

# SUBMISSION

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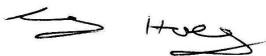
**The Commonwealth Department of Treasury**

In response to the

**Scoping study for a national not-for-profit regulator  
Consultation Paper, January 2011**

**February 2011**

Authorised on behalf of Community Employers WA by:



Chris Hall  
Co Chair



Tony Pietropiccolo  
Co Chair

## Introduction

Community Employers WA (CEWA) is a registered Employer Organisation with the Industrial Relations Commission of Western Australia, and represents non-government, not-for-profit employers in the community services sector of Western Australia.

CEWA's concerns are threefold:

1. Staff in the community sector in WA are not paid fair and just salaries;
2. The community sector in WA needs a stronger and more meaningful relationship with Government; and
3. It is unlikely that community sector organisations will be able to continue to provide certain community services with current government funding levels.

CEWA's key objectives are to secure a 30% increase in government funding to non-government, not-for-profit community service organisations in Western Australia, creating the capacity to allow organisations to improve salaries and wages for staff so that they are fair and just and to ensure that vital community services remain viable, and to facilitate a meaningful relationship with all levels of government.

CEWA's operations are solely funded by its member organisations, which demonstrates both the commitment of these organisations and the importance they place on achieving CEWA's objectives.

CEWA currently represents 107 community service organisations in WA, with a growing membership base (See Appendix 1).

## Current Situation of the Non Government, Not for Profit Community Services Sector in Western Australia

- There are over 550 not for profit organisations associated with the Human Services Industry in Western Australia<sup>i</sup>.
- The Human Services sector employs over 36,000 staff in Western Australia<sup>i</sup>.
- The non-government community services sector in Western Australia is already under resourced and sector staff are significantly under paid. In 2006/07 average weekly earnings for community sector workers were 30% lower than the average full time equivalent weekly wages for the health and community services sector in Australia<sup>ii</sup>.
- The average cost of employing staff in the community sector was \$53,000 per FTE; at the same time the average cost of employing staff in the Department for Child Protection was \$71,000 per FTE; a difference of \$18,000 or 35% higher<sup>v</sup>.
- The difference in base level salaries between public sector specified calling salaries compared to salaries for equivalent staff positions on the SACS Award in the community sector is up to 57% or \$29,210 higher<sup>vi</sup>.
- A first year graduate base grade social worker in the public service will earn \$12,450, or 32% more, than a first year graduate social worker in the community sector.

- After reaching the top level in the public service, the same base grade social worker will receive \$29,210, or 57%, more than their equivalent in the community sector.
- Women in WA are paid 26% less than men, and WA has the widest gender pay gap of any State. The national average gender pay gap (GPG) is 17% and WA has had a larger GPG than the national average since the late 1980s. The fact that the community services sector is large (the second-largest employer of women in WA), female-dominated (80.8% female) and lowly paid means that more equitable wages for the sector would have a significant effect on the gender pay gap in Western Australia<sup>iii</sup>.
- Salary packaging in non government, not for profit organisations is considered a 'benefit' that increases the value of remuneration. However, not all organisations are able to access it (it is limited to Public Benevolent Institutions) and it is also available in certain Government Departments. Equally, not all staff are able to access it or wish to use it. There have been no indexation changes since its inception, and, that combined with changes to the taxation scales, have eroded the value of packaging.
- Because of the demand for services, the NFPO community services sector is one of the fastest growing in Australia.
- In Western Australia in 2007:
  - People being turned away by community service NFPOs has increased by 7% from the previous year;
  - 73% of NFPOs report waiting lists have stayed the same or worsened; and
  - 53% of NFPOs say that the complex needs of their clients have increased<sup>ii</sup>.
- The recruitment and replacement of staff remains extremely difficult. Staff turnover is high at 23% and to make up for this 66% of staff are reporting that compared to last year the amount of unfunded work by staff and volunteers has increased<sup>vii</sup>.
- There has been insufficient attention to capacity building and sustainability in the face of rapid growth since the 1980s.
- The compliance costs of reporting and monitoring are an increasing concern for agencies for which Government agencies were not making allowance in funding.
- The demands of the increasingly diverse and complex service delivery demands emphasises the need for high level skills and their renewal.
- 65% of not-for-profits in Australia report an increase in demand for services as a result of the economic downturn, and 83 per cent expect an increase in demand for services in the next financial year (2009-2010)<sup>iv</sup>.

