

# Commissioning for outcomes in NSW – an NGO perspective

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## Discussion paper

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On 25 October 2018 a workshop was conducted on 25 October involving FACS, NGO peaks, providers, regulators and other key stakeholders on the future shape of commissioning for services for children and families in NSW. A draft of this paper formed the basis of discussion for the workshop, and has been updated to reflect major outcomes from the workshop. The paper is based on interviews with 20 NGO representatives, a number of other stakeholders, and a review of key documents and research. It shows that there are opportunities for a constructive reset of the commissioning relationship between government and the NGO sector, based on some agreed principles and proposals for shared work. Some indicative strategic directions for the NGO sector also emerge from the data. A major finding is that any government/ NGO commissioning reset will need to have as a priority strategies for meaningful engagement with children and young people, who appear to have been largely absent in many key discussions about service design.

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## Glossary of terms

**Commissioning:** “...a cycle that involves planning the service system, designing services, selecting, overseeing and engaging with providers, managing contracts and undertaking ongoing monitoring, evaluation and improvement”.(Productivity Commission 2017)

**Commissioning:** “a collaborative process to assess individual and community needs and assets, agree on outcomes, and design and evaluate the most efficient response to achieve outcomes over the short and long term”(FACS 2017).

**Co-design:** “An approach to designing services and system responses that attempts to actively involve all relevant stakeholders in the design process to help ensure the result meets their needs and is usable. Stakeholders involved will differ depending on the issue being tackled but in the child and family service space it is likely to include children, their families, front-line staff (NGO and government), contract managers, other government staff, NGO service providers, advocacy groups and peak bodies”.(CSIA 2018:7)

**Collaborative governance:** “A governing arrangement where one or more public agencies directly engage non-state stakeholders in a collective decision-making process that is formal, consensus-oriented, and deliberative and that aims to make or implement public policy or manage public programs or assets'. (Ansell and Gash 2008)

**Co-production:** a process in the delivery of public services in which citizens are meaningfully involved in the creation of public policies and services.

**Market stewardship:** the planning and regulation of markets for public services, in order to ensure the equitable provision of services, in particular in areas of market failure, or where performance is difficult to measure

**Relational contracts:** contracts which set out broad frameworks for the achievement of agreed targets over time, with mechanisms for negotiation for change in response to altered circumstances and unanticipated developments.

**Responsive regulation:** regulation which makes a flexible choice between coercive and co-operative regulatory strategies, with first preference for strategies that are less coercive, less interventionist, and less expensive.

**Transactional contracts:** economic exchanges, often short-term, based on carefully detailed contractual agreements designed to anticipate and control developments during the life of the contract

## Executive summary

Over the last six months, commissioning of services for children and families has been discussed at a series of workshops involving FACS, representatives of the non-government sector, and other key stakeholders, facilitated by KPMG.

The workshop process has succeeded in bringing key stakeholders to the table, created momentum and enabled the frank identification of contentious issues in a constructive environment.

At the most recent workshop, a subcommittee of non-government representatives was tasked with producing a short paper addressing co-governance and shared risk management from an NGO perspective. Drawing on interviews with more than 20 NGO stakeholders, as well as background briefings from regulators, departmental staff and other stakeholders, this paper sets out the issues raised for the NGO sector by commissioning. It identifies the strengths of the current system as well as risks, challenges, and opportunities for change. It identifies some priorities identified by interviewees for shared work between the sector and government, as well as strategic issues for the NGO sector, particularly the peaks.

### What does the evidence say commissioning with the NGO sector should look like?

Commissioning is a term that is used very broadly, and often ambiguously, as the two contrasting definitions in the glossary above indicate. Economists, and some central agencies, typically use “commissioning” to refer to the planned purchase of services by government, often with an implicit or explicit element of “command and control”. When used in the context of the human services, and service delivery by the NGO sector, commissioning is more usually associated with terms such as partnership, co-governance and co-design.

Commissioning of services for children and families with vulnerabilities is often claimed to be defined around the client/service user – to be “child centred”. The most challenging, important (and rarely achieved) element of any commissioning model in this context is to ensure that it is genuinely focused on the achievement of identified client outcomes, with meaningful engagement with service users and/or their advocates at every stage of the commissioning cycle.

The table below, drawn from extensive analysis of the policy literature, sets out the key elements of a traditional contracting or procurement model, and contrasts these with the optimal features of a “stewardship commissioning” model for the planning, procurement, delivery and evaluation of human services in partnership with the NGO sector.

**Table one: Contracting vs commissioning – a summary <sup>1</sup>**

	<b>Transactional Contracting</b>	<b>Intelligent/stewardship Commissioning</b>
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<sup>1</sup> This table is modified from Mason (2017) and draws on concepts from Van Slyke (2007:167) and Schillemans (2013)

Major theme	Assumes that interests will diverge as each party pursues its own rational self-interest (win/lose); a focus on control (mistrust)	Assumes that interests are capable of being aligned (win/win); a focus on collaboration and developing trust
<b><i>Pre-contractual need assessment and service design</i></b>		
How will the service be defined?	The funder decides what the service will be and then goes to market	The funder participates in consultative/collaborative processes with external providers and users to define service needs
Who will provide the service?	A competitive tendering or other competitive selection process	A preference for various forms of selected tender, interactive tendering, invitations to prequalified providers, joint ventures, lead agency/consortia models
What will the contract look like?	Contracts will be detailed and transactional, seeking to anticipate as many eventualities as possible and prevent “gaming” behaviour	Contracts will be relational, setting a broad framework and relying on negotiation between trusted partners to resolve disputes
What incentives will induce desired performance?	Financial/extrinsic rewards and sanctions set out in contract; use of litigation and cancellation of contract for non-performance	Some use of extrinsic incentives, but incorporating recognition and preservation of altruistic intrinsic motivations, through appropriate non-economic incentives
<b><i>Post-contractual administration</i></b>		
How will performance be measured?	Detailed measures decided by funder and set out in the contract; often an emphasis on easily quantified process and input measures	Joint process to agree on desirable outcomes to be achieved; development of strategies to achieve shared objectives
How will performance be monitored?	Frequent reports contractually required from provider to funder; random audits; external audit and investigation	A large element of self-regulation by providers through codes of conduct, and professional accreditation; peer review; minimal use of

		surveillance and coercive reporting requirements; responsive regulation
How are the interests of service users protected?	Random audits and checks by the funding agency or outside regulators; tracking of outcome measures; funding of 'customer' complaint and advocacy mechanisms; use of market mechanisms such as individual funding packages, pay by performance schemes	Client-centred "mission" of NFP providers; intrinsic motivations including ethical codes of professionals working with clients (health workers, social workers); client consultation mechanisms embedded in governance of NFP providers; consultation with service users on outcome measures – well-being, client satisfaction

In summary, the evidence is that a model based on relational contracts, responsive regulation, joint work and training and mutually agreed, client-centred outcomes, has the best chance of achieving outcomes that are both equitable and efficient

In contrast, the best current evidence indicates that models of contracting with the NGO sector which rely on highly detailed contracts, competitive tendering, financial penalties, high levels of monitoring, and a focus on inputs and procedures rather than outcomes, are poorly suited to service delivery with the NGO sector. Such models have been shown to result in escalating transaction costs, including increasingly expensive oversight and regulation costs, with little demonstrable improvement in client outcomes or other social benefits.

In the case of services such as OOHC, where clients are highly vulnerable to abuse, and the level of political and media volatility is acute, recent history shows that (Mason 2018) there will always be a relatively high degree of regulation and oversight, both through the contract and through external accountability mechanisms. Funding agencies such as FACS face strong pressures in reconciling the needs of ministers, central agencies and external accountability bodies such as the ICAC or Auditor General. These pressures can result in contracts and contractual monitoring which are highly transactional, and the imposition of additional layers of reporting. Regulators face similar pressures to demonstrate rigour and vigilance, which can be at the expense of ideal models of responsive regulation.

The challenge is to design a commissioning and regulatory model which provides appropriate protection for children and young people, without undesirably eroding opportunities for partnership, relational contracting and co-design with service providers and users.

### **What have been the key findings from interviews with key stakeholders?**

Interviews with stakeholders for this project identified many areas of common ground upon which to build. Many challenges were also identified, and these are detailed in the body of this report.

In brief, interviews and other data showed that for many stakeholders, the current commissioning process, despite early positive indications, more closely resembled a transactional contracting environment than any transformative commissioning process.

It is important to acknowledge at the outset that OOHC contracts are only a small segment of FACS contracting (1600 contracts with more than 700 providers) and that OOHC contracts themselves are now situated within the broader suite of PSP funding. Any funding model needs to be appropriate for the broad range of programs and services. However, because of the contentious and high profile nature of OOHC, its contracting and funding has tended to be much more tightly monitored and regulated than funding of other programs.

