

A FAIR DEAL
FOR OUR
COMMUNITY
SERVICES

Introduction

In NSW, there are more than 1,500 not for profit community sector organisations, delivering services to the most disadvantaged people in our community. We are one of the largest employers in the State and the major employer in many regional communities, with a high level of volunteer involvement. We are a strong, vibrant, effective sector that makes a real difference to our State, and to the communities and people we work with.

Our sector is made up of a broad range of service delivery, community development, social justice and advocacy organisations. We are diverse in size and scale, ranging from small voluntary groups to large national organisations. We operate in neighbourhoods, local communities, regions or across the whole State. Some focus on areas of specialist service delivery or advocacy, while others engage with a broader range of issues¹.

The community sector has a positive impact on our society, delivering vital services. The sector's contribution is far reaching and includes:

- promoting a fairer, more tolerant society through advocacy, by raising awareness of disadvantage and injustice and by proposing solutions;
- encouraging participatory democracy by fostering community involvement in our organisations and in broader systems and processes;
- developing strong, cohesive, self-reliant communities by bringing people and groups together;
- building the skills base of the community through development work with volunteers, workers, communities and people who use our services; and
- undertaking work that may not be commercially viable, delivering needed services to people who would otherwise not have access to them.²

In NSW our sector partners with government to deliver these critical services. This is vital to ensure that our State and communities are strong, fair and resilient, and that communities and people are not left behind.

We know that this partnership and our relationships with our government funders have strengthened³. This means better outcomes for the people and communities we work with. But there are also real challenges and issues with this partnership. Red tape, contracting problems and compliance burdens impact on our capacity to do great work⁴. We know our sector generally adapts well to changes in our environment. We also know the impact that constant “reform” and change – sometimes without a conversation about the potential effects – has on our capacity to deliver.

Earlier this year, NCOSS started a conversation about what it would take to build a stronger partnership between government and our sector. We visited communities across NSW to talk with community organisations and workers about how government reform, contracting, regulation and other funding processes impact on your capacity to provide quality services.

¹ Forum of Non Government Agencies 2011, *The NSW Community Sector Charter*, NCOSS, Sydney

² Ibid.

³ Cortis, N., & Blaxland, M. (2015). *The State of the Community Service Sector in New South Wales 2015* (SPRC Report 07/2015) Sydney: Social Policy Research Centre, UNSW Australia

⁴ Ibid.

We asked them to think about what a strong partnership with government looks like. What are the existing barriers to building that partnership? How do we forge a new path where we work even more closely together to get better outcomes?

This conversation focussed on the six key areas you identified in our 2014 and 2015 *State of the Sector Reports*.

- **Reform and Change:** What principles underpin the development and implementation of reform and change of programs and policies that affect the delivery of social services?
- **Policy, Program and Project Design:** What is the most effective way to design policies, programs and projects? What role should our sector play in this process?
- **Procurement and Commissioning:** What is the best way for government to go about funding and “purchasing” services delivered by our sector?
- **Contracts:** What does a fair contract look like? What clauses are included in our contracts with government funders that are unfair?
- **Red Tape, Compliance and Regulation:** How does red tape prevent us from delivering quality services to those we work with? What would make it better?
- **Communication and Engagement:** How should government and the sector engage to ensure we understand each other’s needs, motivations and issues? How do we share information and data that will improve the quality of our services?

The results of this conversation were telling. Our sector recognizes that the relationship with government is critical to their success, and to the outcomes achieved by the communities and people they work with. They want a respectful relationship with government. And they want policies and process that ensure that.

But there is clearly much work to be done before we can say that we have achieved this.

This paper sets out what needs to be done to ensure the relationship between government and the sector lives up to its potential, and delivers the outcomes for communities and people across NSW that everyone wants to see. It makes recommendations for all agencies that fund community organisations, and for the NSW Government as a whole. It takes a problem solving approach and aims to create an even stronger partnership.

NCOSS looks forward to working with NGOs across NSW and the NSW Government to make this vision a reality. Together, we can ensure we make a fair deal for our community services here in NSW.

Summary of Recommendations:

1. Reform and Change:

That the NSW Government commit that future reform and change processes will:

- Be co-designed with the sector, and implemented and evaluated in partnership,
- Respect the local knowledge of place based community organisations and the community connections that Aboriginal, CALD, LGBTI and other specialist services have,
- Promote the self determination of Aboriginal peoples and communities,
- Have clear objectives, rationale and timeframes, and
- Learn the lessons of past processes and plan to avoid repeating their mistakes.

