

Consortia, collaborations, partnerships and alliances: preparing for the proposed change to NGO funding

A Briefing paper for NGOs

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This paper discusses the history of competitive funding, and the types of consortia that might be relevant to NGOs in order to be better positioned for competing for funding.

Being a NGO Palliative Care Volunteer Service

NGOs with Palliative Care Volunteer Services face challenges that are unique and different to those faced by Volunteer services attached to hospitals (private and public).

Some of these are obvious and some are more subtle, not all of them apply to all organisations:

- As a stand-alone organisation they are more likely to face resource challenges, and may find it more difficult to access clinicians for training and referrals;
- Typically they aren't co-located with the local Palliative Care service and may require more effort to become embedded within the system of patient care;
- Having their own identity as a separate entity to the Palliative Care service they might find that they need to assert their credibility in the system in a way that hospital-based services don't need to; and
- Depending on their funding source the effort required to attract and maintain funding is a significant part of the life-energy of the organisation.

There are upsides to being an NGO such as a greater sense of community-connection, the potential to attract fundraising dollars, maybe some tax benefits, the capacity to develop a unique focus on the needs of the local community and so on.

In any case there is a critical mass of energy required to support the initiatives and networking involved in turning relationships into benefits for clients.

The proposed change to the funding arrangements through NSW Health is proof that funding and fundraising environments aren't static.

A shift in thinking – funding ideology and practice

Over the years funding jurisdictions have considered ways in which to reshape and/or rationalise their NGO funding arrangements. Often the driver has been pressure from Treasury or the burden of administration.

Funding to NGOs was well established in NSW by the time the NGO Health Grant Program operational guidelines were issued in 1996. The Audit Office of NSW published their Guide to Better Practice Administration of Grants in 1998.

At about this time was the 'Compact Movement' of 1997-1999 in which NCOSS negotiated collaborative instruments with the NSW Government to recognise the contribution of the community sector.

There was a burgeoning increase in NGOs about this time and more competition for funding. In 2006 the NSW Government proposed a new framework "Working Together for NSW". This was in part a response to 'grants rage' from the community sector, resulting from disagreement with how funding was being rolled-out within community services.

The NSW Government's response to representations from the NGO sector on improving grants management has been to embark on reform, engaging both grants administrators and grants recipients in the process. ('Overcoming Grants Rage: NSW Grants Administration Reform', Cathy Peters, NSW Premier's Department, Address to the Best Practice in Grant-making Conference, Melbourne, 17 February, 2006).

A Grants Administration Review resulted in several in-principal endorsements:

- moving away from an historical basis of funding. This approach was seen to restrict the flexibility of the Government to allocate resources fairly according to changing needs, as well as restricting the ability of the NGO sector to deliver different service needs in a changing environment.
- moving to longer term agreements to provide some certainty of funding which would enable NGOs to concentrate on the outcomes rather than the following year's agreement creating more effective and efficient use of agency and NGO time.
- providing a capacity to transfer funds between programs giving the government flexibility to fund emerging issues on a sustainable basis and provide emerging NGOs access to funding streams not currently available.
- engaging 'risk management practices' to align better the degree and cost of accountability with the value of funding provided or the level of sensitivity.

In their response to 'Working Together for NSW: Good funding policy and practice' NCOSS wrote:

NCOSS accepts that the NSW Government has moved to focus on the managed market approach and that there will be times when contestable funding processes will be the appropriate way to proceed – for example where large amounts of new money become available for new types of services and it is unclear who might be the best providers. However, we also believe that those situations are the exception to the rule and that funding policy is better grounded in planning, collaboration and negotiation to add value to renewable funding arrangements than in the manipulation of partnerships or competition. ('Working Together for NSW: Good funding policy and practice', NCOSS, 2006)

Different NSW agencies developed funding policies about this time. NSW Health responded with the 2007-2009 NGO Policy Framework which was an explanation of the management of funding to their NGOs. NGO Units were established.