The major strengths and opportunities identified from the interviews and other data are as follows:

- \* There is an **appetite for change** but a lot of uncertainty about what government really means by commissioning; in particular, there is confusion about the respective roles of central agencies, Their Futures Matter, and FACS.
- \* There is an appetite to **re-examine the role of the peaks**; there is work to be done within the sector on re-examining the relative weight of industry support, social advocacy, client advocacy and community development functions.
- \* There is also recognition that providers and peaks may need to **increase their level of engagement and investment** in order to make co-design and co-governance processes meaningful and valuable
- \* There is willingness by all parties to look at **strategies to rebuild trust** between government and the NGO sector. There is also recognition of the need to build trust between NGOs which has in some cases been eroded by recent funding and other processes.
- \* There is a willingness by all parties to focus on the achievement of **client centred outcomes**, rather than inputs or financial outputs; but also a recognition that there is a poor history of defining such measures in the past. There is a poor history of engagement of children, young people and families in developing such measures and in governance generally.
- \* There is strong recognition of imperatives for **Aboriginal self-determination**, implementation of the Aboriginal placement principle and implementation of a genuine local decision-making (LDM) process.
- \* There is an interest in the impact of **investment based funding approaches** such as SBBs; but a lot of concern about the potential impact of pay by performance schemes in creating perverse incentives, and perpetuating expensive transactional contracting models.
- \* There is strong interest in working with FACS, regulators, oversight agencies to **reduce regulatory overlap, multiple reporting and compliance processes**

The strongest themes emerging from NGO interviews were as follows:

**Table two: key themes from NGO interviews**

	Theme	Percentage
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		<b>of interviewees agreeing (n=20)</b>
<b>From contracting to commissioning</b>	It isn't clear how commissioning is different from past contracting and funding models	90%
	There is confusion about who defines policy settings for commissioning, particularly the role of TFM and Treasury	50%
	There are strengths in the current commissioning process that we can build on	50%
	Commissioning should have strong co-design/co-governance elements	75%
<b>The voice of the child and commissioning</b>	Both government and providers need to do more to meaningfully consult children and young people, especially on service design	90%
<b>Contract administration</b>	Competition for funds makes it hard to collaborate	45%
	Contract monitoring is time intensive, intrusive and unproductive	85%
	It feels like command and control, not a partnership	60%
	Contract monitoring is focussed on inputs and processes, not outcomes	70%
	Measuring impacts and benefits are important, even if the measures are hard to define	65%
	Data flow and reporting is a one way street	50%
<b>Sector reform</b>	There are too many providers in the sector	40%
	Peak organisations need to be strengthened	55%
	Peak organisations struggle to find their role when member organisations are	60%

	competing for funds	
	It is hard to reconcile peak advocacy on social justice with industry development and representation roles	40%
	Government needs to consult directly with providers, not peaks	25%
	Large consultative forums are a waste of time	30%
	Government should move to a lead agency model	5%
	The sector needs to reform itself, there are low performers	25%
<b>Regulation and oversight</b>	Regulation/accreditation through the OCG is useful	65%
	There is a lot of confusing overlap between contract administration/monitoring, and the work of the OCG	75%
	The Royal Commission has changed the way providers think about listening to children's voices	50%
<b>Shared accountability</b>	Frequent political and bureaucratic changes make it hard to plan long term and to have trust in shared accountability	85%

## Where to from here?

### Joint work:

A number of potentially fruitful joint projects were identified which have the potential to improve trust between government and the sector within a commissioning environment:

- Joint work between government, peaks, CREATE, the ACYP and the Guardian on strategies for **meaningful engagement of children and young people** at every stage of the commissioning cycle was identified as highly valuable.
- The **Ministerial Advisory Group** (MAG) has been reformed, and has already provided a valuable opportunity to clarify issues around commissioning and the relationship between

government and the sector going forward. The MAG was identified as a potential future forum to carry forward some of the projects identified in this report, particularly through engaging participants in discussions of joint projects to reset the relationship through shared work.

- ACOSS has identified some **detailed draft principles for commissioning** by government with the NGO sector. These are presented in section six of this report, adapted for the NSW context. Workshop participants agreed that these could form a useful basis for discussion and agreement going forward.
- Shared work with ABSEC on progressing the Aboriginal Commissioning Approach, including work toward implementation of Local Decision Making (LDM) as per Premier's Memorandum M2015-01
- Shared work on a number of **place or program based collaborative approaches**.
- A renewed focus on **shared evidence and data** – moving away from the perceived “one way street” of command and control reporting.

### Where to for the NGO sector?

There was broad acknowledgement in the research for this project, and in the workshop, that “sector readiness” and engagement was a major element in any meaningful partnership or co-governance process within commissioning. A large number of issues were identified which may only be addressed through the internal strategic planning and consultative processes of the NGO sector, peak organisations and service providers. The responses from interviewees, summarised in this report, may offer a starting point for some of these deliberations. Key issues identified for future work are likely to include:

- The need to agree within the sector on principles for engagement with government and with service users within a commissioning environment. The ACOSS draft principles offer a useful starting point for discussion about a positive “reset” of the relationship with government.
- The need for sector agreement, or agreement by significant providers, on principles for engagement in collaborative projects suitable for testing of joined up approaches and pooled funding, whether through a collective impact or other suitable framework. Principles recently put forward by the Queensland Community Services Industry Alliance (CSIA 2018:41), set out in detail in **section seven** of this document offer a positive starting position for discussion.
- The role and ongoing resourcing of peak organisations, including the contribution of major providers to that resourcing.
- Strategies to discuss and reprioritise the role of the peaks in roles such as social justice advocacy, industry support and capability building, and direct service provision.

## Conclusion and recommendations

Commissioning by government with the NGO sector to provide services for children, young people, families and communities offers an opportunity to move away from many of the inefficiencies and inequities of transactional contracting and funding models. From the point of view of many in the NGO sector in NSW, to achieve commissioning based around partnership and co-design would necessitate a major reset of the relationship between government and the sector.

This series of workshops, facilitated by KPMG, has performed a valuable role in crystallising issues and creating momentum for renewed joint effort. Workshop participants agreed that the projects identified in this paper will need to be carried forward in appropriate joint forums and the internal processes of the sector and of government.

Workshop participants agreed that, subject to the deliberations of the ACWA Board:

A short briefing paper drawn from this report should be circulated broadly by ACWA to relevant stakeholders to facilitate constructive future work on reforming commissioning.

The paper should identify 4 major streams of work to progress-

- work on agreed principles to underpin commissioning work, based on the draft ACOSS principles as outlined in this paper
- work on agreed principles to underpin collaborations within the sector, building on the CSIA principles as outlined in this paper
- work on embedding the voice and rights of children and young people in the commissioning process, building on the work already being undertaken by the ACYP with government and non-government organisations
- as a priority, FACS and TFM will work to give broader access to the sector to a range of data, to facilitate joint work on system reform

Participants were clear that the future process to further these pieces of work should be in forums convened and led by the sector, albeit in partnership with FACS, and with joint agenda setting. ACWA may wish to consider the role it wants to take in leading this work, or calling for nominations for a steering group to further this work.

## 1. Introduction

Over the past six months, representatives of the child and family services sector, as well as regulators and oversight agencies, have met with senior representatives of the Department of Family and Community Services, in a series of workshops facilitated by KPMG. The workshops have acted as a valuable opportunity to bring key stakeholders together, to clarify emerging issues and to enable honest and constructive discussion.

The meeting of 4 July focussed on options for shared governance and risk management, including consideration of possible co-governance models based on various prototypes drawn from other jurisdictions. Some key issues raised in the forum, concerned:

- The stake in governance and decision making that the non-government sector is seeking
- The adequacy or otherwise of current collaborative structures, including structures within the non-government sector itself, as well as between the sector and government
- The values that the non-government sector brings to the table – the potential tension between service delivery and broader social advocacy
- How can the sector ensure that the voices of children and young people are heard in the commissioning process?
- How can Aboriginal self-determination be respected?

The meeting resolved that for the final workshop on 25 October a subgroup of NGO representatives, led by ACWA present at the meeting should produce a discussion paper setting out some agreed principles for discussion with the wider group.

## 2. Purpose and structure of this paper

The purpose of this paper, which has been revised to reflect the subsequent discussion at the workshop, is to elucidate what kind of system the NGO sector is seeking for the commissioning of services such as OOHC, and the basis for NGO participation at various points in the commissioning cycle.

This paper identifies a number of additional issues, which though important, were beyond the scope of discussion in the KPMG workshop. These issues may usefully be addressed by the sector, and the government, in internal or joint forums. This paper provides a summary of information obtained from interviews and review of relevant documentation, which may be of use in future deliberations.

The overall focus of the paper is to take a strengths based approach, to look at recent experience within NSW and to identify opportunities for future co-governance in a commissioning approach. **Section 3** outlines the research process undertaken to date. **Section 4** contains definitions of key terms, and discusses models of contracting and commissioning with the NGO sector, based on

academic and policy literature. **Section 5** summarises the responses of interview subjects to the standard questions asked. **Section 6** puts forward for discussion principles for commissioning, adapted from the recently distributed ACOSS discussion paper. Section 7 provides a summary of the conclusions and possible next steps as agreed in the workshop.

### 3. Data collection

20 semi-structured interviews, using some pre-agreed questions, were conducted with representatives from ACWA, ABSEC and FAMS, as well as CEOs and Board members from a range of NGOs. Less structured discussions were conducted with the OCG, the Office of the Ombudsman and the Advocate for Children and Young People, as well as a small number of relevant staff from FACS and interstate. An approach was made to CREATE but an interview was not possible within the timeframe. There is a large volume of academic literature on this subject which informs this paper, and some key references are provided at the end of this paper.

There is a very large quantity of recent policy and operational material concerning commissioning. Most relevantly, in July ACOSS issued a short discussion paper which invites comment from the sector on commissioning in the context of services funded by the Commonwealth Department of Social Services. In addition, in May the Community Services Industry Alliance (CSIA) in Queensland produced a report covering similar issues. Wherever possible this report is consistent in structure and language with those other pieces of work.

Importantly, earlier this year ABSEC produced *An Aboriginal Commissioning Approach to Aboriginal Child and Family Services in NSW: A Conceptual Design*. The ABSEC document is acknowledged and referenced in this report. No attempt has been made to cherry-pick the findings and recommendations of that document, which needs to be read in its entirety, along with associated material produced by ABSEC, as a comprehensive approach.

### 4. Defining Commissioning

Commissioning is a concept increasingly widely used in Australian public administration, although it is often poorly or ambiguously defined. Deriving from the UK, where it has been implemented, studied and evaluated over a much longer period than in Australia, it can be used to encompass any process of planned purchase of services by government. It has been defined as “the cycle of assessing the needs of people in an area, designing and then securing appropriate service” (UK Cabinet Office 2010) and its purpose was said by the Audit Office of NSW (2016:3) to be “to promote a more competitive and accountable environment leading to lower costs and improved services”. In documentation from central agencies in particular, the term “commissioning”, often denotes the planned procurement of services by government, with priority given to the use of contestability among providers to drive down cost and a focus on outcomes, often quantified through the use of financial performance indicators, with a focus on the service user as “customer”, and the use of customer voice a primary method of achieving accountability.

