

QCOSS Queensland Council of Social Service

27 February 2014

Trevor Ruthenberg MP
Chair
Health and Community Services Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Sir

Re: *Communities Legislation (Funding Red Tape Reduction) Amendment Bill 2014*

Thank you for the opportunity to provide a submission regarding the above matter. Overall, we support the changes put forward in the Amendment that aim to reduce red tape. In particular, we support removing the requirement of organisations to undergo an Approved Providers application process before applying for government funding. This removes a duplicative process and reduces red tape for community service organisations. However, we do have a few concerns that are detailed below.

We are concerned about removing the ability of funded organisations to apply for an external merits-based review to the Queensland Civil and Administrative Tribunal (QCAT) for key decisions about funding.

While government's ability to take swift and decisive action to protect state resources and the safety of service users is critical, it must be balanced with fair and transparent mechanisms for funded organisations to appeal decisions which affect their funding arrangements and other related contractual obligations. An external appeal process is an important avenue for organisations to seek impartial reviews of such decisions and without one there is a risk of perceived bias and inconsistent application by government agencies, impacting on the outcomes of reviews.

While under the Amendment, funded organisations are able to seek a judicial review of any administrative decisions made, most organisations will not have the resources required to do so. Therefore, removing the QCAT appeals process effectively removes the most practical mechanism for appeal from organisations.

The removal of the QCAT appeals process is even more concerning as the definition of a 'serious concern' within the Bill, which can be cited as a trigger for a number of powers, is very wide and open to interpretation. While legislation should be flexible with some room for interpretation, the current definition is subjective and risks being applied inconsistently. This ambiguity, combined with organisations' inability to access an external review of decisions, exposes funded providers to potentially biased or inconsistent decisions. QCOSS strongly recommends that the removal of the QCAT appeals process be reviewed.

QCOSS also recommends that, to protect client and staff confidentiality, amendments are made to the sections of the Bill outlining funders' powers to require information from funded organisations. Community organisations hold a wide range of confidential information on clients and staff, much of which is subject to various laws and protections (for example, information privacy laws, legal professional privilege, workplace laws). We recommend that additional protections are introduced to the legislation to ensure delicate information is treated appropriately.

Queensland Council of Social Service Inc
River Tower, Ground Floor, 20 Pidgeon Close, West End QLD 4101
PO Box 3786, South Brisbane QLD 4101

RECEPTION (07) 3004 6900 FAX (07) 3004 6999 EMAIL qcoss@qcoss.org.au ABN 11 781 477 447

www.qcoss.org.au

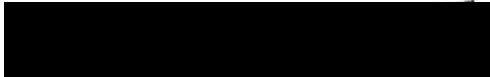


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The potential for the amended legislation to be applied across government during an existing contract period is also concerning. This may have unintended consequences for organisations if the underpinning legislative requirements of their current contracts are markedly different to those in the new bill. This could also lead to processes being duplicated between contracts and legislation. For example, there may be a dispute resolution process in a service agreement and in the legislation, with each being slightly different. Having two processes for government funders to choose from would likely lead to inconsistency around how disputes are handled. To avoid these duplications and inconsistencies, we recommend that any existing contracts not currently under the *Disability Services Act 2006*, *Community Services Act 2007* or *Family Services Act 1987* should be rolled over to this legislation as their current contracts expire.

If you require any further information, please feel free to contact Anne Curson, Team Leader, Sector Strategy and Service Development on 3004 6935 or annec@qcross.org.au

Yours sincerely


Mark Henley
Chief Executive Officer

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