The NSW Health NGO Review (known as the Matthews review after the convenor Dr Richard Matthews) in 2009-2010 resulted in collaborative structures inclusive of NGOs to provide advice on

NGO Sector capacity development, monitoring the impact of national and state health reform initiatives, and implementing the recommendations of the NSW Health NGO Review. These were largely rolled out in 2010 and the stakeholder base expanded in 2011.

In March of 2013 the Ministry of Health published 'Partnerships for Health: A response to the grants management improvement program taskforce report' (known as the GMIP Taskforce report) which made a series of recommendations about funding methodology. The report recommended a change to competitive funding arrangements so that in the future "all arrangements between NSW Health and funded organisations be through 'contracts', as opposed to grants, service and funding agreements and so on" based on evidence and data which "more than ever before, has become crucial to funding arrangements through activity based funding. Consequently, all partnerships that are direct service provision to clients will need to count and capture their activity, in alignment with activity based funding models" ('Partnerships for Health: A response to the grants management improvement program taskforce report', NSW Ministry of Health, 2013, pg 8-9).

It is important to note the context of these changes referred-to in the GMIP Taskforce report. The Independent Commission Against Corruption (ICAC) report released their report 'Funding NGO Delivery of Human Services in NSW: A Period of Transition (2012)', and the Productivity Commission Research Report: 'Contribution of the Not-for-Profit Sector' (2010) was also topical.

Also of relevance is the experience of the Federal Government since the late nineties in funding reform, notably:

- in contracting out services previously delivered by Government (e.g. Job Network);
- in promoting private provision of services through funding models based on payments for individuals rather than operating costs (schools, child care); and
- in farming out the contractual process itself to a "middleman" through a lead agency or consortium approach (Stronger Families; Communities for Children; Children's Services Professional Support).

The view of NCOSS ('Working Together for NSW: Good Funding Policy and Practice', NCOSS, 2006, pg 13) on the Federal funding reform was that these shifts have been accompanied by:

- more complex funding agreements and contractual arrangements; and
- a preference for lead agency or consortia models of service delivery that make it easier for governments to deal with fewer agencies but may result in small services losing their voice, in more standardised approaches to service delivery, and in the loss of local community input to service planning and delivery.

In brief the current proposals support the notion that the rationalisation of funding to NGOs will result in arrangements which are more efficient, more equitable, with demonstrated evidence of benefit, and will give greater clarity of relationship between funding body and funded-body.

However the pace at which the current funding reform is being developed perhaps points towards the complexity of rolling-out this funding-approach for all services under the NSW Health scope of responsibility.

Apart from the above critiques of competitive tendering, other criticisms include: there is no opportunity afforded in the selection criteria to build on an organisation's history and demonstrated commitment in a local area or region; to value existing relationships/networks/community trust; or to cost some of the extras that local organisations bring (local venues, engagement with their community). In particular existing organisations can bring volunteers. These are some of the issues to be addressed if the system response is to be maintained or improved.

Types of consortia, collaborations, partnerships and alliances

The history of funding by competitive tendering (in particular through the Federal Government) provides some guidance to the most popular entities formed. These are briefly outlined below.

Neither this list nor the subsequent descriptions are meant to be comprehensive. The field of corporate governance is specialised and further reading is suggested.

- Single Organisation
- Incorporated Alliance (eg Company)
- Non-incorporated Alliance (eg Lead-Agency)
- Other models

Terms like Lead-Agency and Company are indicative of legal structures by which member organisations agree to be bound. The terms themselves are subject to debate. DoCS noted in their preamble to their Early Intervention Program funding round:

The terms consortia, partnerships or alliances are often used interchangeably in the context of funding integrated service delivery arrangements. While the terms have different legal and contractual implications for agencies, the overall intent is to differentiate multi-agency arrangements from single agencies. For the purposes of this paper, the term consortia will be used from herein (DoCS, Contractual Arrangements for Consortia in the Early Intervention Program, date unknown, NSW).

