

Damaged Goods : The Case of Focus 2000 and the failure of Contracting

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August 2006

In examining the reported failings of Focus 2000, an organisation providing services to people with disabilities primarily in the Auckland region I have concluded that the radical contracting model by which some government departments purchase services from community based organizations serving people with disabilities has directly contributed to the failure of service provision.

It is my view that funding arrangements need to be developed that are “fit for purpose” having regard in the first instance to the needs and aspirations of people with disabilities and their families. It is also incumbent on government where it chooses to utilize the services provided by community organizations to respect the values, strengths and legitimacy of the sector and its methods of operation. This requires the abandonment of contracting in favour of a range of funding tools extending from individualized funding through to grants programmes, but excluding price and volume contracts.

The radical contracting regime introduced in the late 80's and early 90's is fundamentally an instrument of neo-liberal ideology constructed in particular around agency theory.

Radical contracting contributes to services failure because it:

- Disempowers those intended to benefit because they are not a party to the contract and have no effective means of affecting the terms of the contract, nor its implementation.
- Fails to make any distinction between for profit and not for profit organizations with the focus as a consequence moving away from community benefit and public good, the characteristic requirement of community organizations, towards financial performance typical of private sector providers;
- Disempowers governance volunteers and their critical accountability function because it is the purchasing agency and not the community organization that determines the needs in the community and how best to meet these needs with available resources;

- Creates costly bureaucratic monitoring, auditing and accountability systems and processes which are incapable of identifying and addressing real problems when and where they arise;
- Encourages competition where the complex needs of people with disabilities and people in similar situations requires cooperation and collaboration across organizations including community organizations, local and central government.

For an extensive critique of contracting see: “Agents or Stewarts? Contracting with Voluntary Organisations” Jo Cribb, Policy Quarterly, Vol. 2 Number 2, 2006, Wellington which I have attached to this submission.

There is a fairly constant stream of bad news stories like, Focus 2000, relating to the performance of the community and voluntary sector in recent years. Following this “adverse publicity” the responsible Minister announces that reviews will be carried out including:

“a financial audit by the Ministry of Health; an independent organisational review looking at business and management systems at Focus 2000; previously scheduled quality audits that would look at the care of people.” (Press release Pete Hodgson 24.02.06 1.00pm)

We can anticipate that the results of these financial audits, independent reviews and quality audits will be to identify shortcomings in the Ministry’s and the community organisation’s systems and processes. Perhaps an official or two will be identified as having failed in their responsibilities and recommendations will be made for more audits, more training, more forms to be filled in and new boxes to tick.

What will not happen is any critical analysis of the common factors which have contributed to failings in community based service delivery by non governmental organizations like Focus 2000 over many years and by organizations providing services in health, mental health, disability support, aged related services and services to at-risk children and families.

What will not happen is recognizing that Focus 2000,s alleged failings and the failings of the Ministry of Health are an indication yet again that there are serious problems in the fundamental relationship between community organizations and those government agencies responsible for the funding of community based services.

Rather than more audits, monitoring and reviews, questions need to be asked as to why organizations like the Cerebral Palsy Society have found it necessary to establish a private company to deliver services to people with disabilities and did the privatisation of these services in any way contribute to the alleged failure of these services. Further, does the nature of the funding relationship, ie. the contracting model have a bearing on poor service performance and financial strife within the sector.

It is my view that the privatisation of non profit, community based services has been a consequence of the promotion by some government agencies of corpratation by means

of a dogmatic, prescriptive contracting system introduced into the voluntary sector by government in the 1990's. Organisations like the Cerebral Palsy Society found it necessary to reorganize services to the community into business units indistinguishable from private sector organizations. Even where organizations did not go so far as to establish private companies they nevertheless succumbed to the private sector model much loved by government purchasing agencies. IHC is a case in point.

Since at least 1992 the community and voluntary sector has consistently criticised the contracting model but has been ineffective in impressing on government the need for change. For a summary of those criticisms see "An overview of the Voluntary Sector", Dianna Suggate, July 1995.

I would also note the comments of the Hon. Steve Maharey at the 2000 Conference of the New Zealand Council of Social Services at which time the Minister stated that the government was "keen to move away from the contracting model to the partnership model". He also said that "we also realize that the contract model that National pursued hurt the community and voluntary sector. "

The criticisms of the contracting model have generally focused on the introduction of competition within the sector, under funding, the failure to distinguish between for profit and not for profit organisations and the overall undermining of the values of the sector. I would suggest that these issues are not simply about funding relationships but rather are an expression of a perceived, long-term threat to the ability of organizations within the sector to serve our communities and to remain viable as not-for-profit, non-governmental, community based and values led organizations.