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Sources:

- i The Human Services Industry in Western Australia: Scoping the Sector, Social Policy Unit, Dept of Premier and Cabinet, July 2008
- ii Survey of 13 non government not for profit agencies in Western Australia for the year ended June 2007 compared to June 2007 Australian Bureau of Statistics information
- iii "Close the Gender Pay Gap: Value Community Services" Research Paper, The Western Australian Council of Social Service, March 2009
- iv Report to Department of Families, Housing, Community Services and Indigenous Affairs, The Centre for Corporate Public Affairs, June 2009
- v 2008/09 Forward Estimates, Department of Child Protection
- vi Comparison of Public Service and SACs Awards, 2010
- vii The Australian Council of Social Service (ACOSS): "The Australian Community Sector Survey 2008" released June 2008 available from [www.acoss.org.au](http://www.acoss.org.au) pg 97

## **Comments in regard to the Consultation Paper, *Scoping study for a national not-for-profit regulator***

CEWA would like to express its position on some key elements of the Consultation Paper regarding a national not-for-profit regulator.

### **Simplification not Complication**

The key outcome from the introduction of a national regulatory body has to be simplification, not complication, that assists (not detracts from) NFPs providing vital services to the community in Australia.

Support for a NFP regulator would only be considered if there were benefits for the sector such as simplification and harmonisation of the current federal and state regulatory and compliance regimes, an improved definition of not-for-profit and reduced red tape (eg. through one point of reporting). Without benefits such as these, there is a significant risk that it is just introducing a further layer of bureaucracy and compliance.

The sector does not need a regulatory body that is just an additional group that organisations have to provide reports to. It does not need more meaningless red tape, greater collection of statistics and another Government entity to dictate to the sector and confuse issues further.

What it does need is a mechanism that will help simplify the accountability requirements by Government, create consistency across funding bodies and reduce the compliance regime while making it more effective.

It appears that the risks associated with the formation of a regulatory body, and the different options available to form such a body, need to be identified and considered further.

### **The concept of 'Regulator'**

The concept of "Regulator" is problematic as it focuses the proposed body on accountability and management of the sector, rather than on also ensuring that government processes and behaviours are coordinated, are fair and just and enhance the ability of the sector to best serve the community.

It is necessary to understand that there are many different types, sizes and complexities when considering the organisations within the NFP sector. Some are indeed funded and operated independent of Government. Most are highly equipped to run themselves and have significant experience and credentials in providing community services. It is important that the right model is employed and that a national-type body needs to be independent and have the capacity to provide external assessment of, and services to, NFP community service organisations.

We would encourage the Government to adopt another name, other than *Regulator*, for any entity it establishes for the above purpose. This would help confirm the broader aims and objectives articulated above.

## **Establishing a Regulator under the ATO**

It is not considered that the ATO is the appropriate location for such a function as it focuses on the monetary element of service and on compliance, rather than improving services to the community.

The fact that “the ATO has effectively become, by default, the NFP regulator at a Commonwealth level” (page 11, paragraph 9), is not sufficient reason.

Such a body would need to sit independently and would consider the needs and expectations of both government and the sector. Traditionally governments have not used such bodies, as these bodies then monitor the performance of government, as well as that of others. However, if this is indeed an attempt at genuine reform, the relationship between the government and the sector needs to be more balanced.

There needs to be further identification of, and consultation on, alternative ‘regulator’ options, including independent bodies.

## **‘Regulation’ vs ‘Education’**

It is essential that the role of such a body be clearly defined. Caution must be exercised in introducing a body that takes on a supervisory and accountability function, while also providing a supportive/educational function. This could be contradictory and confusing, and the implications and risks of such joint roles need to be considered further.

The questions that need to be asked are:

- *“How realistic is it for a government regulatory body to undertake both compliance and education/development roles?”*; and
- *“Would an education and development role be better provided by the sector or at least by a new body whose primary focus was education and development?”*.

## **Data Collection**

Regarding data collection, the key will be determining what information the sector currently provides, what additional data is needed, the cost and impact of collecting any new data and who takes ownership of the data (the Government or the sector itself).

A further consideration is that any data collection must have a useful and transparent function. Over many years the sector has been asked to provide data whose reliability and usefulness is of questionable value. Any data collection needs to identify whether it is being sought to perform a managerial, accountability or evaluative function. These functions are in themselves quite different and data collection must be tailored to suit them accordingly. The sector has for many years been asked to provide copious amounts of data with rare articulation as to why the data is being sought and what function it performs in helping both the government and the sector to deliver better community services.

## **Impact on smaller NFPs**

There is a potential impost on smaller sized organisations and their capacity to meet increased compliance requirements if the current system is not simplified first and if financial and operational information required by the regulator is not proportionate to the size and capacity of a NFP.

CEWA therefore concurs that it is vital that any regulation of the NFP sector should “be proportional to the size and complexity of NFP entities, and to the public monies and risks associated with NFP entities” (page 8, 4<sup>th</sup> bullet point).

## **A National system**

The transition to a federal system needs to be carefully considered, and issues such as harmonisation of legislation need to be adequately addressed.

For example:

- Registration of a charity by a national regulator needs to be recognised across all jurisdictions;
- Laws around fundraising need to be at least consistent across jurisdictions, preferably harmonised; and
- Financial and operational information required by a regulator must be accepted by other government agencies in all jurisdictions.

