ACTCOSS Position Statement on Commissioning and Procurement

April 2021

About ACTCOSS

ACTCOSS acknowledges Canberra has been built on the land of the Ngunnawal people. We pay respects to their Elders and recognise the strength and resilience of Aboriginal and/or Torres Strait Islander peoples. We celebrate Aboriginal and/or Torres Strait Islander cultures and ongoing contributions to the ACT community.

The ACT Council of Social Service Inc. (ACTCOSS) advocates for social justice in the ACT and represents not-for-profit community organisations.

ACTCOSS is a member of the nationwide COSS Network, made up of each of the state and territory Councils and the national body, the Australian Council of Social Service (ACOSS).

ACTCOSS's vision is for Canberra to be a just, safe and sustainable community in which everyone has the opportunity for self-determination and a fair share of resources and services.

The membership of the Council includes the majority of community-based service providers in the social welfare area, a range of community associations and networks, self-help and consumer groups and interested individuals.

ACTCOSS advises that this document may be publicly distributed, including by placing a copy on our website.

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Initiative of

ACT Government

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Acronyms

ACOSS	Australian Council of Social Service
ACTCOSS	ACT Council of Social Service
ATODA	Alcohol Tobacco and Other Drug Association ACT
CALD	culturally and linguistically diverse
CHN	Capital Health Network
CMTEDD	Chief Minister, Treasury and Economic Development Directorate
CSD	Community Services Directorate
DFV	domestic and family violence
DVCS	Domestic Violence Crisis Service in Canberra
EPSSD	Environment, Planning and Sustainable Development Directorate
JACS	Justice and Community Safety Directorate
LGBTIQ+	lesbian, gay, bisexual, trans, intersex, queer or questioning, and identities not captured in the initialism
M&E	monitoring and evaluation
NDIS	National Disability Insurance Scheme
OOHC	out-of-home care
UTS	University of Technology Sydney

Introduction

The ACT Council of Social Service (ACTCOSS) advocates for social justice in the ACT and represents not-for-profit community organisations.

The ACT Government has made public its intention to reform the process of selecting and procuring health and community services through the introduction of commissioning.

This position paper presents ACTCOSS's views on commissioning and procurement. It is based on the collective expectations and expertise of the ACT community sector. The position paper includes:

1. A suggested definition of commissioning in the ACT context

2. Community sector and consumer expectations of each stage of the commissioning process

3. What commissioning is not.

This document is not a definitive guide to commissioning or procurement reform. However, it does provide a framework for discussion and evaluation of the commissioning reform process.

Commissioning in the ACT context

Commissioning is context specific.

In the ACT context, ACTCOSS considers commissioning to be:

A mechanism for the ACT Government, in partnership with the ACT community sector and ACT community members and service users, to determine a community need and to identify, establish or fund co-designed services to meet that need, for the purpose of achieving defined, measurable and improved wellbeing outcomes and long-term efficiencies, for example, by preventing presentations to acute services.

Examples of commissioning-type processes in the ACT

In the ACT, Our Booris, Our Way is one example of a commissioning-type process. The Our Booris, Our Way Steering Committee oversaw work to identify the needs of Aboriginal and/or Torres Strait Islander families and children in the ACT and the services required to best respond to those needs.

This process was instigated to respond to the high rates of Aboriginal children in the out-of-home care (OOHC) system in the ACT.

However, some of the recommendations were almost three years old before any funding was announced to implement recommendations in the Our Booris, Our Way report.

Another example where elements of commissioning have been introduced is the Disability Justice Strategy. The strategy was created with input from the community including people with disability to address the failures of the ACT justice system to identify people with disability and deliver necessary supports and appropriately interact with people with disability. The strategy has funding for four years to implement the associated action plan with the goal of identifying how many people with disability are in contact with the justice system and the reason for that contact. This should be considered the very beginning of a commissioning process – to identify needs as part of a process towards lowering the number of people with disability in the ACT justice system.

A further example of a commissioning-type process in the ACT is the Safe and Connected Youth Project. The project, which resulted from concerted advocacy from the ACT youth and homelessness sector, produced the Action Plan to Prevent Child Homelessness. The action plan identified the services and actions required to meet needs and achieve the end of child homelessness in the ACT. The ACT Government committed initial funding in 2019 to fund gaps in services and supports for children and young people under the age of 16 as identified in the action plan. Note that funding has only been provided for the initial stages of the project and confirmation of funding for key elements of the project, such as ongoing funding to run a youth homelessness service, is yet to be confirmed.