2. Policy, Program and Project Design

That the NSW Government commit to a policy development process that ensures policies and programs:

- Are shaped in partnership with the people, communities and organisations they affect,
- Are based on the evidence about what works, and taking advantage of the knowledge that exists in the people, communities and organisations that the policies will affect,
- Are created with the knowledge of how they impact other policies and service systems,
- Respect the human rights of all peoples and address discrimination and disadvantage, and
- Are created with a view to the long term.

3. Procurement and Commissioning

That the NSW Government work with our sector to develop a whole-of-government procurement framework that ensures NGO procurement:

- Is ethical and transparent, and ensures the best equipped provider is successful,
- Builds in sufficient time to get the best out of all applicants,
- Is consistent across all government agencies,
- Delivers long term certainty for our sector through longer contracts,
- Includes sufficient resources to cover the full cost of service delivery, and
- Promotes relationships of collaboration rather than competition.

4. Contracts

That the NSW Government negotiate with the sector to develop a new, standardised NGO contract with NGOs that is based on the principles outlined in the Whitlam Institute's paper *A Question of Balance*, and is:

- Fair and proportionate to the risk and size of the contract,
- Balances accountability and compliance costs, and

- Respects the right and responsibility of NGOs to advocate for the rights and interests of the people and communities they work with.

5. Red tape, compliance and regulation

That the NSW Government undertake a review of the compliance burden experienced by our sector that delivers:

- A new, standardised contract with NGOs that is based on the principles outlined in the Whitlam Institute's paper *A Question of Balance*,
- Streamlining of accreditation requirements across government agencies,
- Alignment of reporting requirements within and across government agencies,
- Removal of the requirement for financial acquittals for outputs/outcomes based contracts, and
- Incorporation of the Australian Charities and Not-for-profit Commission's (ACNC) Charity Passport and 'Report once, use often' framework into the reporting frameworks of government agencies.

6. Communication and Engagement

That the NSW Government commit to improving its communication with our sector by implementing the recommendations made here via a whole of government framework, compact or strategy.

Methodology

The Fair Deal for Our Community Services recommendations have been developed in response to consultation processes held across NSW over a six week period. We talked to over 280 people from 201 Community Sector organisations in 22 consultations.

The consultations followed the “Harwood” framework. This is built around a series of community conversations and seeks to develop public knowledge based on experience and observation.

The Harwood framework aims to identify and understand the shared aspirations of a given community, in this case NCOSS members and other community organisations. It asks what their challenges or issues are, and the changes or solutions they believe may assist in achieving these aspirations.

The public knowledge gained from the consultations was then brought together with the expert knowledge of NCOSS staff, the Sector Development Forum and experts in the field to develop the principles that appear here.

The Sector Development Forum is the key policy advice committee for NCOSS on issues that affect the community sector. It includes representatives of organisations delivering services, support and advocacy from across NSW, and plays a critical role in shaping NCOSS policy and advocacy on issues that affect the community sector, its workforce and its relationship with government.



Consultations held in:

- Sydney
- Wilcannia
- Port Macquarie
- Kempsey
- Orange
- Broken Hill
- Dubbo
- Wagga Wagga
- Coffs Harbour
- Queanbeyan
- Lismore
- Newcastle
- Gosford
- Springwood
- Campbelltown
- Parramatta
- Albury
- Shellharbour

Reform and Change

I see, for the most part, a fractured community still reeling from the impact of "Going Home Staying Home"...It will take time for the community to heal and rebuild trust in Government and we will hopefully recover from the loss of expertise in our sector. (Small youth service) (State of the community service sector in NSW 2014 p66)

Rural agencies are disadvantaged because they are often smaller...We worry that smaller agencies than ours will fail because of the reforms, and we will be expected to go and help communities by delivering services - at a time when we are trying to cope with the major reforms being implemented. (State of the community service sector in NSW 2014 p45)

What is the issue?

Change is not only inevitable, it is critical for ensuring that services meet the changing needs of the people and communities our sector works with. But with change comes disruption and dislocation. This affects not only the sector and its workforce, but services that people and communities access.

Our sector is used to implementing change. Our agility makes us strong service delivery partners, and helps us deliver services that make a real difference in people's lives.

Our sector also understands the communities we work in, know what works, and remember the history of what has gone before. We have a unique and useful contribution to make when change is being planned, implemented or evaluated.

Action needed:

If change is going to be well designed, achieve its aims and improve the services we deliver it needs to be co-designed, implemented and evaluated in partnership with our sector. Government and the sector need to work together to clearly define what we are trying to achieve and determine the timeframes for delivery. The change needs to be based on the evidence about what works, and reflects the needs and aspirations of the people, communities and services it impacts. Processes need to promote collaboration rather than competition, and respect local knowledge. And we need to remember the lessons of the past and not repeat mistakes.

