get the parents to pick the children up on time. It had the opposite effect. The day care centre had violated the social contract, with the social norm of being late. Before the fine, if the parent was late they would feel guilty about it and their guilt often drove them to be more prompt in picking up their children. Once the fine was imposed the parents applied the market norm and saw the day care centre as offering additional care at the cost of the fine. Late pick-ups increased, which was the opposite of what the centre had wanted. Even after the fine was then removed, the parents continued to be more likely to pick their children up late, in fact late pick ups increased as both the social contract and the market signal were removed.<sup>3</sup>

On the flip side of this critique about consequences of social contracts being torn up and social norms being replaced by market norms, is the critique of private businesses using social norms and appealing to people's moral and altruistic instincts to nudge them to go along with agendas they had no say over.<sup>4</sup> In this critique, as service providers become more driven by lowering costs or increasing profits (in the case of for-profit providers), they play to the social expectations of their users to manipulate the user to accept a lower quality service. In many human services this is a greater risk, as, for example, users of health services would normally have an expectation that health professionals are interested in the well-being of the user of the service, rather than viewing them as a profit or cost centre. The vulnerability of people being conned by human service providers is currently on public display with the disastrous marketization of the VET sector and thousands of students being conned by dodgy and criminal registered training organisations (RTOs) and hundreds of millions of dollars of value government revenue lining the pockets of the con men that set up these businesses. It is clear that thousands of students assumed that the VET providers would be providing them with an education course and instead would be been better to start with a healthy suspicion that any private RTO, especially those recently established, might be a scam operation.

**The Commission is seeking feedback on whether the factors presented in figure 2 reflect those that should be considered when identifying human services best suited to the increased application of competition, contestability and informed user choice.**

The Unit agrees to the factors in figure 2 as being important in the decision to privatize or marketise additional human services, with the addition of the benefit to society being a key

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<sup>2</sup> Dan Ariely, 'Predictably Irrational', Harper, London, 2009, pp. 74-75.

<sup>3</sup> Dan Ariely, 'Predictably Irrational', Harper, London, 2009, pp. 76-77; and Michael Sandel, 'What Money Can't Buy: The Moral Limits of Markets', Penguin, 2013.

<sup>4</sup> William Davies, 'The Happiness Industry', Verso, London, 2015, pp. 210-212.

outcome. However, in the view of the Unit there are additional factors that should be considered in figure 2. In our view these should be:

1. The risk of increased exploitation of the workforce and of illegal exploitation of the workforce. Complying with workplace laws that guarantee decent jobs should not be seen as a regulatory burden to providers;
2. The risk of government revenue being lost to fraud (as in the VET sector) or being gamed by providers that provide a sub-standard service. In many human service areas there will be users that cannot afford to pay for the service and thus many service providers will ultimately receive the payment from the government, be it by direct payment from government or through the government providing the funding to the user of the service who then chooses which service provider to use. Thus ultimately it is government funding that is at risk when providers carry out fraudulent activities or game the system;
3. The risk of eroding the quality of the workforce in the sector, through lowering of what gets paid for the service, through workloads that prohibit time for professional development or through creating an environment of job insecurity throughout the sector so that people are not attracted to work in the sector. Lower wages and greater job insecurity also drive up staff turn-over in services, which can have significant impacts on the quality of care users of the service provide. We have experienced complaints by service users having to repeat their case history multiple times as staff change due to high staff turn-over.
4. The likelihood that users of the services will actually be in a position to make the best decision about the service, which is not just about the provision of information, as acknowledged on pages 13 and 14 of the Issues Paper. This should also include the likelihood that users of the service will actually take the time and have the ability to shop around in their actual behavior. In some cases the circumstances will prohibit a user shopping around. For example, a person with a serious injury that needs immediate medical treatment would be unlikely to shop around for the best value emergency department if emergency departments at hospitals were turned into a market. However, we have more mundane examples of market failure, where users are not shopping around. For example, in the energy market the St Vincent de Paul Society has concluded that:<sup>5</sup>

*We have an energy retail market that ensures customers are paying over the odds for an essential service unless they annually dedicate time to compare energy plans and switch plan or retailer.*