Single Organisation

Within a competitive tendering environment large agencies are often able to demonstrate a scale and capacity which attracts the attention of funding bodies. They may also have well developed sources of private income (such as charitable fundraising), and support bases (such as churches) which add (real or perceived) gravitas to their commitment to mission.

Whereas traditionally government has favoured not-for-profit providers, under a competitive tendering environment an eligible organisation may be for-profit, not-for-profit or even another government agency (state or local). Using again the DoCS example, as this is likely to provide guidance for the NSW Health initiative:

...an eligible organisation is considered to be a not-for profit incorporated non-government community services organisation.

Small groups might decide to merge into a single agency. Whilst mergers are commonplace in the corporate sector they tend to be rare amongst not-for-profit organisations. This is partly explained by the focus on mission optimisation rather than not on profit maximisation, a high-level of

emotional buy-in and identity-inertia by stakeholders within each organisation, and client-specific loyalties which may not be demonstrated within another group.

In my experience a corporate merger tends to be a cross between a footy match and a garage sale, sentimental and pragmatic. A not-for-profit merger is more like courtship and marriage, full of human emotion and things unspoken. Just like marriage it works best where there is a lot of love, or desperation, or both.

Incorporated Alliance (Company)

A more formal approach is to form a new legal entity in the form of a company limited by shares, with each member effectively a shareholder.

To some extent this company arrangement looks similar to the 'ownership' of peak bodies like Palliative Care Australia where the members are (at least initially) the state palliative care associations. There are several key differences however, one of which is that the peak body is itself an association or company limited by guarantee rather than a share-based company.

When a company is formed a share entitlement is created and owned by each of the members. Each member is entitled and obliged to field a director to sit on the company's Board. The conduct and governance of the company is consistent with the requirements of the Corporations Act.

The company is the funded entity and interacts with the funding body.

One of the members might provide secretariat support for the company, or a separate staffing group might be created with a CEO and other staff.

By comparison with the Lead-Agency model, the company model divests relatively more power into each member by virtue of their involvement in the control of the company. Likewise the other members have relatively more power to exercise discipline on other members who are underperforming or behaving mischievously.

Non-incorporated Alliance (Lead-Agency)

One way for a group of organisations to collaborate and power-share without incorporating is by nominating a lead-agency.

The members have a formal agreement between them and one member is nominated as having responsibility for interacting with the funding body and representing the interests of the group. The funding body will interact with an alliance in the same way as they would interact with a single organisation.

Each organisation retains its own corporate identity, and responsibility for its own operations and profitability. The Lead Agency must be authorised to negotiate, act on behalf of, and bind each member.

Other members of the group may have minimal power to influence the behaviour of the other members of the group except within the confines of the agreement, for example where one member is failing or may bring the other members into disrepute by their actions (for example by conducting media or political lobbying that may be at odds with others in the group).

The lead-agency hosts the relationship with the funding body on behalf of the other organisations, and is responsible for ensuring that the members comply with their obligations under the funding. Much depends on the capacity of the Lead-Agency to build and promote a healthy relationship with the funding body and members.

Despite the onus on the Lead-Agency, each member of the group still has a direct legal obligation toward the funding body individually, as well as collectively through the group. Therefore each member is effectively liable for the actions of the group, and the funding body may take action against any or all of the parties.

The members may be able to negotiate other benefits through their group (for example Insurance or Accreditation).

Other models

This list is not exhaustive, and within each type there are variations.

Incorporated and Non-incorporated entities tend to assume that the members are somewhat robust in their governance and have clarity of mission and expertise. Each entity's structure suggests that power is somewhat equally divested in each member.

It is important therefore that, whatever structure is chosen, each member feels that they are likely to be equally valued. The inclusion of an individual as a member (if this is permissible by the funding body), or including a large local government entity as a member, may detrimentally upset or shift the balance of power.

Whatever model is chosen it must:

- Be legal and acceptable to the funding body;
- Fairly represent the interests of the members without undue sacrifice on their part;
- Allow the achievement of the mission of the individual members within the intent of the funding.