Recommendation:

That the NSW Government commit that future reform and change processes will:

- Be co-designed with the sector, and implemented and evaluated in partnership,
- Respect the local knowledge of place based community organisations and the community connections that Aboriginal, CALD, LGBTI and other specialist services have,
- Promote the self determination of Aboriginal peoples and communities,
- Have clear objectives, rationale and timeframes, and
- Learn the lessons of past processes and plan to avoid repeating their mistakes.

Policy, Program and Project Design

Understanding that each community is different; different needs, clientele, support available. Therefore funding, packages, service delivery etc can't be a standard one size fits all. (NCOSS Sector Development Survey p19)

What is the issue?

Policy is central to the services we deliver every day. It sets the direction for our work, shapes our service delivery, and guides decision-making by government and our sector. Without good policy and program design, our service quality and the outcomes achieved by the people and communities we work with are impaired.

Our sector knows what works, understands the people and communities we work with, and can be a useful partner to government in shaping policy and programs. But at the moment, this rich vein of knowledge is not being used to its full potential – particularly the knowledge held in smaller organisations, organisations in regional areas and those with specialist knowledge. This means that government policy can miss the mark, have unintended consequences or fail to achieve its stated objectives.

We know that democratically elected governments are elected to implement an agenda and have a mandate from the people. But that agenda must ensure the basic human rights of all peoples. And our sector can help to ensure that their agenda and the policy that comes out of it breaks the cycle of disadvantage and meets the needs and aspirations of the people and communities of NSW.

Action needed:

The best policies and programs are based on the evidence about what works. They are shaped in partnership with the people, communities and organisations they affect, and respect their human rights. They are created with the knowledge of how they will impact other policies and service systems. And they are created with a view to the long term. We need a policy development process that achieves that.

Recommendation:

That the NSW Government commit to a policy development process that ensures policies and programs:

- Are shaped in partnership with the people, communities and organisations they affect,
- Are based on the evidence about what works, and taking advantage of the knowledge that exists in the people, communities and organisations that the policies will affect,
- Are created with the knowledge of how they impact other policies and service systems,
- Respect the human rights of all peoples and address discrimination and disadvantage, and
- Are created with a view to the long term.

Procurement and Commissioning

...make funding applications easier without the implications of having to employ professional tender writers to apply for funding. (NCOSS Sector Development Survey p18)

Not knowing what form the reforms will take (is a problem) - will it be open tender, will it be re-negotiations or selective tenders? (Large Aboriginal health and support service) (State of the community service sector in NSW 2015 p65)

What is the issue?

Transparent and ethical “purchasing” processes are important for the credibility of government procurement and to ensure the best equipped provider delivers the services. They underpin the relationship and form the basis for the partnership between funders and providers. When implemented badly, they can fray and damage relationships of collaboration between funders and service providers, and between community organisations working together on the ground to achieve outcomes for people and communities. Poorly designed processes can impact on the continuity of services, affect the sustainability of community organisations and lead to unnecessary dislocation.

Organisations in our sector are overwhelmingly well managed and businesslike in our approach to government procurement processes. But currently, every department has a different process, and those processes are designed in a way that damages our relationships with each other, and impairs the sustainability of our organisations. Timeframes are often too short, funding insufficient, and they promote competition rather than collaboration. Government is not easy to do business with!

Action needed:

Procurement processes need to be consistent across government and provide long-term certainty for our sector. They need to be long enough to get the best out of the organisations applying. They need to ensure that sufficient funding is provided to cover the full cost of service delivery – including indexation that recognises increases in population and the cost of delivering services. And they need to be ethical and transparent, ensure that the best equipped provider gets the funding, and promote relationships of collaboration rather than competition.

Recommendation:

That the NSW Government work with our sector to develop a whole-of-government procurement framework that ensures NGO procurement:

- Is ethical and transparent, and ensures the best equipped provider is successful,
- Builds in sufficient time to get the best out of all applicants,
- Is consistent across all government agencies,
- Delivers long term certainty for our sector through longer contracts,
- Includes sufficient resources to cover the full cost of service delivery, and
- Promotes relationships of collaboration rather than competition.

Contracts

The relationship between the government and not-for-profit parties in the delivery of government services is largely defined in the actual contracts they may enter into to. It is here that the rubber hits the road. (Whitlam Institute 2009 p)

Stability for the sector. No one knows what is happening or where we are heading or what the future will look like with contracts this short. (NCOSS Sector Development Survey p16)

What is the issue?

Contracts set out the terms of the relationship between funder and service provider. They don't govern everything, and they don't create the goodwill necessary for their operation. But they create a framework for the transactional element to the relationship.