At the same time they found that consumers in the energy market are increasingly disengaging from participation in the market.<sup>6</sup> The report quoted the Australian Energy Market Commission analysis that it was particular demographics of customers who were less likely to participate in the energy market and therefore pay more for their energy by being left on the standing (default) offers:<sup>7</sup>

*“[C]ustomers on standing offers are more likely to be customers who are older or living in regional areas. In Melbourne and Sydney, higher income areas are more likely to have a high proportion of customers on standing offers. The reverse applies in many regional areas where lower income areas are more likely to have customers on standing offers.”*

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<sup>5</sup> Gavin Dufty and May Mauseth Johnston, ‘The National Energy Market – Still wining it’, St Vincent de Paul Society and Alvis Consulting, September 2015, p. 6.

<sup>6</sup> Gavin Dufty and May Mauseth Johnston, ‘The National Energy Market – Still wining it’, St Vincent de Paul Society and Alvis Consulting, September 2015, pp. 5, 29-30.

<sup>7</sup> Gavin Dufty and May Mauseth Johnston, ‘The National Energy Market – Still wining it’, St Vincent de Paul Society and Alvis Consulting, September 2015, p. 37.

The issues paper itself acknowledges that many service users will be forced to rely on less than optimal assessment information to decide on a human service in a market, such as the experience of family and friends (p. 14). Such a method is hardly a thorough scientific and rigorous method to determine the best service for the users need, but it may be the only one that the user can realistically undertake.

5. The risk that privatization or marketization will result in some users being excluded from access to a human service they need. This can happen because what the government is willing to contract the service out for is too low for the providers to provide the service. Or it can happen because providers decide to 'red-line' certain groups that need the service to maximize profit or lower cost, even if the government is providing sufficient funding for the service. It can also happen where in the existing market the existing providers cross-subsidise services to higher cost (higher need) users from lower cost users and then new providers are able to enter the market and cherry-pick the lower cost users destroying the cross-subsidising model of the existing providers. In the UK this type of behaviour by private service providers has earned the nickname 'creaming and parking', while high value users of the service get support and the rest of the users get parked (provided with no real service).<sup>8</sup>
6. The risk that greater privatization or marketization will result in system fragmentation, making it harder for service users with complex needs to have those needs met. Competition between service providers can work against a joined-up approach to complex service user needs.
7. The economic inefficiencies that will be introduced if real markets are to exist within the human service. For a real market to exist, all users must at all times have the option of choice, which can lead to economic inefficiency. For example, if people living in a particular town are to have a market for hospital services that means there must be at least two accessible hospitals and both must have spare capacity at all times. If one hospital is full at any given time, then the remaining users will have no choice but to use the other hospital. Thus to maintain a free market there will need to be redundant capacity at all times in both hospitals, which is likely to be more inefficient than having one hospital which has effective regulatory oversight to ensure its quality. There are also inefficiencies in markets for human services as resources needed to be diverted away from service delivery into marketing to attract users.
8. If the introduction of market norms into a particular human service area will have negative social consequences in the behavior of providers and/or users or if there will be wider negative impacts on our society.

Further the Unit notes that the Harper *Competition Policy Review* recommended that "A diversity of providers should be encouraged, while taking care not to crowd out community and volunteer services". Given the government supported this recommendation<sup>9</sup>, the Productivity Commission should include in any assessment of increased marketization of human services if community and volunteer services will be crowded out, as has been the experience in the UK.<sup>10</sup>

Under point 3 above, creating a sustainable human services sector is paramount when programs are addressing long-term, multi-layered and/or intergenerational disadvantage or

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<sup>8</sup> See for example Richard Johnson, 'The Work Programme's only success is at 'creaming and parking'', *The Guardian*, 21 February 2013, <https://www.theguardian.com/commentisfree/2013/feb/20/work-programme-success-creaming-parking>

<sup>9</sup> Australian Government, 'Australian Government Response to the Competition Policy Review', 2015, p. 4.