In commissioning for the human services with NFP providers it is more common to focus on the desirability of collaboration, partnership and elements of co-design and co-governance.

The importance of a collaborative approach is recognised in many documents and communications from FACS:

“Commissioning is a collaborative process to assess individual and community needs and assets, agree on outcomes, and design and evaluate the most efficient response to achieve outcomes over the short and long term”(FACS 2017).

This kind of commissioning is also known as intelligent, strategic or stewardship commissioning.

Common themes are:

- Early, meaningful participation by providers and users in service design
- The use of relational, rather than transactional contracts, with a focus on shared goal setting and dispute resolution rather than highly detailed and prescriptive contracts
- Emphasis on achievement of client focused outcomes, including client satisfaction measures, rather than on inputs and intensive monitoring of internal processes

A table setting out the differences between a transactional contracting model, and this type of commissioning, drawn from the literature, is set out below.

**Table one: Contracting vs commissioning – a summary <sup>2</sup>**

	<b>Transactional Contracting</b>	<b>Intelligent/stewardship Commissioning</b>
Major theme	Assumes that interests will diverge as each party pursues its own rational self-interest (win/lose); a focus on control (mistrust)	Assumes that interests are capable of being aligned (win/win); a focus on collaboration (trust)
<b><i>Pre-contractual need assessment and service design</i></b>		
How will the service be defined?	The funder decides what the service will be and then goes to market	The funder participates in consultative/collaborative processes with external providers and users to define service needs
Who will provide the service?	A competitive tendering or other competitive selection	Preference for various forms of selected tender, interactive tendering, invitations to

<sup>2</sup> This table is modified from Mason (2017) and draws on concepts Van Slyke (2007:167) and Schillemans (2013)

	process	prequalified providers, joint ventures, lead agency/consortia models
What will the contract look like?	Contracts will be detailed and transactional, seeking to anticipate as many eventualities as possible and prevent “gaming” behaviour	Contracts will be relational, setting a broad framework and relying on negotiation between trusted partners to resolve disputes
What incentives will induce desired performance?	Financial/extrinsic rewards and sanctions set out in contract; use of litigation and cancellation of contract for non-performance	Some use of extrinsic incentives, but incorporating recognition and preservation of altruistic intrinsic motivations, through appropriate non-economic incentives
<b><i>Post-contractual administration</i></b>		
How will performance be measured?	Detailed measures decided by funder and set out in the contract; often an emphasis on easily quantified process and input measures	Joint process to agree on desirable outcomes to be achieved; development of strategies to achieve shared objectives
How will performance be monitored?	Frequent reports contractually required from provider to funder; random audits; external audit and investigation	A large element of self-regulation by providers through codes of conduct, and professional accreditation; peer review; minimal use of surveillance and coercive reporting requirements; responsive regulation
How are the interests of service users protected?	Random audits and checks by the funding agency or outside regulators; tracking of outcome measures; funding of ‘customer’ complaint and advocacy mechanisms; use of market mechanisms such as individual funding packages, pay by performance schemes	Client-centred “mission” of NFP providers; intrinsic motivations including ethical codes of professionals working with clients (health workers, social workers); client consultation mechanisms embedded in governance of NFP providers; consultation with service users on outcome measures – well-being, client satisfaction

## What are the reasons to pursue a stewardship commissioning model in the human services?

The human services are complex. It is often difficult to measure outcomes for clients, particularly in the short term, and there is a lack of evidence based approaches which have demonstrated effectiveness. It can also be difficult to attribute any given outcome to the work or intervention of one particular agency.

In addition, effective delivery of many human services depends on the establishment, long term, of trusting relationships between providers and service users. This kind of relationship can be difficult to reconcile with a volatile, consumer driven, contestable model

The nature of the relationship between government and the non-government sector is also complex. As a result of contracting processes in Australia over recent decades, the work of thousands of charitable, voluntary and community-based organisations is now situated within a fee-for-service market for the provision of human services. Many NGOs have become dependent on securing an ongoing stream of government funding, in many cases competing with for-profit providers. Competition for contracts produces internal pressures on the relationships these organisations have with staff, volunteers, and the communities they seek to serve. This marketisation of the NGO sector arguably puts at risk the community contributions of the NGO sector to civil society, or to the generation of social capital.

\* Marketisation of the activity of NGO organisations in the human services has been shown to erode collaborative behaviour between organisations and adversely impact upon the client-centred motivations of NGO staff. NGO providers become more market driven, corporatised and more focused on the achievement of financial targets, including through gaming and creaming of clients.

\*Current developments in the aged care sector, currently the subject of a Royal Commission, show some of the adverse client impacts that can be expected from marketisation of care.

\* Researchers have shown the limitations of reliance upon “consumer voice” as a means of disciplining markets and preventing exploitation of both taxpayers and service users (see for example Carey et al 2018 re the NDIS). So far as children and young people in care are concerned, meaningful opportunities to exercise “consumer voice” may be particularly restricted.

\* The intensive monitoring, auditing and surveillance imposed under a transactional contracting model, or even some commissioning models, is highly costly for both the funding agency and the provider. Over time, the more that such intensive monitoring is applied, the lower the level of trust becomes between contracted parties. A vicious circle of additional, expensive monitoring is imposed, increasing poor relations between contracted parties.

It is important to bear in mind that the economic inefficiencies of transactional contracting and command and control monitoring have led to broad acceptance of relational models in many private sector contexts - for example, in building and infrastructure (see for example Rowlinson and Cheung 2004 for a discussion of models such as Alliance contracting in the construction industry). Research shows that a command and control approach to contracting, and the use of punitive sanctions and

incentives, has the potential to demotivate NGO staff and other professionals, who become less productive, and less inclined to exercise professional discretion and to innovate. Many NGO organisations, and their frontline staff, have been shown to be responsive to non-economic incentives, such as professional recognition, the ability to participate in, and contribute to, high level government and political forums, and other trust building activities.

Research also shows that intensive monitoring schemes tend to be inconsistently applied in practice, providing an illusion of safe oversight. A large amount of the time of funders and providers becomes focused on easily measured or observed activity, with the result that real risks to vulnerable clients continue to occur despite expensive monitoring processes.

## **What are the risks and challenges of a stewardship commissioning in the human services?**

Before proceeding further it is important to acknowledge that research on the efficacy of collaborative models of commissioning in the human services is only in its infancy. While there is good evidence that command and control models are ineffective, counter-productive and expensive, it is important to acknowledge that many collaborative approaches are also expensive and time-consuming, and there can be a lack of rigour applied to testing whether such approaches have actually increased the quality of services and outcomes for service users (Dickinson 2015). As with related concepts – co-design, co-production, collective impact - there are many challenges in defining and implementing collaborative approaches. These can briefly be acknowledged as follows:

- Collaboration is hard work, takes a long time and can be expensive
- Building meaningful consultative processes which enable relatively powerless voices to be heard is very challenging; it can be easy for vested interests and “noisy” stakeholders to dominate the process (Donaldson 2018)
- It is challenging to keep the interests of service users at the centre of commissioning. There are a number of examples of commissioning processes where the major outcome has been increased trust between government and providers, but a lack of demonstrated progress on improved outcomes for service users (see, for example, Miller et al 2013)
- Relatedly, there is a lack of good evidence of approaches which “work” in services such as OOHC. Joint investment in client-centred, outcome based initiatives is very difficult in the absence of agreed measures, without risking perverse incentives and unintended outcomes. Although government and many providers agree that it is important to use measures such as the satisfaction of children and young people, such measures have yet to be applied, and there are practical and ethical problems to be overcome (Tilbury et al 2010)

There are many factors within the NGO sector and within government which favour reversion, over time, to the status quo. Sellick (2014), for example, discusses an example in the United Kingdom when functioning, collaborative commissioning process was rapidly replaced by a command and control model when the political and economic climate deteriorated.

Research shows that the wider accountability environment, including regulation, oversight and political scrutiny, has a strong impact upon the way that commissioning is undertaken, particularly in OOHC (Mason 2017). The recent history of OOHC, including the recent Royal Commission into

Institutional Responses to Child Sexual Abuse, shows that “light touch” or responsive regulation in this sector, which would be optimal for a stewardship commissioning model, is unlikely to be achieved. Failures of governance, or high profile allegations of malfeasance which have been identified within NGO and for-profit providers (see Begley 2018 re Guardian Youth Care), have led to repeated calls for a “follow the money” power which would enable organisations such as ICAC or the Auditor-General to directly scrutinise NGOs. The future, therefore, may be an intensification of regulation and oversight, rather than the reverse.

## 5. What did interviewees say about the current experience of commissioning in NSW?

Interviews with stakeholders for this project identified many areas of common ground upon which to build. Many challenges were also identified. In brief, interviews and other data showed that for many stakeholders, the current commissioning process, despite early positive indications, more closely resembled a transactional contracting environment than any transformative commissioning process.

The major strengths and opportunities identified from the interviews and other data are as follows:

- \* There is an **appetite for change** but a lot of uncertainty about what government really means by commissioning; in particular, there is confusion about the respective roles of central agencies, Their Futures Matter, and FACS. Recently, some work has been undertaken through the MAG in clarifying some of this confusion, and the MAG will continue to offer an opportunity to rebuild trust through shared work of this kind.
- \* There is an appetite to **re-examine the role of the peaks**; work is already being undertaken within the sector on re-examining the relative weight of industry support, social advocacy, client advocacy and community development functions.
- \* There is recognition that providers and peaks may need to **increase their level of engagement and investment** in order to make co-design and co-governance processes meaningful and valuable (while also acknowledging the very costly and time-consuming nature of such processes, especially for small organisations).
- \* There is willingness by all parties to look at **strategies to rebuild trust** between government and the NGO sector. There is also recognition of the need to build trust within the sector which has in some cases been eroded by recent funding and other processes
- \* There is a willingness by all parties to focus on the achievement of **client centred outcomes**, rather than inputs or financial outputs; but also a recognition that there is a poor history of defining such measures in the past. There is a poor history of engagement of children, young people and families in developing such measures and in governance generally.