This explanation is brief and intended as background information for further discussion.

Examples - Some NSW responses

In NSW smaller organisations have discussed and developed models of consortia to respond to the proposed funding change. Some of these models are discussed in this section.

Incorporated Alliance (Company) – Community Transport Organisations

Jenny Hadfield CEO of Manning Valley Transport shared a sense of vulnerability as a small NGO with her colleagues in other transport organisations.

“I’d come from Job Futures which was a large NGO, but which had started out as a small NGO just like us. Now they are now a major provider of job seeker services to the Federal Government”.

In discussions with colleagues from other similar NGOs a group of 6 community transport organisations from the north coast of NSW formed an idea for a company.

After some initial meetings over the course of 12 months or so they shaped-up how the company would function. They then went about putting it to their Boards and gaining support from stakeholders.

“It was a bit of a challenge to get the Boards to agree. We did a number of roadshows and presentations in the community, made an information DVD, and went and did a few presentations to different Boards. At times the conversations ended up being pretty lively”.

The members represent community transport services from Newcastle north to the border, and they believe that this makes them more effective in tendering.

They didn’t initially set-up the company in response to the proposed changes to NSW Health funding, but believe that they will be better placed to respond to the changes if and when they come.

“We haven’t always been successful in our bids, but we’ve had a few wins.” She adds that they are looking to the future, saying “there are some really big players out there, for-profit as well as non-profit, and overseas companies as well”.

Non-incorporated Alliance (Lead-Agency) – Richmond PRA

Neil Mawson from Richmond PRA was involved in creating the successful collaboration which won the Partnerships in Recovery (PIR) funding in the New England Area, and he was also involved in the collaboration in the Hunter area.

“In the New England area there is a consortium with 6 organisations, with Richmond PRA as the Lead-Agency. We weren’t successful in the Hunter area, but we are one of the delivering services.”

The process involved early discussions, consortium meetings and MOUs.

“As soon as we realised that the tender was coming out (Federal Government) we quickly formed a partnership with (a large service), and invited others to attend a workshop to discuss the collaboration concept.”

The early stages proved to be a bit messy.

“There was support for the idea but some dissatisfaction with who would make the best lead-agent and eventually the group split into the Hunter area, and the New England area.”

What wisdom can he share from their experience?

“Our experience was that it is really important to get the in-depth discussions out of the way as early as possible.”

This includes how much responsibility will fall to each organisation, and whether the Lead-Agency will take a more management role or whether that will be shared around all the organisations.

“Also it is usually the Lead-Agency which writes the tender document, and they need to have the capacity and support of the other organisations early-on. So you need to get the jostling about who is going to be the Lead-Agency out of the way as soon as you can.”

Would Palliative Care NSW be involved in a consortium?

We are not planning to compete with existing Palliative Care Volunteer Services, if or when the proposed funding arrangements are realised.

Our position is that we believe in the value of retaining the current system of NGO providers and will speak that into the stakeholders where and when possible.

If Palliative Care NSW was asked to be involved in a consortium by a group then we would want to clarify aims and expectations with the group, and understand their preferred management model. We would need to decide if this was consistent with our role as a peak body, and the final decision would be made by the Palliative Care NSW Committee of Management.

Responding to the competitive tender

There are other pressing questions which services have or will have about applying for a competitive tender. These include:

- How do we determine the cost of a service provided by a volunteer? How do we do a cost-benefit analysis?
- What reimbursements for volunteers should we factor-in, what are other services doing?
- Who are our likely competitors? What expertise will we be competing against?
- Do we have to be accredited under a quality management system? If so what are the options? Would this be cheaper if we were part of a consortium?

I am happy to respond to any service which has questions. Katrina Simmons (*Blue Mountains Palliative Support Service*) kindly offered these questions (**my responses are in red**) and I think it is worth including them here for the benefit of other services who probably have very similar questions:

- Cost-benefit analysis models? How do we measure and demonstrate value for money for our volunteer service? How do we judge cost?