<sup>10</sup> Zoe Williams, 'The Shadow State', *Social Enterprise UK*, 2012, p. 5.

in cases such as where positive outcomes for children and young people in out-of-home care or adults with disabilities in supported accommodation require long-term commitment to secure stable placement and attachment.<sup>11</sup>

**Participants are invited to submit case studies of where policy settings have applied the principles of competition, contestability and user choice to the provision of a specific human service. Such case studies could describe an existing example or past policy trial in Australia or overseas. Participants should include information on:**

- **Pathway taken to achieve the reform;**
- **Effectiveness of the policy in achieving best-practice outcomes for quality, equity, efficiency, responsiveness and accountability; and**
- **Applicability of the case study to the provision of human services in Australia if it is an overseas example.**

The Unit is concerned that it should not be assumed that more private providers in the provisions of human services will lead to better outcomes for members of the community. There are plenty of studies to demonstrate that private providers and competitive markets do not always deliver better outcomes.

#### *Health Sector Examples*

An Australian review of literature on privatisation and corporatisation (Centre for Clinical Governance Research in Health, 2007) in the period 1980-2007 found that the assumption that privatisation of health services will ensure private sector efficiency is questioned on many levels. Privatisation can lead to poorer quality services, loss of nursing jobs in the public sector, reduced access to services for poorer patients and weaker trust relationships between doctors and patients.<sup>12</sup>

A review (Rosenau & Linder, 2003) that looked at 20 years of research comparing for-profit and non-profit health providers, in the United States, showed that overall non-profit hospitals show better results on cost than for-profit providers.<sup>13</sup>

Two studies of German hospitals both showed that public hospitals in the studies were more efficient than private or non-profits.<sup>14</sup>

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<sup>11</sup> Sally Cowling and Romola Hollywood, 'Submission to Productivity Commission Inquiry into the Contribution of the Not for Profit Sector', UnitingCare Children, Young People and Families, June 2009, p. 4.

<sup>12</sup> Centre for Clinical Governance Research in Health (2007) 'The privatisation and corporatisation of hospitals – a review of the citation and abstracts in the literature' University of New South Wales, May 2007, quoted in

Jane Lethbridge, 'A parallel approach to analysis of costs/benefits and efficiency changes resulting from privatisation of health services', Public Services International Research Unit (PSIRU), University of Greenwich, [www.psiru.org](http://www.psiru.org), September 2011, p. 7.

<sup>13</sup> Rosenau P.V. & Linder S.H. (2003) 'Two decades of research comparing for-profit and nonprofit health provider performance in the United States', *Social Science Quarterly* **84(2)**: 219-229, quoted in Jane Lethbridge, 'A parallel approach to analysis of costs/benefits and efficiency changes resulting from privatisation of health services', Public Services International Research Unit (PSIRU), University of Greenwich, [www.psiru.org](http://www.psiru.org), September 2011, p. 7.

<sup>14</sup> Jane Lethbridge, 'A parallel approach to analysis of costs/benefits and efficiency changes resulting from privatisation of health services', Public Services International Research Unit (PSIRU), University of Greenwich, [www.psiru.org](http://www.psiru.org), September 2011, p. 7.



Privatisation of health services in other countries has seen health workers experience a deterioration in pay and working conditions.<sup>15</sup> Reductions in salaries of health workers in some jurisdictions as a result of privatisation, has not only reduced the status but also the integrity of health workers because they have to find alternative sources of income. This might be through a second job in the private sector or by introducing informal payments for health care.<sup>16</sup>

Studies on the privatisation of health services have found that it often leads to reduced funding for health care at local level. The reduction in funding then leads to adoption of user fees and informal payments. Self-management of hospitals often introduces income generation through user fees and co-payments.<sup>17</sup>

Informal payments in the health care system have been found to influence whether low income service users can access health care service. Further, informal payments/user fees results in increases in the proportion of household expenditure spent on health care.<sup>18</sup>

Studies have also found violence at work is a symptom of a health care system with reduced resources.<sup>19</sup>

Evidence drawn from large scale surveys, as part of UK National Health Service initiatives to grade hospitals, did not provide any positive evidence to support the outsourcing of facilities management as delivering better outcomes to patients.<sup>20</sup>

Research of privatised clinical services in the UK showed that 'choice' did not benefit low income and less well educated groups.<sup>21</sup>