\* There is strong recognition of imperatives for **Aboriginal self-determination**, implementation of the Aboriginal placement principle and implementation of a genuine local decision-making (LDM) process.

\* There is an interest in the impact of **investment based funding approaches** such as SBBs; but a lot of concern about the impact of pay by performance schemes in creating perverse incentives, and perpetuating expensive transactional contracting models.

\* There is strong interest in working with FACS, regulators, oversight agencies to **reduce regulatory overlap, multiple reporting and compliance processes**

The strongest themes emerging from NGO interviews were as follows:

**Table two: key themes from NGO interviews**

	<b>Theme</b>	<b>Percentage of interviewees agreeing (n=20)</b>
<b>From contracting to commissioning</b>	It isn't clear how commissioning is different from past contracting and funding models	90%
	There is confusion about who defines policy settings for commissioning, particularly the role of TFM	50%
	There are strengths in the current commissioning process that we can build on	50%
	Commissioning should have co-design/co-governance	75%
<b>The voice of the child and commissioning</b>	Both government and providers need to do more to meaningfully consult children and young people, especially on service design	90%

<b>Contract administration</b>	Competition for funds makes it hard to collaborate	45%
	Contract monitoring is time intensive, intrusive and unproductive	85%
	It feels like command and control, not a partnership	60%
	Contract monitoring is focussed on inputs and processes, not outcomes	70%
	Measuring impacts and benefits are important, even if the measures are hard to define	65%
	Data flow and reporting is a one way street	50%
<b>Sector reform</b>	There are too many providers in the sector	40%
	Peak organisations need to be strengthened	55%
	Peak organisations struggle to find their role when members are competing for funds	60%
	It is hard to reconcile peak advocacy on social justice with industry development and representation roles	40%
	Government needs to consult directly with providers, not peaks	25%
	Large consultative forums are a waste of time	30%
	Government should move to a lead agency model	5%

	The sector needs to reform itself, there are low performers	25%
<b>Regulation and oversight</b>	Regulation/accreditation through the OCG is useful	65%
	There is a lot of confusing overlap between contract administration/monitoring, and the work of the OCG	75%
	The Royal Commission has changed the way providers think about listening to children's voices	50%
<b>Shared accountability</b>	Frequent political and bureaucratic changes make it hard to plan long term and have trust in shared accountability	85%

## 5.1 What did interviewees think should be the difference between contracting and commissioning?

Overwhelmingly, the most common aspect of commissioning that interviewees saw as desirable was to move away from a command and control contracting approach, to an approach where the rhetoric of shared governance and partnership became a reality. However, interviewees from all agencies, large and small, state-wide or regional, reported quite a different experience in practice.

*There should be a strong co-design component. But that has not been recognised or built in.*

*They don't let go of the reins...it is fraught. It gets so operational. It should be higher level, "are you achieving your case plan goals". But it is very detailed oversight, of things that should be left to the Guardian*

*The government just saw commissioning as a mechanism to shift from direct service provision, to pass on the risk through a contracting process. And the whole process of designing it was nothing like*

*commissioning, we went to “information sessions” in big rooms. And if you spoke up and questioned a fundamental premise, the whole discussion was closed down. The group was too big to take on any of the contentious issues.*

*We don’t see it as a commissioning process. It is a dictatorship*

Interviewees also saw commissioning as an opportunity to use data, to try to understand where the gaps in service provision lay, and to plan accordingly

*It should be a mindset around gathering people together to understand how to do things differently; a mindset around shifting resources to the early intervention stage, getting away from the crisis response*

Commissioning, in this context, was seen to offer a way for continuous reform, in a cycle of planning, implementation and review, moving away from the disruption and discontinuity currently being experienced.

*If we had commissioning, we would have clarity about the cycle, we would know where we are, and where the system was up to; we wouldn’t have these hard, abrupt reform announcements and “contract cliffs”*

Interviewees admitted that despite many “information sessions” from the Department they were in the dark about what the advantages of the move from a contracting to a commissioning model were supposed to be:

*I don’t have a great idea about the difference. But the people in charge don’t either. They call them discussions and consultations, but they don’t feel like it!*

*We are all still struggling to talk the same language – we mean different things when we talk about commissioning. Most people think when FACS talks about commissioning it just means contracting and competitive tendering, like before. Just new words for the same thing*

## **5.2 How did interviewees think commissioning could become more child centred?**

Most interviewees were able to identify processes as part of contract management at which the individual needs of children were discussed, often in the context of “difficult cases”. Some agencies were able to identify strong measures that they had taken in order to understand how children in care felt about safety, especially in the wake of the Royal Commission and recent work by the National Children’s Commissioner:

*We have invested heavily in child safety. We have done a survey of our clients – did they feel safe in our service? We have done a public report. We used tools developed by the Australian Catholic University. We have a child safety improvement group, and we will do annual surveys to follow up*

*We have the [Aboriginal] youth ambassador program – young people who have been in the system. It is a good model – a centralised youth engagement model*

*Kids want to have a say. And they want you to act, not just listen.*

However, very few interviewees were able to identify formal processes undertaken by either FACS or their own agency to include children and young people in discussions about service design, or using client feedback systematically as the basis for system reform.

Many interviewees commented that processes within their own agencies for consultation with children and young people were limited and could be improved. One interviewee discussed the idea of client representatives on Boards and other governance bodies, but said that little progress had been made, especially in comparison to disability or housing NGOs.

*If you asked most NGOS they would say that they are child centred/ family centred. But I don't know that we really have evidence of that. Organisations are set up to provide standard responses, rather than what people actually need*

One interviewee pointed out that at an individual level, the major outcome measure of restoration was child centred – but they saw restoration as a problematic measure which could create perverse incentives. This interviewee said that restoration as an outcome was too generic and high level to be genuinely child centred – there needed to be a more “granular, focused measure that showed needs and outcomes for individual children.”

*We have a massive number of items that we report against, a huge amount of detail. If you knew the conversation [with FACS] was going to be about the child centred issues you would prepare accordingly, but it never is*

*There is a lot of process reporting in contract monitoring when it comes to kids – it is tick a box, “do you have a case plan”. The Quality Assurance Framework – from what I have seen, it is ticking a box for the funder, it is not concrete. Anyway, I ask is FACS the right place to be measuring quality? Why isn't it with the regulator, the OCG?*

*There is a strong sense at the moment that the model [from FACS] is economically driven, not therapeutically driven. They talk about a child centred approach, but then it is all costings, and markets, and competition*

At the recent ACWA conference and elsewhere, the ACYP has made recommendations for a child centred advocacy service to support children and young people in OOHC, and particularly noted the lack of a process for young people to provide input into service design or delivery other than through a service provider. A more detailed document is due to be released by the ACYP shortly which will provide valuable input into the reform of commissioning from this perspective.

### **5.3 What did interviewees think about engaging carers, the wider community and/or birth parents in the commissioning process?**

Most interviewees reported that processes for engaging with carers and families were in an even more rudimentary stage than were processes for engaging with young people.

*There is a massive gap in carer engagement, looking at the role of carers and how you support that role. And there is no engagement with birth parents. Some Aboriginal agencies have more of an ability to engage with birth parents. But the focus of the whole system is on “risk of harm” rather than the family and the child. We focus on symptoms, not the person.*

*We need genuine advocacy around birth parents and their rights*

One interviewee said that the process of dealing with FACS over contract management had made her reflect on the way that birth parents were treated by agencies, including her own:

*It has made me think about how we as an organisation may have treated natural parents. FACS says to us “you have tried really hard” – condescending. The system is set up so that you always fail, the rules always change – you always fall short but you don’t understand why*

## **5.4 What did interviewees think was working/was valuable in the current commissioning process, which could be built upon for the future?**

While many interviewees were strongly focused on recent negative experiences, some positives were identified:

- Interviewees mentioned that the change to commissioning had brought about a focus on **impacts, benefits, and measurable client outcomes** which they thought was very positive.
- Interviewees strongly endorsed the **ideas of co-design and co-governance** as a move away from older forms of contracting, even if these ideas were yet to be put into practice.
- The process of transition in 2012/13 through the use of the jointly chaired Ministerial Advisory Group, with a funded tripartite secretariat, was praised by some interviewees, particularly interviewees from peak organisations (but see below for other comments). Interviewees had also found the regional processes that sat below the MAG to be productive, with frank and trusting relationships developed at the district level.
- The use of 5 year contracts, replacing 3 year contracts, was seen as highly positive, enabling agencies to make longer term plans for staff and clients
- Most interviewees felt trust for individuals within the Department as well as other NGOs, and believed that most people came to the table with goodwill. They attributed most failings to organisational and political factors, especially the public focus on risk and crisis in CP and OOHC.
- Some interviewees mentioned that despite the stresses that issues like competitive tendering had placed upon collaboration within the sector *“on balance, collaboration is winning”*
- Some individuals had participated in very positive consultative processes in service design – for example, in residential care. They had found these to be positive, if time consuming, resulting in agreement on sound, outcome focussed principles. However, in their view, subsequent tendering and contract administration practices had undone this good work and stripped away trust in future consultations. *“What was discussed in those meetings and what actually transpired was very different”*
- Interviewees said that the department was making a welcome effort to use data but said that too much data was still not being shared in a transparent way
- One agency which conducted work in the ACT was very positive about the way that a partnership arrangement operated in that territory :

*Working in the ACT – they are small meetings; there is genuine trust, and a sense of being respected and consulted for your opinion. When it is a small group like that, there is a sense that you can focus on how to achieve outcomes for that child or family –*

*without having to worry about protecting the position of your own agency, or risking the fear that you might be “perversely favouring” your own agency*

Other interviewees who worked, or had worked, in the ACT, however, reported far less positive experiences.