Government contracts thousands of service providers from our sector. And in that context, it makes sense that there is some degree of standardisation. But bizarrely, different agencies have different contracts, different reporting requirements and different expectations about how a contract will be managed. Despite this lack of consistency, almost all contracts increase the burden of red tape with no discernible improvement to service quality, are rigid and inflexible, and often their terms are manifestly unfair. The cost of compliance with these contracts and their terms impacts on the sustainability of organisations and the quality of services we deliver. And in some cases, particularly at the federal level, they have constrained the capacity of the sector to fulfil one of its most important roles – advocacy on behalf of the people and communities they work with.

In 2009, the Whitlam Institute published *A Question of Balance* - essentially a blueprint for fair and reasonable contracting between the sector and government. The principles and recommendations in this paper are sound, and should form the basis for the renegotiation of the contracts between government and our sector.

Action needed:

There will always be a power imbalance between government funders and service providers – particularly smaller providers. To address this and ensure the relationship is based on goodwill and shared objectives, contracts need to be fair, long enough to provide certainty, proportionate to the risk, balance accountability and compliance costs and ensure that the respective roles of funder and service provider are respected. Funding contracts should be generally consistent across government, with the capacity for some flexibility to meet the needs of service providers.

Recommendation:

That the NSW Government negotiate with the sector to develop a new, standardised NGO contract with NGOs that is based on the principles outlined in the Whitlam Institute's paper *A Question of Balance*, and is:

- Fair and proportionate to the risk and size of the contract,
- Balances accountability and compliance costs, and

- Respects the right and responsibility of NGOs to advocate for the rights and interests of the people and communities they work with.

Red Tape, Compliance and Regulation

I find a number of workers are caught behind their desks meeting compliance and regulation frameworks. I have found this has meant limited involvement from a number of services in key strategic projects on broader issues and even involvement in partnerships. NCOSS PBS Consultation 2015 p5

What is the issue?

It is reasonable to expect that community organisations funded by government demonstrate that they are meeting their contract obligations and delivering the services they are funded to deliver. Reporting can improve the quality of service delivery, inform better policy and program design and provide a picture to funders of what is happening on the ground.

However, too often reporting and compliance requirements are not proportionate and do not reflect actual risk. Organisations receiving funding from a number of government agencies face a range of inconsistent contracting and compliance processes which together create an unnecessary burden on organisations and can impact on their capacity to deliver services to meet client need.

At the same time, while accreditation and standards ensure that service providers are equipped to do their job, they create a compliance burden for organisations. When organisations are required to meet multiple standards this further increases the red tape burden, particularly where the requirements of these standards overlap.

Action needed:

The NSW Government has reduced some red tape already, and implementing a new, standardised NGO contract with NGOs that is based on the principles outlined in the Whitlam Institute's paper *A Question of Balance* would go a long way to reducing the compliance burden experienced by community sector organisations. That said, funders also need to align their accreditation processes, streamline reporting systems and balance accountability requirements against the cost of their implementation.

Recommendation:

That the NSW Government undertake a review of the compliance burden experienced by our sector that delivers:

- A new, standardised contract with NGOs that is based on the principles outlined in the Whitlam Institute's paper *A Question of Balance*,
- Streamlining of accreditation requirements across government agencies,
- Alignment of reporting requirements within and across government agencies,
- Removal of the requirement for financial acquittals for outputs/outcomes based contracts, and
- Incorporation of the Australian Charities and Not-for-profit Commission's (ACNC) Charity Passport and 'Report once, use often' framework into the reporting frameworks of government agencies.

Communication and Engagement

Any engagement needs to be meaningful for all parties, this has rarely occurred in NSW. (Fair Deal: PBS Consultation 2015 p5)

Crystal balling is costly, time consuming time that could be spent developing our organisations. (NCOSS Sector Development Survey p17)

What is the issue?

A significant proportion of the recommendations made in this document are essentially about communication and engagement between the sector and government. Regular, respectful and meaningful communication and engagement is central to an effective and cohesive relationship.

Whether it relates to reform and change, policy and program design, procurement processes, contract negotiation and management, or regulation of our sector, a respectful dialogue is important to working through issues, solving problems and ensuring that the best outcome is achieved for the people and communities we work with. And much of the time the communication between government and our sector is effective and respectful. Often it is not.

Action needed:

Implementing the other recommendations made here will do much to improve the communication between government and our sector, and ensure that our engagement is respectful, creates goodwill and helps solve problems.

Recommendation:

That the NSW Government commit to improving its communication with our sector by implementing the recommendations made here via a whole of government framework, compact or strategy.