From 2004, 'out of hours' doctor services were outsourced in the UK. Primary care trusts, who took over control of the 'out of hours' service, were often unaware of their responsibilities, did not commission effectively and did not fulfil tasks of monitoring and regulation. Research showed that commercial providers often used inadequate vetting procedures for vetting and for inducting new GPs, leading to criticisms of the standards of services. Providers of 'out of hours' services often failed to collect adequate information

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<sup>15</sup> Jane Lethbridge, 'A parallel approach to analysis of costs/benefits and efficiency changes resulting from privatisation of health services', Public Services International Research Unit (PSIRU), University of Greenwich, [www.psiru.org](http://www.psiru.org), September 2011, p. 35.

<sup>16</sup> Jane Lethbridge, 'A parallel approach to analysis of costs/benefits and efficiency changes resulting from privatisation of health services', Public Services International Research Unit (PSIRU), University of Greenwich, [www.psiru.org](http://www.psiru.org), September 2011, p. 17.

<sup>17</sup> Jane Lethbridge, 'A parallel approach to analysis of costs/benefits and efficiency changes resulting from privatisation of health services', Public Services International Research Unit (PSIRU), University of Greenwich, [www.psiru.org](http://www.psiru.org), September 2011, p. 17.

<sup>18</sup> Jane Lethbridge, 'A parallel approach to analysis of costs/benefits and efficiency changes resulting from privatisation of health services', Public Services International Research Unit (PSIRU), University of Greenwich, [www.psiru.org](http://www.psiru.org), September 2011, p. 23.

<sup>19</sup> Jane Lethbridge, 'A parallel approach to analysis of costs/benefits and efficiency changes resulting from privatisation of health services', Public Services International Research Unit (PSIRU), University of Greenwich, [www.psiru.org](http://www.psiru.org), September 2011, p. 32.

<sup>20</sup> Jane Lethbridge, 'Empty Promises: The impact of outsourcing on the delivery of NHS services', An independent report, commissioned by UNISON (the public service union), Public Services International Research Unit, University of Greenwich, February 2012, p. 16.

<sup>21</sup> Jane Lethbridge, 'Empty Promises: The impact of outsourcing on the delivery of NHS services', An independent report, commissioned by UNISON (the public service union), Public Services International Research Unit, University of Greenwich, February 2012, p. 23.

collected to properly measure access to 'out of hours' services, which was crucial for assessing patient care. Outsourcing of 'out of hours' services led to cost-cutting and an uneven quality of service across England.<sup>22</sup>

Independent Sector Treatment Centres (ISTCs) were introduced in the UK, as part of the National Health Service (NHS) Plan, to help to reduce waiting lists. ISTCs contributed to the creation of a health care market, using private providers, in the NHS. However, ISTCs were set up quickly, with favourable terms for private companies, which has meant that companies were paid for operations even where there were not enough patients. National Audit Office investigations found that ISTCs failed to collect adequate information, which has made it difficult to assess the quality of patient care. The impact of ISTCs on local health innovation has been limited. Existing evidence shows that ISTCs did not reduce waiting lists significantly.<sup>23</sup>

Review of the experience of contracting out of cleaning services in health care facilities in the UK found that it affected the way that cleaners worked with other groups in hospitals, reducing teamwork, which impacted on patient care. In-house cleaning contractors are more likely to be integrated with infection control teams than external contractors. In many hospitals, contract cleaning specifications, whether for in-house or external contractor, were not reviewed regularly and did not keep up with changes in the hospital environment. Contracting out of cleaning services led to problems of recruitment and retention due to low wages, for both in-house or external contractors, because of pressure to reduce costs. The experience of contracting of cleaning services has led devolved governments in Scotland, Wales and Northern Ireland to abandon contracting-out of cleaning.<sup>24</sup>

### *Education Sector*

The recent changes in the Vocational Education and Training (VET) sector in Australia show the disastrous outcomes that can result for people accessing services and government expenditure when poorly regulated and designed markets are rushed through and imposed on the community. The Federal Government has acknowledged that the rapid marketization of the VET sector in 2012 "did not contain sufficient safeguards for students or regulatory powers for the department, instead providing incentives and rewards for unethical behaviour."<sup>25</sup>

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<sup>22</sup> Jane Lethbridge, 'Empty Promises: The impact of outsourcing on the delivery of NHS services', An independent report, commissioned by UNISON (the public service union), Public Services International Research Unit, University of Greenwich, February 2012, p. 18.