## **5.5 What did interviewees think was the current level of trust between FACS and the sector? How could trust be improved?**

As noted above, most interviewees had trust in the individual FACS officers with whom they had dealt. There was strong recognition that FACS had to reconcile competing demands from government, central agencies and external regulators, and that the sector itself had been diffuse and divided in identifying its preferred direction.

*Most FACS people are better one-on-one than in a group. Of course, the sector can be like that too. You have to stay in the room until you get the result that you want*

Many also differentiated between officers at “head office” and district level, or in different parts of “head office”, including TFM. While some had higher trust for district level staff with whom they had frequent contact over a long period, there was a significant minority who preferred to deal with “head office” staff. In the experience of this latter group there was a wide divergence between various districts in interpretation of departmental policies which was frustrating, particularly for larger agencies with state-wide coverage or specialist expertise, such as CALD or ATSI providers.

Most interviewees nominated frequent changes in FACS personnel as a major disrupter of trusting relationships. Several had the experience of committing to a project after negotiation with one senior FACS representative, only to have a newly appointed replacement take an entirely different position.

The other key element undermining trust was the belief that whatever undertakings were made by FACS staff, the ultimate decision would be influenced by the market based preferences of Treasury, or would be subject to sudden political changes.

The key elements for rebuilding trust, nominated by interviewees, were:

- Less turnover of FACS personnel in commissioning processes, and use of standing bodies and structures to reduce the impact of individual personnel changes
- Better clarity and realistic definitions of terms like partnership and co-governance, to avoid raising unrealistic expectations
- The need for progress on joint work, even on small local projects over a set timeframe, which would give the parties a “reason to engage” and a sense of purpose, breaking down defensive barriers. *“Joint training would improve trust greatly. Working with the frontline is very important”*
- A need for joint strategy workshops and other forms of joint work that would help all parties to understand each other
- More clarity about commissioning roles within head office, including the role of TFM, and between head office and district offices

- More frankness – willingness to initiate “difficult” conversations and transparency about long term reform goals such as the need to reduce the number of providers in a particular locality over time. This was seen as particularly important where such reform goals were being driven by Treasury or other central agencies. A strong view was expressed that providers and peaks would support even contentious reforms if they were treated honestly and transparently from the outset.

*Major changes in direction come out of the blue. FACS don't get people in on the journey. We need to increase transparency so that people understand the whys in the decision making*

*WE know that there are NGOs that are funded, that should not be – perhaps not performing, or the population has changed. If FACS and the Minister would share that data, we could work together on reform. But at the moment, the trust is not there to make tough decisions.*

## 5.6 How would FACS have to change to achieve a co-governance commissioning approach?

### 5.6.1 Move away from “Command and control” and onto “outcomes”

The view that was most strongly and frequently expressed was that despite using the language of partnership, NGOs had experienced in practice a “command and control” approach to service design and, particularly, to contract administration.

*It is all painfully dragged out – high level departmental people – you are held to the letter of the contract but there is still no talk of outcomes, I haven't heard anything about the quality assurance framework for twelve months. I thought commissioning was about outcomes!*

*A partnership approach ...begins with a philosophical position of trusting the NGO sector to help problem solve, have input into design and to share risks. We had that up to a point in the development of the therapeutic care framework...but we were cut out of the service design process*

Contracts were said to be highly specific about the model of care to be adopted, and contract management was focused on investigating whether agencies were implementing the model with fidelity:

*Under the guise of doing away with red tape they have re-imposed it as “deliverables”. Nothing to do with outcomes. The agreed deliverable is a model that you have to be faithful to, and there is no discretion, no departing from the model. To get an outcome for a kid or a family, it isn't always going to fall within the guidelines or the contracted model. But in this constant transactional environment, if you go outside the contract, the hammer will come down*

The “command and control” approach, with apparently arbitrary exercise of power and denial of expertise, was cited by many interviewees, particularly with regard to clinical and frontline staff:

*There is talk about moving to a trauma informed/therapeutic model – but at the table our trained clinicians are patronised and discounted. The people on the other side of the table are money people...Our staff – the ones who know the kid and have the skills – are completely disempowered. My staff feel disrespected...It is dismissive, patronising.*

Most interviewees working within OOHC, contrary to their understanding of the way a move to outcome – focused commissioning was supposed to work, had experienced a surge in detailed reporting requirements, with more frequent lengthy meetings and other forms of monitoring by funding staff:

*We have monthly meetings that go all day. We have a 20 page implementation plan, and then each month we have to report on progress against each item, line by line – things like staff vacancies, training records<sup>3</sup>, strategies for staff employment. How many inquiries we have had for new carers. FACS wants to be involved before we rent or buy buildings. There are very specific requirements, **down to the colour of the walls.***

*We still don't have well-being indicators – and even the measure of restorations – there have been a couple that have broken down quite badly but we have no way to talk about that issue that isn't aggressive and blaming. There is no talk about putting in place extra supports, asking the casework managers what the family needs – so they just feel like they are on their own.*

Several interviewees expressed concern that the command and control approach, along with increased regulation, was resulting in the increased bureaucratisation of NGOs:

*I worry that we are going to become “Mini-me’s” of the department – bureaucratic – in the way we treat kids and our staff. The transfer was supposed to be because we do things differently, and have community connection. But the way contracting is done, and the increase in size is taking away those qualities. We are always under pressure to do more for less.*

## 5.6.2 More transparency

As noted above, many interviewees spoke about the need for more transparency from the Department, and better continuity of policy direction. Interviewees, for example, spoke of a lack of transparency about what particular OOHC packages were meant to contain, and a risk for past agreements to be reinterpreted in an ad hoc manner by new FACS officials, who had no corporate memory of past negotiations or agreements.

*I was involved in the early consultations – but the system doesn't look anything like they said it would in those meetings*

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<sup>3</sup> It is worth noting that in its response to the recent ICAC report on corruption within an NGO, FACS nominated factors such as failure to properly monitor or train staff and inadequate board training as key indicators of high-risk funded agencies (ICAC 2018:98). It is therefore highly unlikely that FACS would cease to seek reports on these factors, however onerous NGOs may find them to be

Interviewees also expressed a need for increased reciprocity. There was a strong view that the provision of data and reporting was a “one way street” and that FACS made demands of NGOs that it would not or could not meet itself:

*FACS needs to change culturally. Numerous documents are created after you have signed your contract – new policies, new exception funding packages after you have signed. It changes the cost, what you thought you signed up for. And in the meantime the people have changed. The number of times I have had to fight for funds – two years later, the people who made the original agreement have gone*

### 5.6.3 Clarity of roles, within the Department and between funders, providers and regulators

Many interviewees were struggling to understand the roles of different Departmental staff. They particularly found the role of “Their Futures Matter” to be confusing and opaque, with a lot of “top down” communication, running contrary to discussions about co-governance and partnership.

Interviewees reported multiple attendees from various parts of the head office of the department at monthly meetings, in some cases in addition to local or district staff. One particularly disgruntled provider reported that at one meeting, 16 FACS staff attended for a discussion with 2 staff from his organisation.

*The communication, I find absolutely frustrating – there are multiple points of contact from FACS – multiple emails, often contradictory, from different parts of the department all in the course of one day!*

Some interviewees, although fundamentally supportive of locally based solutions and place based initiatives, were highly frustrated by the variability of policy interpretation from district to district, particularly when children had to move for family reasons across the state.

As discussed below (5.8), many interviewees felt that contract monitoring overlapped the role of the OCG in an unhelpful way.

## 5.7 How would the NGO sector have to change to achieve a co-governance commissioning approach? In particular, what should be the role of the peaks and of larger consultative forums?

This question raises the most immediate issues for the sector to consider in the short to medium term. An interviewee from Queensland, based on their own recent experience took the view that change had to be initiated and driven by the sector itself:

*It is time for us to take leadership and take responsibility for ourselves. We did the work, went to government and said “here’s what we think it would take”. We discovered that there is a high appetite for realignment and reorganisation – but not for having it imposed on us. And not to have it happen in a chaotic way. We have done the work in consensus building and collaboration- now we are going to government with some demonstration projects. We were in a swamp of problems and we just decided, we have to look at this another way*

### 5.7.1 Strengthening existing peaks and smaller representative forums

FACS has been explicit in setting out in documentation its view of the pivotal role of peak organisations, broadly defined, in making a commissioning approach meaningful:

*The Sector Development program is aligned with a commissioning approach that harnesses the expertise of the NGO sector in strengthening the service system through peaks' contribution to planning and implementation of FACS strategic priorities and reform...*

*FACS engages peak organisations to deliver a range of core activities that contribute to the development of a capable and sustainable service system which delivers positive outcomes for FACS clients and the broader community...the term peaks will be inclusive of peak organisations, industry bodies and consumer representative bodies that represent the interests of clients, consumers, citizens, communities and non-government organisations working in the human services sector. They provide systemic advocacy, policy development and sector capacity building for better service delivery and functioning of community organisations”(FACS Sector Development Program Specifications 2017).*

Many interviewees were strongly in favour of the role of the peaks while acknowledging that there were serious challenges in seeking to represent the interests of a very diverse sector. Several interviewees commented that providers, especially large providers, needed to invest more time and energy in the peaks, including the engagement of CEOs or other very senior representatives on boards, in order to give the peaks more clout in their negotiations with government and in their public advocacy on behalf of the sector.