The commissioning process – expectations of commissioning reform

The Australian Council of Social Service (ACOSS) *Commissioning and Getting Better Outcomes – Principles and Practice Briefing Note* has outlined key steps for an authentic commissioning process.[1] This is useful for the ACT context. The four steps are:

- Assessing need

- Designing services

- Purchasing/funding services

- Managing the delivery of services to achieve defined outcomes through monitoring, evaluation, and performance improvement.

The following are some suggested activities (non-exhaustive) that should be part of each stage of the commissioning process. This should be continually reviewed and developed:

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1   ACOSS, *Commissioning and Getting Better Outcomes – Principles and Practice, an ACOSS Briefing Note*, ACOSS, October 2018, viewed 22 April 2021, <https://www.acoss.org.au/wp-content/uploads/2018/10/ACOSS-Briefing-note_Commissioning-and-Getting-Better-Outcomes.pdf>.

Assessing need – expectations

An identification of the challenge or problem that the commissioning process seeks to change and the outcomes to be achieved and measured, for example:

- Overrepresentation of Aboriginal and/or Torres Strait Islander children in out-of-home care[2] (Possible outcome: reduction in numbers of Aboriginal and/or Torres Strait Islander children in OOHC)
- High rates of homelessness among women experiencing domestic and family violence (DVF)[3] (Possible outcome: reduction in waiting time for women experiencing DFV to access appropriate social housing)
- Long waiting times in accident and emergency[4] (Possible outcomes: reduction in waiting times; better self-assessment of health and wellbeing in vulnerable groups)
- No Aboriginal and/or Torres Strait Islander drug and alcohol treatment facility (Possible outcome: development of appropriate and effective facility; lower recidivism; improved self-assessment of and/or objective health and wellbeing; reduction in Aboriginal and/or Torres Strait Islander peoples engaged with the justice system)
- Mismatch between population increase and service growth in Molonglo (Possible outcome: improved satisfaction/wellbeing of Molonglo population)
- Raising the age of Criminal Responsibility from 10 to 14 (Possible outcome: long-term decline in prison population; fewer children 14 years and above in the youth justice system)
- High recidivism rates and/or high levels of dissatisfaction with outcomes for victims of crime (Possible outcomes: lower recidivism and higher satisfaction levels for victims).

Clear terms of reference and methodology for needs assessment. Needs assessment should result in recommendations and broad identification of services required.

Use of recent empirical qualitative and quantitative data to inform needs assessment and the identification of services required. New data and research should be commissioned if required.

Consultation on data to be used should be done with community, e.g. there is strong agreement that express demand (waitlists) should not be the proxy for measuring population need as there is significant hidden need.

Transparency, for example, by publishing needs assessment and/or making available empirical evidence and information used in needs assessment.

Demonstrated listening to communities and the community sector as to what is needed and what will work.

Needs assessments will be of differing scales and depths depending on the complexity of challenge or problem and availability of existing data.

A needs assessment may be presented in different forms, e.g. report, strategy or action plan.

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2 In the ACT there are 72 per 1000 Aboriginal and/or Torres Strait islander children aged 0-17 in out-of-home care, the highest rate of any jurisdiction and 14 times higher than the rate for non-Indigenous children – see Table 16A.2 in Productivity Commission's *Report on Government Services 2021: Child Protection*, viewed 22 April 2021, <https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/community-services/child-protection/rogs-2021-partf-section16-child-protection-services.pdf>.

3 A Davis, *Smart Accommodation Report*, Domestic Violence Crisis Service, December 2020.

4 The ACT has the poorest performance of any jurisdiction in waiting time targets for patients seeking treatment in accident and emergency departments – see Table 12A.13 in Productivity Commission's *Report on Government Services 2021 – 12 Public Hospitals Data Tables*, excel file, viewed 22 April 2021, <https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/health/public-hospitals>

Adequate resources available to produce a needs assessment including for external bodies required to contribute and consult.
Needs assessment should identify services required across all directorates and portfolios to address a challenge/achieve a defined outcome.
Needs assessment should reflect needs that arise as a result of natural disaster, pandemic or federal policy changes (National Disability Insurance Scheme; income support).