<sup>23</sup> Jane Lethbridge, 'Empty Promises: The impact of outsourcing on the delivery of NHS services', An independent report, commissioned by UNISON (the public service union), Public Services International Research Unit, University of Greenwich, February 2012, p. 21.

<sup>24</sup> Jane Lethbridge, 'Empty Promises: The impact of outsourcing on the delivery of NHS services', An independent report, commissioned by UNISON (the public service union), Public Services International Research Unit, University of Greenwich, February 2012, p. 15.

<sup>25</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 5.

The Government has further acknowledged key elements of its regulatory failures:<sup>26</sup>

*Prior to 1 January 2016 the following key limitations of the department's powers existed:*

- *Significant non-compliance by a provider with the HESA and the VET Guidelines does not necessarily undermine a provider's right to payment;*
- *The audit and information gathering powers were weak and did not enable the department to search and seize documents, and image computer systems;*
- *Limited capacity for the department to take compliance action against a provider who has been cancelled as an RTO by ASQA, and who has sought review of that decision.*

There was a massive increase in students accessing the VET FEE-HELP scheme, from 55,000 in 2012 to more than 272,000 in 2015. The Government acknowledges some of this was fueled by unethical marketing practices of VET providers targeting disadvantaged groups. The unethical marketing practices included offering inducements such as iPads, cash and vouchers to prospective students to enroll in a course and request VET FEE-HELP<sup>27</sup>:

*These behaviours specifically targeted vulnerable people through cold calling or door knocking neighbourhoods of low socio-economic status. Those targeted are signed up to a course which they may not have the academic capability to complete and may not understand the loan must be repaid.*

The result was a massive cost on government revenue with VET FEE-HELP payments from government to VET providers increasing from \$325 million in 2012 to \$2.9 billion in 2015.<sup>28</sup> As shown in Table 1, an alarming proportion of the funding has been wasted. While in theory the government should be able to recover the money from students that have been ripped off, it acknowledges that many may never earn a high enough income to be compelled to repay the VET FEE-HELP debt (unless the government changes the income threshold at which the student must start to repay the loan). Part of the waste that has been generated through the poorly regulated VET market are inflated course costs, as students have been unaware of the true costs of delivering courses. Course tuition fees increased from an average of \$4,000 in 2009 to \$14,000 in 2015.<sup>29</sup> Some unethical providers fraudulently marketed their courses as being free.<sup>30</sup> The government has concluded that the false perception that courses are free means "the costs of courses with access to VET FEE-HELP now bears little relationship to the true (efficient) cost of delivery."<sup>31</sup>

**Table 1. Selected providers of VET in 2014.**<sup>32</sup>

<b>Provider</b>	<b>Amount received from VET FEE-HELP (\$ millions)</b>	<b>Number of VET FEE-HELP students enrolled in 2014</b>	<b>Number of students that graduated</b>	<b>Cost to VET FEE-HELP per graduation (\$)</b>
Evocca College	\$250.2	26,848	1,053	\$237,592

<sup>26</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 12.

<sup>27</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 14.

<sup>28</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 15.

<sup>29</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 16.

<sup>30</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 17.

<sup>31</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 17.

<sup>32</sup> Senate Education and Employment Committee, Question on Notice Number SQ15-000668

AIPE	\$110.0	8,814	117	\$939,805
Study Group	\$101.7	13,715	470	\$216,414
Unique	\$76.8	2,824	172	\$446,318
Cornerstone Investments	\$46.1	4,251	2	\$23,068,008
College of Creative Design and the Arts	\$35.5	3,530	30	\$1,182,456

The government reports that in 2014 the completion rates of courses running two years was only 22%, down from 26% in 2013.<sup>33</sup> For Indigenous students completion rates in 2014 were only 12.6% and across all students the completion rate for online courses (which were those most likely to be scams) was only 7%.<sup>34</sup> As noted by the government:<sup>35</sup>

