PSA
Public Service Association of SA

PUBLIC SERVICE ASSOCIATION OF SOUTH AUSTRALIA

SUBMISSION TO SELECT COMMITTEE INQUIRY:

THE PRIVATISATION OF PUBLIC SERVICES IN SOUTH AUSTRALIA

AUGUST 2021

Public Service Association of SA

Public Service Association of SA Inc

122 Pirie Street, Adelaide 5000

Authorised by Nev Kitchin
General Secretary
Public Service Association of SA Inc
122 Pirie Street, Adelaide 5000
www.psaofsa.asn.au

Contents

PREAMBLE 01

1. INTRODUCTION 02

2. TERM OF REFERENCE ONE: THE COST TO THE PUBLIC OF PRIVATISED SERVICES 11

Privatisation of State-owned Assets 12

"A 'Forensic Analysis' of South Australia's Privatisations?" 15

South Australia's Private Prisons – Department for Correctional Services 16

SA Pathology and SA Medical Imaging – Department for Health And Wellbeing 24

Public Transport, Infrastructure Planning and Provision, and Facilities Management Across the Public Sector – Department for Infrastructure and Transport (DIT) formerly the Department of Planning, Transport and Infrastructure (DPTI) 28

Infant Therapeutic Reunification Service – Department of Human Services 41

3. TERM OF REFERENCE TWO: THE QUALITY OF PRIVATISED SERVICES AND THE OUTCOMES FOR THE PUBLIC, PARTICULARLY WITH RESPECT TO DISADVANTAGED MEMBERS OF THE PUBLIC 43

Across Government Facilities Management Arrangements (AGFMA) 44

Serco and G4S 49

Health 54

4. TERM OF REFERENCE THREE: THE IMPACT ON EMPLOYMENT RATES, CONDITIONS AND LOCATIONS, ESPECIALLY RURAL AND REGIONAL EMPLOYMENT 57

Lands Titles Office 58

Adelaide Remand Centre – Department For Correctional Services 59

Aged Care and NDIS – Domiciliary Care Services and Disability Services Department of Human Services 61

Financial Counsellors – Department for Child Protection 64

Community Service Order Program – Department of Human Services (Youth Justice) 65

Family Day Care – Department for Education 65

Road Maintenance – Department for Infrastructure and Transport 66

Trams and Trains – Department for Infrastructure and Transport 67

Other Key Issues 70

5. TERM OF REFERENCE FOUR: THE EFFECT ON INCOME AND WEALTH INEQUALITY 72

6. TERM OF REFERENCE FIVE: THE EFFECT ON PUBLIC PARTICIPATION, SOCIAL COHESION, AND PUBLIC PERCEPTION OF THE ROLE OF GOVERNMENT 77

Lobbyists 79

Consultants 83

7. CONCLUSION – TIAA: ALTERNATIVES TO PRIVATISATION 85

8. RECOMMENDATIONS 88

PREAMBLE

The Public Service Association of South Australia (PSA) is the largest public sector union in South Australia and the peak organisation representing the interests of state public sector employees across a broad range of South Australian government departments and agencies, statutory authorities, universities and some outsourced enterprises providing services on behalf of the State Government.

The diversity of service areas in which our members are engaged spans administrative services, the arts, education and training, the environment, heritage, government facilities management, health, community and social services, infrastructure and transport, justice and correctional services, emergency services, primary industries, social justice, tourism and others.

In addition to its industrial role, the PSA actively advocates the vital importance of a strong public sector to the South Australian economy and community. Equitable access to well-resourced high quality public services, which are both comprehensive and affordable, should be a democratic right of all South Australian citizens.

The PSA believes that all public policy measures which impact on the role and function of the public sector and its capacity to provide the level of quality services expected by the South Australian community should be subject to full public scrutiny and critical examination.

Accordingly, we welcome the opportunity to contribute to this inquiry into whether the privatisation of public services in South Australia is in the public interest, in the interests of our members and the wider South Australian community.

INTRODUCTION

Privatisation, in its many forms, has been a part of the political landscape in South Australia for several decades. As in the rest of Australia, at both Commonwealth and State level, it is not the exclusive domain of either political party and has been advocated and implemented by both Liberal and Labor governments.[1] At the time of this inquiry almost all government departments and agencies in South Australia have experienced some form of privatisation. This has had a major impact on the public sector and its ongoing role and function. Further privatisations are proposed by the Marshall Government.