Designing services – expectations

Using a starting point of recommendations outlined in needs assessment, in partnership with providers and consumers, identify existing services that are meeting needs and determine if those service require additional funding/expansion or redesign to address challenge and meet objectives.
Using starting point of recommendations outlined in needs assessment, in partnership with providers and consumers, where existing service provision does not exist, describe/detail/design required programs or services thorough co-design process.
Co-design process to be agreed with consumers and community sector. Process must be transparent and proportionate to scale of issue being addressed. From outset, who will be involved and how, limitations of process, what is negotiable (and what is not negotiable) should be made clear by government.
Include in design process the goal of ensuring choice for Aboriginal and/or Torres Strait Islander peoples by ensuring design process recognises the evidence for and importance of funding and support for Aboriginal Community Controlled Organisations to deliver services to Aboriginal communities.
Include in design process the goal of ensuring choice for consumers by ensuring design process recognises the importance of and evidence for funding for services controlled and run by the communities they serve, e.g. LGBTIQ+ organisations; culturally and linguistically diverse (CALD) organisations.
Ensure design process creates services that ensures cultural safety for all people accessing mainstream services.
Consumers to be at centre of co-design. Funding for resources and programs is required to ensure inclusion and support for community, families and individuals involved in the design of programs and services.
Demonstrated listening to communities and the community sector as to what is needed and what will work.
Multi-ACT Government directorate/agency involvement in service design across all sectors and services.
Funding for pilots and good planning to ensure immediate ongoing funding if pilot is successful.
Resourcing for time spent by community sector organisations, consumer and sector peaks in design processes, particularly in processes where participating organisations may not be the ultimate recipients of funding for service delivery.

Funding services – expectations

Funding methodologies are robust and transparent. Methodologies should include full range of costs including overheads and indirect costs such as co-design, capital investment, IT capability, reporting, training and research, regulation and monitoring and evaluation.
Funding methodologies used consistently across all directorates and contracts.
Transparent process for determining type of tender process (e.g. open tender, select tender, single-select tender).
Funding for (potentially joint) capability training in community sector organisations and ACT Government on funding methodologies, costing, trust building and contract design.
Closer inter-ACT Government agency relationships for joint investment and knowledge sharing to address challenges and need in the ACT community.
Clarity on rationale for how, when and why funding decisions are made, including feedback for organisations that submit unsuccessful tenders.
Greater clarity and honesty about government objectives, priorities and rationale for trade-offs in funding.
Contracts should be for a period of a minimum of five years. Clear mechanism should be in place to determine length of contract. Clear mechanism in place in contracts to address cost increases and changing demand (including reduction in demand).

Managing the delivery of services and monitoring and evaluation

Iterative contracts and services that allow continual learning, flexibility and change, and safe processes for negotiating this.
Mechanisms for receiving and responding to feedback from consumers and the community sector providers and peak bodies.
Equitable relationships between ACT Government and service providers, improved communication between service providers and ACT Government and better understanding of work of service providers by ACT Government.
Resources and planning to integrate services, e.g. investment in improving knowledge of available services within government, among other community service providers, and among the public. Investment in referral mechanisms within and between sectors (e.g. Health to Health, Justice and Community Safety Directorate (JACS) to Health; Health to Community Services Directorate (CSD)).
Proportionate and relevant monitoring and evaluation requirements co-designed with community sector, consumers and academia.
Flexibility in contracts that allow a test and learn approach.
Clarity around when, why and how data is required and used.

Support for (potentially joint) government and the community sector opportunities to develop knowledge and understanding of monitoring and evaluation (e.g. see UTS M&E Toolbox).

Reporting and qualification requirements to be agreed across the ACT Government (including Capital Health Network (CHN)) to improve efficiency and reduce data and reporting burdens.

What commissioning is not

1. Putting services out to competitive tender without justification.

2. The re-contracting of new or existing services without a needs analysis and process for the identification and design of services.

3. A process without defined and measurable outcomes.

4. Greater expectations on organisations including monitoring and evaluation and co-design processes without the provision of additional resources.

5. A needs assessment and co-design process without a commitment from Treasury to prioritise identified additional community needs in the budget process.

6. A process that results in significant disruption for community service organisations or interruption of service for service users.

7. A process that can be rushed.

Appendix 1 – Next steps as of 22 April 2021

Requests to ACT Government

1.   Publish a clear engagement strategy

ACTCOSS is calling on the ACT Government to urgently consult on, design and release a strategy for engaging with and informing the community sector on the commissioning and procurement process.