*VET FEE-HELP can also incentivize providers to offer training which attracts the highest subsidy, benefit or profit, at the lowest cost. Low cost strategies include delivering training online which reduces costs associated with teaching staff, rent and equipment needed for certain courses.*

By comparison, the estimated completion rate for VET FEE-HELP supported students commencing in 2013 and studying diploma level and above was 42.2%.<sup>36</sup>

Table 2 shows the difference in costs of courses based on what the NSW Government paid under the Smart and Skilled initiative in 2013 and what the average tuition fee is for the same course when delivered by a VET provider under the VET FEE-HELP scheme. As noted by the government:<sup>37</sup>

*These differences reflect a substantial market failure, that providers are able to extract margins that are substantially higher, likely due to a serious information asymmetry, and particularly poor consumer information or access to it.*

**Table 2. Average VET FEE-HELP tuition fees versus qualification price set under NSW Government Smart and Skilled initiative.<sup>38</sup>**

Course	Average tuition fee per full time VET FEE-HELP student	NSW Smart and Skilled Qualification Price
Diploma of Salon Management	\$32,941	\$6,330
Diploma of Project Management	\$29,065	\$6,490
Diploma of Marketing	\$28,596	\$5,800
Diploma of Events	\$14,567	\$8,980
Diploma of Accounting	\$13,659	\$6,570

The failure of regulation of the expansion of markets in the VET sector has had the greatest impact on disadvantaged groups, as demonstrated in Table 3, with students of Indigenous background and those from low socio-economic backgrounds paying more for VET courses

<sup>33</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 19.

<sup>34</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 19.

<sup>35</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 22.

<sup>36</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 19.

<sup>37</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 18.

<sup>38</sup> Australian Government, 'Redesigning VET FEE-HELP. Discussion Paper', 2016, p. 17.

than other students. As concluded by government “These figures are extremely troubling, both for their impact on disadvantaged Australians and the unavoidable conclusion that this program has seen them taken advantage of by unscrupulous and unethical practices.”<sup>39</sup>

**Table 3. 2015 VET FEE-HELP mean tuition fee by student demographics and mode of delivery.**<sup>40</sup>

Demographic	Face-to-face	Online	Mixed-mode	Mean annual tuition fee
Indigenous	\$20,448	\$19,875	\$18,007	\$19,977
Non-Indigenous	\$12,972	\$16,515	\$12,042	\$14,328
Low SES (Quintile 1)	\$15,153	\$18,127	\$12,970	\$16,193
High SES (Quintile 5)	\$11,555	\$15,114	\$11,151	\$12,835

#### *Experience of Privatisation in the UK*

In 2012, Social Enterprise UK commissioned a report into the wave of privatization by the UK Government of human services. The report concluded:<sup>41</sup>

- In critically important markets, private sector oligopolies were emerging, where a small number of corporations had a large share of the market. Corporations with large stakes in multiple public service markets were regarded as too big and complex to fail. Smaller providers, often the social enterprises and charities that successive governments had marked out as ideal providers, were being forced out.
- Complex business arrangements and a lack of information as a result of commercial confidentiality made it impossible to hold many providers properly to account.
- An unknown amount of public funding was being taken out of the social economy and redistributed to private individuals and investors through shareholder dividends, rather than being retained in areas where services are commissioned, or being reinvested in service improvements. There were many examples of contracts that included multiple layers of sub-contracting, with profit taken at each level. This turns considerable amounts of public funds into private wealth when it could be reinvested in services. It also exacerbates the sort of inequalities that public services were trying to tackle.
- In many cases a saving in one part of the public purse created an equal or greater loss in another – for example bidding on price usually created a race to the bottom on wages, fueling low pay and inequalities. Low paid workers were less able to save for their retirement, creating the possibility of increased pension expenses in the future.
- The drive to cut costs and maximize profits incentivized businesses to act in ways that were inconsistent with government aims. For example, there was much evidence to show that private firms are placing vulnerable children and adults in parts of the country often long distances from their homes, but where care was cheapest for the firms delivering it. This also created a strain on public services in already disadvantaged areas and had the greatest human cost.
- When problems did arise, such as the collapse of a private provider, as a result of complex financial deals designed to maximize financial gain, the public purse is forced to pick up the pieces.
- Public understanding of government privatization was lacking. For example, in polling carried out for the report, only one in five people knew that the majority of children’s

<sup>39</sup> Australian Government, ‘Redesigning VET FEE-HELP. Discussion Paper’, 2016, p. 19.