Brief Overview of Privatisation Initiatives in South Australia: 1990 to Present

The privatisation of public assets/utilities in South Australia began under the Brown and Olsen Liberal governments in the 1990s and early 2000s. These include SA Gas Company, the Pipelines Authority of South Australia, the State Chemistry Laboratories, the Electricity Trust of South Australia, SA Ports (Port of Adelaide and six regional ports), and a number of state financial institutions.

The Modbury Hospital which was built by the Dunstan Government and opened in 1973, was privatised by the Brown Government in 1995 with the management and operation of the hospital contracted to private healthcare corporation Healthscope for ten years, with an option to renew for a further ten years. Subsequent developments around Healthscope's management and operation of the hospital ultimately resulted in the Rann Government returning the hospital to public hands at significant cost to the state.

The Mount Gambier Prison, the fourth private prison in Australia, was opened in 1995 and has been contracted to G4S since it began operating. The G4S contract was renewed for a further five years in 2017, with an option to extend for a further five years. This period also saw the beginning of the privatisation of Adelaide's public transport system with the privatisation of metropolitan buses.

Further privatisations of state assets and public services occurred under the Rann and Weatherill Labor Governments including Forestry SA, SA Lotteries, the Motor Accident Commission, and the Lands Titles Office.

These governments also privatised a range of services across government. These include areas of facilities management and maintenance; security services, non-clinical support services, food services, cleaning, waste management and maintenance within health; various IT services across government departments and agencies; public housing tenancy and asset management in SAHA; and government commercial and industrial properties and housing, including South Australian government employee rental properties.

Additionally, the privatisation of some disability services and domiciliary care was initiated by the Weatherill Government although the actual transfer did not occur until after the election of the Marshall Government. This period also saw the re-contracting of privatisations under earlier Liberal Governments such as Mount Gambier Prison, bus services and facilities management contracts was also undertaken.

[1]Brown Government 1993–1996; Olsen Government 1996–2001; Kerin Government 2001 –2002; Rann Government 2002–2011; Weatherill Government (2011–2018); Marshall Government (2018–present)

Since the election of the Marshall Government in 2018, following an election campaign in which Steven Marshall made a commitment that he did "not have a privatisation agenda", a number of major privatisations have been implemented or announced. These include the Adelaide Remand Centre, public transport services, the full privatisation of road maintenance across the state, and outsourcing the administration of the Royal Adelaide Hospital to Korda Mentha. Most recently, the full privatisation of the partially privatised provision of facilities management across the public sector is underway.

A number of smaller privatisations, which have received less public attention, have also been undertaken. These include:

- BASS ticketing (Adelaide Festival Centre) a state developed and run system which has provided an income stream for arts (in progress)
- Equal Opportunity Commission training (Attorney-General's Department)
- Infant Therapeutic Reunification Service (Department of Human Services)
- Financial Counsellor Program (Department for Child Protection)
- Family Day Care Regulation and Support (Department for Education)
- Youth Justice – Community Service Order Program (Department of Human Services)
- Child and Youth Disability Services – allied health professional support for children and young people (Department for Child Protection)
- Public Housing – maintenance partially privatised with rumours that it will be fully privatised by 2023 (SA Housing Authority)

The PSA also has members in TAFE SA which has seen numerous campus closures and a significant drop in the number of Vocational and Education Training courses delivered by TAFE due to increasing amounts of government policy and funding arrangements favouring private vocational providers over TAFE.

Consideration also needs to be given to a number of privatisations proposed by the Marshall Government which have not proceeded including SA Pathology, SA Medical Imaging and the proposal for Services SA to close centres, privatise and shift services online. This was largely due to public opposition, and also in the case of SA Pathology to the vital role it has played in protecting South Australians in the face of the COVID-19 pandemic which has exposed fundamental differences between the roles and functions of public sector and private enterprise.