*We need to have strong, well-funded peaks so that 2000 NGOs don't have to go to every meeting. You are always going to have to have peaks, because you need the capacity to understand issues across the state, and take those issues to FACS*

Most interviewees acknowledged that there had to be processes to achieve representation, especially for smaller, specialist providers, but also to make consultative processes more meaningful.

*What is the model? You have to have a process – otherwise it will just be the big organisations and the squeaky wheels at the table. Everyone will always be asking, why are some people members and others are left out. We keep having these conversations; we had them 20 years ago.*

*The Department needs to run smaller, more targeted forums. These big, all-purpose consults achieve nothing. You need to build trust through clarity about why a particular group was asked. It isn't a closed shop – you could have the 9 or so agencies involved in a matter, then put out a report in detail on the outcomes and give everyone a fortnight to comment, put out FAQs – there are a lot of ways to include people. It would take a huge amount of extra effort*

*by the department, and probably by the peaks. It would take a lot more organising, and good personal relationships*

Some interviewees saw a lot of merit in the MAG process which had overseen the OOHC transition, including the role of the peaks. They wanted to see it revived and strengthened.

*The previous MAG had clear terms of reference – to do the Transition. It brought the Department, ACWA members and ABSEC members to the table to undertake a piece of work. We knew what we were doing, we had good insight through the data, we had an achievable and definable goal. And because of Wood and KTS there was fundamental consensus on the landscape.*

Supporters of the MAG process said that its effectiveness had been weakened over time, particularly by the inclusion of more and more attendees.

*There was always a lot of static about who wasn't in the room. More and more people were included, including an entourage of bureaucrats...the issue will always be representation. You either get too big and do nothing, or too small and you get 'why am I not on it'?*

Consistent with this feedback, a number of interviewees who had not been “in the room” of the original MAG were critical of the way the previous MAG had operated, reporting that they felt excluded from decision making processes:

*We sent our questions and concerns up through the appropriate channels to the MAG. Nothing ever came back. Everybody found the MAG really pointless except the people who were on it*

A Ministerial Advisory Group was recently re-established, and some interviewees were very positive about this development, seeing it as a valuable opportunity to address key issues about the progress of reform, and the implementation of commissioning.

However, some interviewees were sceptical about its role in smoothing the path toward co-governance. Its membership was described as too broad, and many thought that it could be considered as an information sharing forum, at best.

*You have to have a clear target, a number of themes and projects flow from that. The old MAG had that. The current MAG has a much more amorphous target, to make people feel special and consulted. My rule of thumb is, you get nothing done if you have more than three peaks in the room!*

Another interviewee, more generally sceptical about the representative role of the peaks, had this to say:

*Well re-establishing the MAG might help but how it gets run will be the test. It can't just be tokenism. It can't just be advising us of stuff. It needs to be balanced, not just the peaks, you need providers there too*

### 5.7.2 The potential role of the peaks in promoting change

It is important to note that interviewees who criticised the MAG and other bodies were usually quick to add that they recognise that the difficulties of effective decision making through peak bodies and consultative forums were inherent to the sector.

*As a sector, we can be bad at surfacing our issues. Everyone comes along, but we try to get along. Nobody ever asks or answers the hard questions – why did you come here? What can you contribute? How are you going to be accountable to the people who sent you here, as well as the people around the table? We are trying to collaborate, so we lose opportunities for honest discussion.*

*We need to be more honest about using the data, and pushing the department to use the data. Where are the deficiencies? The department, as the market steward, should initiate these conversations; we should move resources around to meet the deficits in areas like Aboriginal or CALD services where we are falling way behind.*

*The sector has not been its own best friend in the past. Some of the stuff that went on around the specialist homelessness stuff was not helpful at all – it is no wonder the Minister and the Department pulled back from engaging, very understandable*

Interviewees thought that there was a willingness to work with the peaks on change management, addressing competency issues, focusing on sector strengths and showcasing competencies. Interviewees saw a strong potential role for the peaks in promoting support for smaller, community-based providers, as well as in advocating for wider social justice initiatives, including at a political level.

*The peaks have a dilemma – are they loyal to “the cause” or are they loyal to their members?”*

*When do we talk about leadership? There have been shared goals developed and then activated once there was a change of minister. There can be alignment of purpose. But the shared mission can rapidly fade away. Now we are getting sucked into the issues of tendering.*

On balance, most interviewees saw a need to strengthen the peaks through adequate funding and support from member organisations, as well as government. Some interviewees raised the idea of structural reform of particular peaks, or better co-ordination between existing peaks, to give a stronger voice and better member representation.

Interviewees who worked within the peaks, or had done so in the past, said that government had to play its part in strengthening the authority of the peaks

*You have got to have the DG and the Minister and everyone else just dealing with the peaks, not individual members. Part of the story of commissioning has been that it is just divide and conquer. Everything happens under a cloak of darkness due to “probity”. [Providers] do your individual negotiations based on a template and you don’t know what it will look like in the end. As a result, there are some very sad and traumatised people out there.*

### 5.7.3 Strengthening representation for individual providers

Many interviewees from larger providers, while acknowledging the importance of collaboration within the sector, also acknowledged that collaboration could be difficult, took time, and that it was hard to reconcile the interests of the diverse range of providers within the sector.

*It is difficult. We work together, but then there is a tender, and you know you are going to have to compete. My Board is very committed to the welfare of children, and to advocacy, but of course they also have to focus on the future financials, and on the risk register. My big contracts go to the Board, so that has a big impact.*

*We are not good at commissioning from each other*

Interviewees thought that the peaks performed a vital role, but that the commissioning process in some cases exposed a need to refocus and redirect their energies. The diversity of membership of some peaks meant that it was difficult to engage with members proactively and meaningfully, but this had to be attempted if co-governance in commissioning was to be meaningful.

*To succeed in advocacy, you need respect, credibility and a strong track record. Sometimes that has been wobbly. You have to have a conduit between the organisations, especially the small organisations, and government. The big organisations have reputation and credibility in their own right. It was the same back with KTS – you had the argument about who could represent the sector. The peaks need to show qualitative and quantitative achievements, they need to follow through.*

*The large providers are always going to want a seat at the table in their own right. Then FACS gets into that cycle – they feel like they have to invite everybody. And the table gets so big that it is unworkable. Government has to recognise that they have funded the peaks for a reason. They need to back them up or have the honest conversation and change their funding or contracts. The need to elevate their status and respect.*

Interviewees from some large organisations, on the other hand, were cautious about the utility of broadening consultative mechanisms, warning that such mechanisms might represent a major call on resources from agencies, for limited gains:

*My organisation has 44 different programs – if a participative commissioning process meant 44 more meetings, it would not improve anything!*

A recurring theme was that there were too many providers in the sector, and that the use of competitive tendering mechanisms to rationalise the number of providers was destructive

*We need agencies that have scale. There are already a lot of mergers going on, we need to work out a feasible size, say 20 medium size organisations, and work towards that*

### 5.7.4 The use of lead agency/prime contracting mechanisms

The use of “lead agency” models has achieved some (limited) support in other jurisdictions, for example in the Commonwealth government’s approach to contracting Family Relationships Centres, and in the current ACT approach to OOHC.

Some interviewees with experience of a “lead agency” model interstate took the view that a peak organisation like ACWA faced significant challenges in bringing about sector reform, and thought that government would be better off promoting the use of lead agencies

*I am concerned about the ability of an organisation like ACWA to achieve reform in the sector. The membership is so diverse - large, small, community based, state wide, national agencies. I think a lead agency approach, with subcontractors, is the way to go. Although of course the smaller agencies who would lose their seat at the table and potentially lose funding would be unhappy. ACWA could never advocate for a lead agency model, the majority of members would never accept it. You really need a two year change management program to get anywhere*

It is important to note, however, that another interviewee with previous experience interstate as the “lead agency” had strong reservations about the workability of the lead agency model, and the extent to which it offered the prospect of partnership with government in any meaningful way

*The joint governance group is a big government controlled meeting ... it is basically a mechanism of government. It receives reports – which are basically their reports – it meets every six or eight weeks – chaired by the department. It has almost solely government input of their high level risk issues... The experience of that [governance] mechanism is being at the table as a ‘partner’ but with absolutely no ability to influence the system. You are delivering, and they are pretending not to tell you what to do, but actually the contract still holds. In black and white.*

## **5.8 How would the regulatory/oversight process have to change to facilitate a co-governance approach?**

Interviewees from the NFP sector, almost without exception, were positive about the role of the OCG, and were generally positive about the role of broader oversight, including the Ombudsman and the recent Royal Commission. Few of these interviewees had as yet experienced direct interaction with the wider public sector oversight environment such as the ICAC, Auditor General or parliamentary oversight committees.

Some interviewees described the accreditation process as onerous, but fundamentally positive

*We have just gone through re- accreditation. It took ten days, it leaves everybody shattered. It is an incredibly intense process. It is hard work, there is so much to do. You can’t say we shouldn’t have the oversight or fault the overall direction.*

Despite the intense nature of the process, this interviewee believed that accreditation was a useful process. Her chief comment, which was consistent with the comments of many others, was about inappropriate overlap between this process and the FACS contract oversight process

*We can't just inundate ourselves with so many meetings you can't get the work done. And partnerships and collaborations all add to the complexity – you think, oh my god! We already have accountability structures like the OCG, and FACS could rely on those structures. But instead we have the contract meeting once a month, asking all the same questions. It is very operational, not high level. The agencies need to push back hard and say 'this is not appropriate'*

Agencies believed that the accreditation process was done in a rigorous but constructive manner by the OCG. Some commented that the OCG required more detail and was more rigorous than equivalent processes in other states. They were very frustrated by what they saw as duplication and overlapping effort by FACS, which covered the same ground but in a much less constructive manner.