<sup>40</sup> Australian Government, ‘Redesigning VET FEE-HELP. Discussion Paper’, 2016, p. 18.

<sup>41</sup> Zoe Williams, ‘The Shadow State’, Social Enterprise UK, 2012, pp.5-6.

homes were owned by private companies. Respondents were much more likely to think government was the main provider.

In the UK, privately employed home care staff have been increasingly required to pick up the cost of travel time between appointments. They are paid by the minute and are not paid for the travelling time to get between appointments. In 2009-2010 there was an increase in the number of 15 and 30 minute appointments, and a decrease in 60 minute appointments, increasing the amount of unpaid transit time employees needed to spend between appointments.<sup>42</sup>

The report also noted that corporations were making offers to supply adult social care at a rate that should be mathematically impossible if they were paying the minimum wage, making National Insurance contributions, putting into a pension scheme and providing training.<sup>43</sup>

The report noted that staff pay in private prisons in the UK is on average 40% lower than in government run prisons.<sup>44</sup> At the same time a range of studies found that private sector prisons outperformed those run by the public sector in measures like fairness and respect for prisoners.<sup>45</sup>

In terms of the 'too big and too complex' to fail, the report's author pointed out Serco operated public transport services, managed laboratories, ran prisons and juvenile justice institutions, provided security services to the National Borders Agency, provided accommodation and detention services for asylum seekers, supplied electronic tagging systems, provides maintenance for military bases, operates air traffic control services, facilitates and manages hospitals, manages pathology services, operates waste collection services for local councils and manages education authorities on behalf of local governments.<sup>46</sup> The point the author made was with government dependence on one corporation for this range of services is likely to mean that government would intervene to prop up the corporation should it ever be likely to fail, creating an unacceptable dependence for the public purse.

The UK has adopted the *Public Services (Social Value) Act 2012* which requires all public bodies in England and Wales to consider the wider social or economic benefit to an area of any contract they are awarding.<sup>47</sup> It applies to any contract over the value of £113,000 for central government departments and £173,000 for all other public services. An evaluation of the impact of the legislation jointly by the UK Cabinet Office and Social Enterprise UK in early 2016 found that for the three local governments reviewed the:<sup>48</sup>

*Commonalities include taking sufficient time to communicate with providers, both before and after tender specification; working closely with providers to develop measurement frameworks and appropriate measurement tools, and keeping these measurement frameworks and tools as simple as possible. All demonstrated a strong commitment to pursuing social value from all levels; from leadership teams to those*

<sup>42</sup> Zoe Williams, 'The Shadow State', Social Enterprise UK, 2012, p. 9.

<sup>43</sup> Zoe Williams, 'The Shadow State', Social Enterprise UK, 2012, p. 9.

<sup>44</sup> Zoe Williams, 'The Shadow State', Social Enterprise UK, 2012, pp.14, 40.

<sup>45</sup> Zoe Williams, 'The Shadow State', Social Enterprise UK, 2012, p. 40.

<sup>46</sup> Zoe Williams, 'The Shadow State', Social Enterprise UK, 2012, p. 10.

<sup>47</sup> Zoe Williams, 'The Shadow State', Social Enterprise UK, 2012, p.10.

<sup>48</sup> UK Cabinet Office and Social Enterprise UK, 'Social Value Act: Implementation and Measurement', 2016, p. 4.

*implementing policy and all are beginning to see positive impacts resulting from commissioning for social value.*

All three local governments reviewed realised that it is impossible to have a standard measurement framework to apply across all contracts for social value, but that there needs to be a loose strategic framework with the flexibility to adapt measurement techniques and approaches to each contract.<sup>49</sup>

Dr Mark Zirnsak  
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<sup>49</sup> UK Cabinet Office and Social Enterprise UK, 'Social Value Act: Implementation and Measurement', 2016, p. 4.