The erosion of public confidence in the voluntary sector in this country must be of critical concern both to the sector and government. This is of critical concern because public confidence is in effect the "bottom line" of every organisation in the sector. Community organizations establish and maintain public confidence where the organisation is associated in the public mind with the promotion of the public good and the provision of community benefits. Agency theory, and neo liberal ideology generally does not even acknowledge the existence of the public good. While ideologues within the public sector may dismiss the public good, the public has a legitimate expectation that community organizations will reflect in their mission, purposes and activities the values we as a community associate with the public good. Values like justice, fairness, participation, peace, tolerance and well being. It is a fundamental role of the community sector to articulate and apply these values in every day life in this country. It is on this basis that the public continues to demonstrate a high level of confidence in the sector through public donations and the contribution of volunteer time.

Recent research carried out by Massey University highlighted the importance of values as the means of attracting the participation of volunteers in the sector. The participation of volunteers is of course absolutely critical to the sector and it is also an indicator of public confidence in the sector. The research involved interviews with 1700 volunteers engaged in sporting and social services organizations. When asked to identify their reasons for

volunteering the research found the primary motivation was very strongly associated with values over any other factor and this was true across all types of organizations. Further the research showed that even where volunteers might have to personally meet additional costs due to, for example, rising petrol costs, those interviewed would continue to volunteer because of this strong, values based motivation.

Further evidence of the importance of sector values and identification with the public good over material considerations, or personal benefit was provided by research carried out in 1998 by BRC Marketing & Social Research. This research which involved a survey of donors, found the most important factor influencing a decision to support an organisation was ‘the group or people who benefit from the money’ while only 1% of respondents regarded tax deductibility as influencing their decision to contribute to an organisation. This research also found that donors were less likely to contribute to organizations strongly associated with commercial sponsors.

There is clear evidence that the public expects community based organizations will to act in a manner which is consistent with the values we associate with the public good. The advancement of the public good by community organizations has been legislated for recently in the Charities Act. The responsibility to insure this occurs rest with the governing body of the organization. This is the most powerful and effective means of achieving the desired level of accountability consistent with the public good. Government agencies and policies, including the Treasury’s Contracting Guidelines, which make no distinction between for profit and not for profit organizations undermine this most critical means of accountability , unique to the voluntary sector but consistent with government’s accountability requirements.

Within the community sector there is evidence of conflict between management and governance volunteers, board members, committee members, trustees, where governance volunteers believe the organization is becoming too commercial and ignoring local community needs. Critical comments of board members of the Cerebral Palsy Society are an example of the frustration often experienced by people who commit their time in the interests of the community and those who they believe can benefit from the activities of an organization, only to see that organization totally preoccupied with chasing the next government contract.

Contracting brings about subtle, but critical changes in relationships between stakeholders. First of all people who use the services are not a party to the contract. The contract is between the organisation providing the service and the government agency purchasing the service. It is therefore an extremely disempowering relationship. Both parties to the contract have a vested interest in demonstrating the success of the services as defined by the terms of the contract and minimalising the concerns raised by service users and their families.

Where the contract includes provisions for monitoring and evaluation, which may include participation in these processes by the clients, both the funder and the provider will overstate the successes and under report problems. The funder is anxious to demonstrate

that public funds, for which they are responsible, have been spent appropriately while the provider organisation wishes to protect its income from contracts. There is therefore a climate of collusion between the funder and provider at the cost of clients, their families and communities who will inevitably be discouraged from airing their concerns.

Further, the services to be provided are defined by government rather than by community organisations in response to perceived needs identified in their community. This reduces the responsiveness and innovation of community organizations, reduces their perceived accountability to their community and increases the perception of community organizations as agents of government rather than community driven organizations. Monitoring, evaluation and accountability are all about compliance with the provisions of the contract not about the well-being or aspirations of those who rely on these services.

Frequently government contract managers have no experience, skills or specialist knowledge relating to the actual services. Their expertise lies in managing contracts. This is compounded by the trend since the introduction of contracting for community based organizations to employ staff with “contracting experience”. Staff can also find themselves powerless to bring about changes necessary for the wellbeing of service users as compliance with the provisions of the contract and securing contracts long-term come to dominate decision making within the organisation. Board members, trustees and committee members also find themselves sidelined by the focus on the contract rather than on the mission of the organisation to which they are committed. Where an organisation is dependent on contracts with a monopoly purchaser tensions between governance volunteers and management can become very divisive within the organisation. Managers are dependent on winning contracts to maintain their jobs while governance volunteers will only participate where they believe the organisation is pursuing the mission to which they are committed.