There are two areas that CEWA finally wishes to comment on.

### **Implication of current lack of accountability of the sector**

CEWA finds it extremely concerning that the Paper implies an underlying lack of accountability by the sector. We refute any such implication. The extent of the current compliance regime in the sector attests otherwise. The aim of this sector reform should be to remove any current impediments to enable organisations to more clearly focus on providing services to the community, an area in which they are highly experienced and credentialed. There should be a continued focus on accountability, with sector organisations maintaining the high standards that they have set in this area.

If there is confusion within government regarding the accountability of the sector it is largely due to the lack of clarity and consistency that currently exists among its own departments. It is not unusual to find different accountability regimes within the one department. The sector is of the opinion that the scrutiny it endures is both complex and excessive. It would argue for accountability systems that are much simpler and more transparent.

### **Lack of meaningful engagement and consultation**

CEWA believes insufficient time has been provided to respond to this Consultation Paper. An initiative as important as this needs more meaningful engagement and consultation, and that includes providing the sector with sufficient time to digest the content and implications of the Paper and enough time to provide considered input and comment.

There needs to be ongoing consultation with the sector on this issue, and it needs to be conducted in a meaningful way; one that engages the sector and takes its issues and comments on board, while working in partnership to improve services to those at most disadvantage in our community.

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## **Appendix 1: CEWA Members as at January 2011**

Activ Foundation Inc  
Advocacy South West Inc  
Agencies for South West Accommodation (ASWA)  
Anglicare WA Inc  
ARAFMI  
Armadale Community Family Centre  
Association for Services to Torture & Trauma Survivors (ASeTTS)  
Association for the Blind WA  
Asthma Foundation WA Inc.  
Baptistcare  
BJL Connecting Communities  
Bluesky Community Group  
Bunbury Pathways '92 Inc.  
Burdekin – Youth in Action  
Care Options  
Centacare Employment and Training  
Centacare Family Services  
Centrecare Inc  
Child Inclusive Learning and Development Australia Inc (CHILD Australia)  
CLAN WA  
Communicare  
Community Housing Coalition of WA  
Community Legal Centres Association (WA) Inc  
Community Vision Inc  
ConnectGroups  
Continence Advisory Service of WA  
Cyrenian House  
Derbarl Yerrigan Health Services Inc  
Drug ARM WA Inc  
Ethnic Communities Council of WA  
Extra Edge Community Services  
Financial Counsellors Association of WA Inc.  
FPWA Sexual Health Service  
Fremantle Multicultural Centre Inc  
Good Samaritan Industries  
Gosnells Women's Health Service  
Headwest  
Health Consumers Council (WA) Inc  
Hills Community Support Group Inc.  
Holyoake The Australian Institute For Alcohol & Drug Addiction Resolutions  
Identity WA  
Ishar Multicultural Women's Health Centre Inc  
Joondalup Youth Support Services Inc  
Kids Camps Inc  
Koolkuna (The Eastern Region Domestic Violence Services Network Inc)  
LAMP Inc  
Landsdale Family Support Association Inc  
Learning Centre Link  
Lifeline WA  
Margaret River Community Resource Centre Inc  
Meath Care Inc  
Melville Cares Inc  
MercyCare

Metropolitan Migrant Resource Centre  
Midland Joblink Inc.  
Mission Australia  
Mosaic Community Care Inc  
Multicultural Services Centre of Western Australia Inc  
Ngala Family Resource Centre  
Nulsen  
Outcare (Inc)  
Palmerston Association Inc  
Parkerville Children Youth Care Inc  
Pat Thomas Memorial Community House Inc.  
Peel and Rockingham Volunteer Resource Centres  
Peel Community Living  
People with Disabilities (WA)  
Perth Home Care Services Inc  
Red Cross WA  
Relationships Australia (Western Australia) Inc  
Richmond Fellowship  
Rocky Bay Inc  
Ruah Community Services  
Secca  
SEMYA  
Serenity Lodge  
Silver Chain  
South Coastal Women's Health Services  
Southcare Inc  
Southside Care  
St Patrick's Community Support Centre  
St Vincent de Paul Society  
Swan City Youth Service  
Swan Emergency Accommodation  
Technology Assisting Disability WA  
Tenants Advice Service  
The Salvation Army  
The Spiers Centre Inc  
The WA Aids Council  
Therapy Focus Inc  
Uniting Aid  
UnitingCare West  
Valued Independent People Inc  
Vincentcare  
WA No Interest Loans Inc.  
Wanslea Family Services Inc  
We Can Community Services  
Westcare Inc  
Western Australian Association for Mental Health  
Western Australian Council of Social Service Inc  
Western Australian Network of Alcohol and other Drug Agencies  
Women's Council for DFV Services (WA)  
Women's Health Resource Centre  
Women's Health Services  
Women's Healthworks  
YMCA Perth  
Youth Focus