2.   Urgently respond to the following questions

- How are community sector organisations going to be informed of the status of funding for agreements that will cease on 30 June 2021?

- What sectors/organisations/services are going to be part of the first stage of the commissioning process?

- What will happen to sectors/organisations/services that are not subject to the first stage of the commissioning process?

- What form will agreements beginning on 1 July 2021 take (i.e. do organisations need to begin Secure Local Jobs and other accreditation or preparatory processes)?

- How far has the needs assessment process progressed? For which sectors are needs assessments underway? How are consumers and community sector organisations going to be engaged in this process?

3.   Over the coming months, and through a clear engagement process, consider the following (non-exhaustive) list of questions in partnership with the ACT community sector

General questions

- How will services be protected from disruption and users be protected from service interruptions?

- Will an outline of timelines for the short-term implementation and long-term implementation be made available?

- Which directorates are engaged in the commissioning reform process? How are JACS, CMTEDD, Education, EPSSD and other ACT directorates involved? Will they follow the same commissioning process/framework?

- How will peak bodies be included in the commissioning reform process?

- If a need is identified in, for example, the JACS portfolio, that requires a response from the Health Directorate, how will this be dealt with?

- Is the intention to focus investment away from crisis support onto prevention (i.e. changing structural issues) or early intervention (providing individual supports early on)? If so, how will crisis/acute services be supported?

- If additional needs are identified, how will that unmet need be addressed?

- How will the overall success of the commissioning reform be measured?

- How is CMTEDD and the Chief Minister's Office involved in the commissioning reform process?

- What are the problems that the ACT Government is trying to fix through the commissioning process? Can the ACT Government identify specific macro outcomes that it hopes to achieve through the commissioning process?

Needs assessment

- How will the type/scale of a needs assessment be determined?

- What are the timeframes for needs assessments?

- Has any funding been allocated to the needs assessment processes?

- For the 2022-23 contracts and sectors that will go through the commissioning process, when will the needs assessment process begin and what form will it take?

- What evidence/information/reports will be used to form the basis of the needs assessment? Will this be identified for each sector? How will relevant data be identified?

- Will new data and research be commissioned if required?

- Who will conduct needs assessment? How will that be determined?

Design

- What processes will be used to design services and determine the type of service required to address an identified need?

- How will the ACT Government determine whether an existing service is/is not meeting an identified need?

- Will there be opportunity for pilot projects in addition to current services?

- Has any funding been allocated for the design process?

- Will organisations who may not be successful in tendering for services be compensated for participating in the design process?

Procurement

- What will be the principles and methodologies used for funding services? Will these be publicly available?

- What form will agreements take? Contracts or deed of grants or other types of agreements? If contracts, will organisations need to get Secure Local Jobs Code Certification, and will that need to be started now?

- How will costs of these certifications and other regulatory costs be recognised in funding agreements?

- How will results of the sector sustainability work be recognised in the commissioning and procurement reform process?

- How will the length of contract be determined? How will cost increases or increases/decreases in demand over extended contract periods be managed?

- Will the form and nature of contracts differ from current contracts? Will contracts be individually negotiated or standardised?

- Will contracts be outcome or activity-based? How will that be decided? If both, how will the reporting burden be managed?

- Will contracts be co-designed with the sector and/or the successful tenderer?

- How will the ACT Government determine whether open tender, select tender or single select tender will be used to procure a service?

- Who will be able to tender for contracts?

- What will be the process for decommissioning and handing over service provision to a new organisation?

- Will a floor price be determined for different types of services?

Monitoring and evaluation

- How will the monitoring and evaluation (M&E) process be designed and selected?

- Will it be funded?

- What will happen if services do not meet M&E targets? Will funding be withdrawn or will there be a chance to redesign services or redirect funding?

- How will services and the ACT Government determine data to be used for M&E?

- Will monitoring and evaluation be done by the ACT Government, individual services or independent bodies?

- How will macro outcomes (Report on Government Services, Wellbeing indicators, ABS data) be used in the monitoring and evaluation process? If the Wellbeing Indicators are used, why has the community sector not been consulted on the measurements and data to be used in the Wellbeing Indicators?

- What changes are being made within the ACT Government to adapt its work to meet the commissioning process? And how is the performance of the ACT public service being monitored and evaluated in this process?

- How will the overall effectiveness of the commissioning and procurement reform project be measured and evaluated?