Amohia Boulton of Te Pumanawa Hauroa Research Centre for Maori Health and Development, Massey University recently presented her research findings at a Community Sector Research Forum. Her research was titled “Contracting Issues for Providers of Maori Mental Health Services”. This research concluded that “Both performance measures and contracts themselves were deemed inadequate.” They were seen to be “generic, dated, narrow, inflexible, difficult to interpret and use, unable to take account of the nature of the work Maori mental health providers undertake in order to treat tangata whaiora.” The issues raised with respect to contracting in this research reflect very accurately comments made over the past ten years by community organizations across the health and social services sectors.

The alleged failure of care in the case of Focus 2000 is just the most recent, highly publicized example of these developments. The most rigid and most disempowering contracting model has been applied to the most at risk and vulnerable sectors of our communities. When these disasters are made public attention is typically drawn to mismanagement, lack of accountability, or the failings of individual staff or managers. It is critical that this committee recognize the institutionalized nature of these failings and the failed policies associated with contracting.

At least part of the strategy to address the concerns relating to the quality and care of services provision to people with disabilities requires adoption of a range of funding strategies. These should be capable of being genuinely negotiated particularly as appropriate in local settings and not dictated nationally.

For people with disabilities these funding strategies need to include much greater opportunities for individualized funding and independent living options. This is the logical progression from deinstitutionalization. A major obstacle to greater use of individualized funding has been our attitudes to people with disabilities. We assume they are incapable of making good decisions for themselves. We therefore have continued de facto institutionalization in community settings. Community organizations rather than government institutions have become the warders.

There is also a need for government to give effective and explicit recognition to the community sector as distinct from the private, for profit sector. This requires an acknowledgement in operational policy of the public good role of community organization, the accountability of community organizations to their communities and the people they serve as their first priority. This in no way excludes appropriate accountability mechanisms in respect of government.

Finally; alternative funding strategies need to focus on grant type funding which enhances and promotes the values and processes which typify the best of the sectors values. One example of the approach which achieves this is the Community Partnership Fund recently developed by the Department of Internal Affairs as part of the government's digital strategy.

The Community Partnership Fund is a grant programme which requires applicants to demonstrate that the programme for which funding is sought

- works to realize community aspirations,
- works in partnership with others
- meets community aspirations and needs
- the work is community driven
- includes provision for shared learning so that others may benefit from the experience of organizations funded,
- demonstrates that the programme is sustainable long-term
- sets out how partners and stakeholders can be involved in development, governance accountability and monitoring.

An approach to funding which incorporated these characteristics would replace competition with collaboration and cooperation. It would highlight accountability to all stakeholders including service users as well as government. The Community Partnership Fund explicitly incorporates the value of volunteer contributions as well as cash contributions. There is encouragement for innovation and responsiveness to complex needs rather than the rigidity of the contracting model.

In conclusion it is time that government afforded people with disabilities the opportunity to maximize opportunities for self reliance where that is appropriate. This means increased opportunities for self management of disability support funding. It also means restoring the public interest in the funding relationship between government agencies and community based organizations. Where community organizations receive disability support funding it is in the public interest that these organizations are accountable in the first instance to those who use the services, their families and the communities of which they are a part as well as to government in an appropriate manner. It must be acknowledged in public policy that public interest organizations are not for profit organizations and that it is not in the interests of our communities and certainly not in the interest of people with disabilities for these organizations to act in a business like manner where that means putting the financial well being of the organization ahead of the interest of people who are entitled to benefit from the activities of these organizations.

Biographical information

Pat Hanley was employed by the Royal New Zealand Foundation for the Blind from 1990 – 1993 as National Policy and Services Manager and by NZ CCS in a similar role from 1993 to 2000. During that time he made numerous submissions and reports on disability issues. He also served as a NZ representative on the Social Rehabilitation Commission of Rehabilitation International.

He is a past President of the NZ Federation of Voluntary Welfare Organisations.

From 2000 to 2005 he worked with ANGOA , the Association of Non Governmental Organisations of Aotearoa with particularly responsibilities for a programme to advance community sector government relationships. He also served on the Charities Commission Working Party.

He is a member of the Wellington/ Waiarapa Lottery Committee and a board member of the Electricity and Gas Complaints Commission.

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