*It is pretty clear that there is duplication between contracting and the OCG. But FACS doesn't trust the OCG, so they try to do it all over again through contract monitoring*

*I think that those regulators are mostly really engaged, I don't think that they are out to get anyone, I think that they are 'clean' offices but that is not necessarily how they are perceived by the statutory departments. I think [statutory departments] are defensive – it is because the regulators are independent and are often reporting straight in to parliament – not through the department.*

Some interviewees reported that with the support of their Boards, they had felt empowered to push back at excessive monitoring by the department, and unreasonable requests for information that had already been provided to the Guardian or the Ombudsman, or other parts of the department. Other interviewees did not have that support from their own organisation, and reported lengthy and demoralising monthly meetings with departmental staff.

Some interviewees, although supportive of the OCG and the Ombudsman, felt that regulation overall was making their organisation more bureaucratic, and that the cost of compliance made it harder for small organisations to survive

*We are all being pushed to be more bureaucratic, I see the impact on our staff and culture – With checks on staff and carers [as a result of the Royal Commission] – I have always had a policy of intense focus are the recruitment end- do they fit the culture, integrity. Independent checks. It is very expensive but it is well worth it. We have had a huge surge in Ombudsman reports, complaints since the transfer with carers we took over from FACS – carers we inherited.*

Another comment was in a similar vein, about the total impact of regulatory change:

*The Royal commission has had a huge impact – there is so much activity – the RC, the OCG, the Ombudsman, Treasury, and finance. There is strong pressure to do a better job to keep kids safe but it has to be done within budget and meet performance targets.*

*Over time, I have seen extremes of lack of accountability and a lack of regulation. In the nineties money was being thrown at us right left and centre to manage the really difficult kids and the accountability was really low. Others would disagree but that's what I saw – I really welcomed the OCG.*

*It has gone from being too lax to overregulation – it comes from multiple places and the right hand doesn't know what the left hand is going. And if the minister is involved they all want it overnight. But when we ask for information in return, there is a brick wall, silence, and months of delay. There is no reciprocity*

*It would be great if everyone got their act together and instead of 7 requests we got one.*

## **5.9 How did interviewees think we can create shared accountability?**

### **5.9.1 A stable environment**

The majority of interviewees thought that establishing shared accountability came with increased trust, and that in turn was likely to come from clear roles, continuity of staffing, and honest communication.

The volatility of government was a concern in this regard:

*Government policies shift every two or three years. You run the risk of being asked to deliver under a very different regime.*

*FACS needs to have a plan, it needs to work out what success would look like and stick to it. But the plan can't be linked to election cycles, there has to be confidence that the work towards outcomes is going to continue. How can we have shared accountability when we don't know where we are going and what will change? Already we are in pre-election paralysis and it is only August!*

To mitigate this risk, some interviewees favoured the creation of an independent commissioner, in line with the recommendations of the Tune report, who would oversight contractual performance, and provide a more stable and predictable accountability environment, away from the “political vicissitudes”.

*There is a lack of a membrane between political processes and bureaucratic decisions. (Peak)*

### 5.9.2 A genuine outcome focus

A major issue was that interviewees felt that, despite the rhetoric, there was still not a focus on shared accountability for outcomes.

*The rhetoric is, 'we are only buying outcomes and how you get there is up to you'. That language is used, but it looks nothing like it.*

*We have to have more of an outcome focus. It is always easier to look at what you spent on staff training, and not on what has actually made a difference for outcomes. After all this, and all the talk about the QAF, they are still just counting bed nights*

*"We are feeling enormously micromanaged. We go to these excruciating meetings where we have to go through every detail. I don't mind reporting, but it is the opposite of the outcomes based approach. They are so anxious about agencies going off the rails, we have to answer questions every month e.g. about how many staff have done cultural awareness training". It is not an outcome approach, it is not shared accountability, it is command and control"*

### 5.9.3 Direct accountability to service users, particularly children

Relatedly, some interviewees argued forcefully that the way to get trust and shared accountability was to achieve greater involvement by children, carers and parents:

*Users don't want to know whether it is FACS or the agency. They will hold both to account.*

However, as discussed above, many interviewees conceded that little progress was being made in giving service users a voice, either directly, or through a mechanism such as a Children's commissioner (although several mentioned the active role currently being performed by the Children's advocate)

*We are all meant to be talking to all these people already; but they still don't have a voice. There has to be a way to elevate their view, there must be mechanisms out there to bring forward voice on key issues*

### 5.9.4 Clarity of roles

Interviewees felt that shared accountability was impossible without clarity of roles between the department, providers and regulators

*People have to understand exactly what they are being held accountable for.*

*Government needs to be clear about what it wants – is it advisory? Is it co-governance? At the end of the day, it is OK for FACS to say "this is what we want". Just be clear! In some cases, it is government's job to make decisions, and people will accept that just so long as you are clear.*

### 5.9.5 Get off the one way street

Interviewees felt that shared accountability was not possible when forums were too big, and there was a “one way street” of PowerPoints and information sessions, with no real opportunity for debate and engagement:

*It is inevitable that you have to get a lot of people together, there are big meetings at a state-wide level – but you walk away thinking “what happened?” We never saw the minutes, they put forward ideas but there was never a truly open discussion. People are not feeling heard, it is not clear whether there was input. You need to be clear on what the process is from here on. Obviously, you can’t make a decision with 100 people in the room, but it needs to be clear. “From here on, x small group is going to take y forward and this is how you feed your views or comments in”*

Relatedly, interviewees questioned the meaningfulness of accountability when the department dictated the detail of the model of care and its implementation, through the contract and through frequent, highly directive meetings:

*Accountability to me means, I am going to be held accountable for what I do and for what happens – but how can that be when I have no choice in how I am going to deliver the service? There isn’t any element of relationship, it is all micromanagement*

### 5.9.6 Respect

Some interviewees felt that they were being treated in a condescending manner by the department when discussing risk. As CEOs, they reported to their Boards, to the local community, to the funder and to the OCG and were highly aware of risk:

*The conversation now is about risk and accountability, but to me it is all one way. I get a bit tired of the language “how do we help NGOs take responsibility?” I have always felt incredibly accountable, I don’t think they necessarily understand how responsible we are and how seriously we take it. I have my Board, I have the staff, I think about the kids every night, not just the risk and the financials. I get tired of the concern and distrust*

*Risk is just being pushed out. Something happens – the carer gets charged, the parents mount legal action. FACS is just “it is your problem not ours”. Everyone blames each other. It needs a major cultural shift.*

Other interviewees felt that what was lacking in particular was respect for the expertise of frontline staff

*Case workers are the laboratory who will tell you what is going on in society. They are not just worker ants- which is what the current process of corporatisation is leading us to.*

### 5.9.7 The sector has to accept its own need to change

Interviewees from the sector were generally frank in acknowledging that the sector, and its representatives in many cases had to “lift their game” when it came to participation in consultative forums, co-governance mechanisms and the like.

*We have a sector where it is hard to have the conversations; we end up masking what is going on. We have organisations that think they “deserve” to be funded; they have a sense of entitlement. Sometimes we don’t collaborate, because we know next year we are going to be competing. That is why we get into all the fights over who will be at the table – it is all about who has the knowledge.*

*I acknowledge that at the end of the day if I can’t make it to the meeting, then that is my responsibility. And I know that at the end of the day someone has to make a decision. A lot of non-government forums, there are just too many chiefs*

*You need to unpack – what are you contributing? What are your own mechanisms for accountability? If you are representing others, who did you consult, how did you feed back to them, and what did you achieve?*

*The sector gets in its own way – we talk about consulting on everything. Shared governance is a big aspiration; sometimes it is better to take baby steps. So as long as government is honest about how far and why they want to engage the sector, I don’t have a problem if we are not included in everything*

## **6. In the light of the evidence, what principles should guide commissioning going forward?**

In a recent discussion paper, ACOSS has subdivided the cycle of commissioning activities as follows:

1. assessing need,
2. designing services,
3. purchasing services, and
4. Managing the delivery of services to achieve defined outcomes via monitoring, evaluating and performance improvement.

The following analysis adopts the ACOSS structure and suggested principles, adapting where necessary and appropriate, given the data provided by NSW participants to this project.

## 6.1 Assessing Need

The ACOSS discussion paper has set out some suggested principles for need assessment. Modified for the NSW environment, and the provision of services for children and families with vulnerabilities, the key components may be suggested as follows:

- **A dialogue about the design of the commissioning process itself.** This stage should engage with peaks, service providers and regulators about the design of the commissioning process itself. The current KPMG process, and this project, are evidence of the commitment of all parties to this principle
- **Engagement with children, young people, families and communities.** As noted above, this is recognised by participants in this project as a vital component of any co-design process, and any meaningful attempt at creating a child-centred practice. However, it is also recognised as something that both government and the sector find extremely challenging.
- **Analysis of data and evidence.** As the ACOSS paper points out “This stage should involve commissioners collecting, sharing and analysing data collected at a population level including Australian Bureau of Statistics (ABS) Census and Census-derived data on demographics, projection data on the likely future demand for services, DEX data and other departmental sources, outcomes and other data held by community organisations delivering services in a local community, and data on existing services in a local community. It should also involve collecting, sharing and analysing the evidence about what works, by academics, peaks and local service evaluations.” A number of interview subjects felt that the flow of data was heavily one way at this point, with onerous requests made by government of providers, while requests by providers of government were met with silence and long delays. There is currently a lack of confidence that data is being used well.

## 6.2 Designing services

Support for the ideas of co-design, briefly defined earlier, means that services are more likely to meet the needs of children, families and communities if providers and users have actively participated in their design. ACOSS notes that co-design “recognises that people are experts in their own lives. It also reduces unintended consequences, and provides insights into how services will be received and used”.