There are no easy answers to this question, and this will be a valuable discussion to have with the other NGOs.

- Does PCNSW have any idea what similar models we will be competing with will charge (eg Private and church based organizations like Hammond Care, Catholic Care)?

No, we aren't privy to the intentions of other services. The change in the funding process effectively throws open the field to anyone who wants to be involved at whatever cost they see fit.

- Health seems to be only interested in quantitative data? Qualitative, articulating, defining outcomes are also part of writing the tender.

Yes agreed.

- Can PCNSW be a referee for our service? Can PCNSW provide advocacy on behalf of our service and LHD (as we believe that the LHD's ultimately will decide who they want)?

Referee - I would think that PCNSW management would be happy to be a referee, but I suggest for the purposes of the tender a more effective reference might be from your 'suppliers and customers'. Advocacy – Advocacy is a diverse concept (eg legal advocacy, systems advocacy, individual advocacy) so I can only generalise about our role as an advocate for services - we reiterate our belief in the value of retaining the current system of NGO providers and will speak that into the stakeholders where and when possible.

- Can you please clarify that if PCNSW forms a consortium for the tender and then takes the "Lead Agency Role " it would then mean that the smaller services would then be Auspiced by PCNSW and not the organizations they are currently under eg – Neighbourhood Centres?

ie what would be the terms of reference of this consortium? What are the key roles of the lead agency? Does it include accepting the funding for, and managing these services?

We won't be forming a consortium. Individual organisations may form a consortium, and they might want us to be involved. If they want us to be involved we will clarify with them their reasons, their expectations and decide accordingly as to whether or not this is consistent with our broader role as a peak body. If we do get involved then a model of management will have to be agreed with the members. This is something for the members to decide.

An option is to have one member as a Lead Agency (but there are other options). The members might want each organisation to reflect a consistent legal entity-type (eg state-incorporated association) but again this will be a decision for the group. I can't see why they would, but that will be part of the conversation.

PCNSW could act as a Lead Agency, as could the Blue Mountains service or any of the other services.

If the Lead Agency model went ahead then that organisation would likely function as a receiver-of-funds and provider-of-reports ie a channel to and from NSW Health. If this was not desired by the members then they would be better –off forming a different model, perhaps a peak agency owned by each of the members.

So there are lots of 'ifs'. I am hoping to outline some of these different models in my paper to the NGOs.

- If the proposal is for PCNSW to manage the funding and services of the consortium: as the Health NGO funding will most probably be devolved to regional districts for distribution, what advantage would there be for services not in the same region to be part of a consortium?

I think this highlights just how much we don't know, about the tender process, about the distribution model, about the LHD involvement. We do have a lot of speculation. I guess it's possible that any given service will want to be involved in a local consortium as well as a state-wide consortium and maybe also a service-specific consortium. Remember there is no 'proposal' at this stage, there is simply a commitment to having a discussion.

- Is PCNSW planning to put in tender proposals for services in other areas of NSW? **No.**

What about collaborating with other service-areas?

If you are part of a consortium your group might consider forming links with other organisations or consortia which have a related focus; for example on aged-care, or chronic-care, or volunteer-support (for example meals on wheels).

This will help you be prepared in the event that the tender requires more than just Palliative Care Service provision.

Again we don't know what to expect, but we can be prepared as much as possible.

Next Steps

This briefing paper is intended to give you some ideas to discuss within your organisations.

The 'next steps' involve asking more questions and continuing the discussion. It involves deciding on whether we want to collaborate, who wants to be involved, what are their preferred models (incorporated, non-incorporated) of collaboration, and what are our shared goals and principles.

Although this paper was motivated by the impending proposed changes to NSW Health funding it is likely that a consortium will help with identifying and competing for other funding opportunities too. This is reflected in the experience of the Community Transport Organisations above.

Join the NGO Network

Palliative Care NSW recently created the NGO Network which has decided to meet monthly at least for 2015.

If you are a Palliative Care Volunteer Service NGO and would like to be involved please contact me for more information.

For more information please contact

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