The following suggested principles have been slightly modified from those set out by ACOSS to reflect the NSW context:

- **Clarity of purpose.** Reflecting some of the feedback in interviews for this project, parties need to be clear from the outset about who should be involved, the process of involvement, what is or is not negotiable, and what resources and time are available.
- **Inclusiveness.** As noted above, there must be inclusion of providers but also of children, carers, families and communities
- **Partnership.** Interviewees recognised that power inequalities are inevitable and that some decisions are the legitimate province of government. However, wherever possible, unequal power dynamics need to be recognised and addressed by commissioners to improve the quality of service design, particularly when seeking the views of service users.
- **Respect and Trust.** Issues which are detrimental to the creation and maintenance of trust have already been discussed, along with some factors that may enable trust to be rebuilt over time, particularly through shared work on limited, measurable projects. ACOSS suggests in addition “the use of a range of techniques to build respect and trust, including the use of independent facilitators and brokers where appropriate”.
- **Data-Driven.** The importance of shared data on need, risk, cohorts and evaluations of past programs as a basis to inform service design has already been mentioned.
- **Comprehensive and on-going.** Co-design should always be envisaged as part of a coherent ongoing cycle of planning, implementation and evaluation. Several interviewees report adverse past experiences where notional participative co-design processes were abruptly terminated and replaced by highly transactional tendering and monitoring processes.

## 6.3 Purchasing services

Processes for purchasing are an integral part of the commissioning cycle. They are governed in NSW, as in every other jurisdiction, by legislation, regulation, policies and procedures. In NSW, they are also subject to scrutiny by parliamentary committees, the Auditor General and potentially by the Independent Commission against Corruption. Several interviewees suggested that as a consequence, in NSW, funders had to meet more onerous probity requirements than in other jurisdictions, and this made the process of tendering and contract negotiation more complex and constrained than elsewhere. This paper does not attempt to analyse the entirety of current procurement policy and practice in NSW. In keeping with the ACOSS paper, it acknowledges some key issues in procurement of human services, many of which have also been acknowledged in the recent Productivity Commission report into Human Services

- Competitive tendering is not, and should not be, the only model for purchasing services when using a commissioning framework. Expressions of Interest, Preferred Service Provider processes and Direct Negotiation with existing service providers among other approaches are valid alternative to competitive tendering when using a commissioning framework.
- The complexity and detail of tendering, contractual and reporting requirements should be proportionate to the level of government funding and risk involved. The unintended consequences of seeking to impose highly complex and onerous contracts in the human services were discussed at the outset of this paper. As well, it should be noted that even very large and expensive infrastructure projects are regularly contracted on a relational basis through mechanisms such as Alliance Contracting or Early Contractor Involvement (ECI). Such mechanisms can meet probity requirements without the cost and inefficiency of detailed transactional contracts.
- ACOSS notes that “the full cost of service delivery should be covered by the funding envelope. Costs such as administration, management and IT costs should be considered integral components of any project or service. Co contributions to the cost of service delivery should not be required”. The Productivity Commission has previously endorsed this approach
- ACOSS notes that purchasing processes “should allow sufficient time for collaboration and partnerships to develop. Where possible, the purchasing element of commissioning should happen on a schedule telegraphed to potential participants well in advance of the purchasing occurring”
- Interviewees noted the positive effects that had been achieved by moving from 3 to 5 year contracts in NSW. ACOSS suggests that, in line with recommendations from the Productivity Commission in its 2017 report into Human Services, contract terms should be set at seven years, and ten years for remote Aboriginal and Torres Strait Islander service delivery.
- ACOSS suggests that “Price should not be the primary driver of a procurement process. Value for money is a better focus for commissioners”.
- ACOSS suggests that “Criteria should be designed to focus on a provider’s ability to improve outcomes (including outcomes which may only be achieved over the long term) for service users”.

## 6.4 Monitoring, evaluation and performance improvement.

Monitoring, evaluation and performance improvement, focussed on outcomes for children, are essential components of a Commissioning Framework. As noted at the outset of this paper, the settings of these components need to be appropriately designed to encourage the principles of co-design, co-governance and an outcomes focus. AS many of the comments cited in this paper illustrate, it is pointless to build a service system on principles of participation and partnership, and then undermine those principles through an onerous, interventionist command and control style of contract administration.

- **Proportionality** – ACOSS suggests that “the level of monitoring should reflect the level of risk associated with the delivery of the service. Low risk and lower cost projects and services should require less monitoring than higher risk or high cost projects and services”
- **Clarity** – the outcomes that NGOs are accountable for should be clear and unambiguous, and agreed with the service provider. The respective roles of staff at various levels within the department, as well as external regulators, should also be clear
- **Respect for service users** – the views of service users, particularly children and young people, but also families and carers, should feature prominently in any monitoring and evaluation framework.
- **Respect for service delivery staff** – ACOSS notes that “the perspectives of staff delivering a service on the ground should feature in the monitoring and evaluation framework”. Several interviewees commented on the lack of respect for the expertise and professionalism of frontline staff shown in current contract monitoring.
- **Timely** – ACOSS notes that “evaluation and monitoring systems and frameworks should be built and/or established at the outset of a project or when service delivery commences, or in the case of recommissioning, when the recommissioning occurs. While some changes to monitoring and evaluation systems along the way are necessary, commissioners should be careful not to move the goalposts on NGOS delivering a service”.
- **Cost** – the costs of monitoring and evaluation should be taken into account as an integral part of the service.
- **Support for innovation** – ACOSS notes that “systems should be built to ensure that innovation is supported, and that risk is managed well rather than avoided entirely”.

## 7. Next steps – arising from interviews and workshop discussion

In the workshop of 25 October it was agreed that the above draft principles offer a useful starting point for discussions between government and the NGO sector as a means of locating commissioning within a collaborative, stewardship model, moving away from a transactional procurement approach.

Other future directions can be usefully divided into joint work and internal work for the sector itself to consider. It is also suggested that content obtained as a result of this research may prove to be valuable for internal government consideration, and for consideration by regulators, although recommendations to those forums is outside the terms of this project.

### Joint work:

A number of potentially fruitful joint projects were identified during the course of this project which have the potential to improve trust between government and the sector within a commissioning environment:

- Joint work between government, peaks, CREATE, the ACYP and the Guardian on strategies for **meaningful engagement of children and young people** at every stage of the commissioning cycle was identified as highly valuable. It was noted in the course of the workshop that the work being undertaken by the ACYP, including the recent ACYP report on consultation with young people (October 2018) is already achieving results with government and non-government organisations.
- Work (perhaps through the MAG) to evaluate progress on commissioning to date, and to set up a future process to ensure that commissioning for the human services evolves away from transactional procurement models. In the workshop there was discussion about the limitations of the MAG as a venue for progressing this work, and the need for another process going forward with different membership
- Shared work with ABSEC on progressing the Aboriginal Commissioning Approach, including work toward implementation of Local Decision Making (LDM) as per Premier's Memorandum M2015-01. There was also discussion of aligning this work with the current work being undertaken on Justice Reinvestment.
- Shared work on a number of **place or program based collaborative approaches**.
- A renewed focus on **shared evidence and data** – moving away from the “one way street” of command and control reporting.

### Work within the NGO sector:

There was broad acknowledgement in this project that “sector readiness” and engagement was a major element in any meaningful partnership or co-governance process within commissioning. A large number of issues were identified which may only be addressed through the internal strategic planning and consultative processes of the NGO sector, peak organisations and service providers. The responses from interviewees, summarised in this report, offer a starting point for some of these deliberations.

There is a need to agree within the sector on principles for engagement with government and with service users within a commissioning environment. Principles recently put forward by the Queensland Community Services Industry Alliance (CSIA 2018:41), offer a positive starting position for discussion:

- The goal is positive and sustainable outcomes for children and families;
- Constraints in the system are recognised, acknowledged and appreciated;
- Mutual benefits, mutual trust and mutual respect are key values in working together;
- All stakeholders, providers, funders and participants in the public value chain have legitimate interests they seek to protect and advance, and they have different expertise, skills and resources they bring to any collective efforts. These are all important to framing both the process and content of what is to be worked on together;

- Working together requires open and transparent dialogue about:

- perceived blockages

- problems and constraints;

- interests, agendas

- performance

- Working together towards transformative change is a process that will require negotiation and iteration

In addition to discussion and agreement on some identified principles as above, there is also a need for agreement on:

- Collaborative projects suitable for testing of joined up approaches and pooled funding, whether through a collective impact or other suitable framework.
- The role and ongoing resourcing of peak organisations, including the contribution of major providers to that resourcing.
- Strategies to discuss and reprioritise the role of the peaks in roles such as social justice advocacy, industry support and capability building, and direct service provision.

## **8. Conclusion and recommendations**

Commissioning by government with the NGO sector to provide services for children, young people, families and communities offers an opportunity to move away from many of the inefficiencies and inequities of transactional contracting and funding models. From the point of view of many in the

NGO sector in NSW, to achieve commissioning based around partnership and co-design would necessitate a major reset of the relationship between government and the sector.

This series of workshops, facilitated by KPMG, has performed a valuable role in crystallising issues and creating momentum for renewed joint effort. Workshop participants agreed that the projects identified in this paper will need to be carried forward in appropriate joint forums and the internal processes of the sector and of government.

Workshop participants agreed that, subject to the deliberations of the ACWA Board:

A short briefing paper drawn from this report should be circulated to stakeholders by ACWA for discussion to facilitate constructive future work on reforming commissioning.

The paper should identify 4 major streams of work to progress-

- work on agreed principles to underpin commissioning work, based on the draft ACOSS principles as outlined in this paper
- work on agreed principles to underpin collaborations within the sector, building on the CSIA principles as outlined in this paper
- work on embedding the voice and rights of children and young people in the commissioning process, building on the work already being undertaken by the ACYP with government and non-government organisations
- as a priority, FACS and TFM will work to give broader access to the sector to a range of recently assembled data, to facilitate joint work on system reform

Participants were clear that the future process to further these pieces of work should be in forums convened and led by the sector, albeit in partnership with FACS, and with joint agenda setting. Peak groups, including ACWA, are now considering consider the role they wish to take in leading this work.



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