Finally in this brief overview we wish to put on the public record our dismay at the government signalling its intention in the 2021-2022 Budget to invest public funding in encouraging public sector employees to leave the public sector by offering a $50,000 inducement per person to resign. [2] While the government calls this 'Public Sector Workforce Rejuvenation', the PSA sees it as effectively outsourcing its responsibility to create new jobs to the private sector rather than directly investing in public sector employment and delivery of the services our community needs for a lasting economic recovery.

[2] https://www.statebudget.sa.gov.au/our-budget/creating-jobs/reducing-costs-creating-opportunities

PSA Position

Throughout this time, irrespective of which party has been in office, the PSA has publicly expressed our concerns around the impact and consequences of these measures on the provision of public services, the public sector workforce, and the citizens of South Australia.

In the early days of privatisation in South Australia, the PSA warned, on the basis of available evidence at the time, that privatisation and the diminishing of public services would mean private profits would come before community services, higher costs to consumers and the taxpayers, less efficient community services, and South Australia stripped of its assets and revenue base.

It is a foundation principle of the PSA that publicly owned assets and public services are funded by taxpayers to meet the needs of the community, not to generate profits for corporations and their shareholders; that a well-resourced and respected public sector with the capacity to provide comprehensive, affordable and accessible services to all South Australians is a fundamental democratic right.

Our early concerns remain but have been intensified over several decades of experience and ongoing research which shows the financial and human costs of privatisation. Together with a direct and sustained attack on public services through budget cuts, the privatisation of essential services has not only weakened the capacity of the public sector and imposed enormous pressures on the departments, agencies and the workers delivering them, but also failed to deliver what the South Australian community needs.

The government's use of a deficit model of the public sector – substandard inefficient service delivery at an excessive cost to the taxpayers of South Australia – which almost invariably accompanies announcements of privatisations, fails to recognise the different roles and functions of the public and private sectors. It also contributes to a decline in trust in public institutions in general, and negative perceptions of the public sector and its workforce in particular.

Government Rationale

The key arguments put forward by governments for their privatisation initiatives centre upon:

- the sale of public assets will provide governments with the capacity to pay off debt with flow-on benefits to the public in the form of better and cheaper services.
- service provision by the private sector or NGOs under contract on a 'for profit' basis will deliver better quality services at a lower cost to individual consumers, the community and the government/taxpayers.
- the inefficiency of the public sector and its workforce which is 'innovation-averse' compared to the private sector which is free from the constraints of bureaucracy.
- private sector models of service design and delivery will set new benchmarks and provide a foundation for reform of the public sector.
- new funding models such as Public-Private Partnerships (PPPs) will enable governments to provide more and better public physical and social infrastructure.

Steven Marshall's 'No Privatisation' Agenda

From the viewpoint of ordinary Australians, privatisation is a policy that has consistently failed but is remorselessly pushed by the political elite … "Privatisation" is a term that covers a multitude of policies. These range from the outright sale of government business enterprises like Medibank Private to the outsourcing of services like IT support for government agencies. In a mixed economy like Australia's, the boundaries of the public and private sectors are constantly shifting. The desirability or otherwise of privatisation needs to be assessed on a case-by-case basis. However, the rhetoric that has dominated Australian public policy for the last 25 years embodies the presumption that privatisation is always and everywhere desirable. The many failures of privatisation have led most ordinary Australians to draw the opposite conclusion.[3]

Given the extent of privatisation under the Marshall Government, the disjuncture between the then Opposition Leader's March 2018 pre-election commitment that the Liberal Party did not have a privatisation agenda, and the subsequent actions of his government once in office, is significant to the deliberations of this Inquiry.

There is a similar disjuncture surrounding the then Shadow Treasurer's undertaking, contained in pre-election correspondence with the PSA, that if elected a Liberal Government would "invest in the public sector and establish funding for areas that address the future needs and challenges for our state, including providing the resources, equipment, technology, training and development public servants need to do the job expected of them."[4]

It is difficult to read the Premier's political unwillingness to be upfront about his privatisation intentions as anything other than a tacit acknowledgement of a widespread public awareness that privatisation is not all that governments promise it to be.

The public has not seen tangible benefits such as cheaper and more reliable services which they were assured would flow from the sales of public assets and utilities and the outsourcing of service delivery to the private sector, and they remain largely unconvinced/disillusioned that it is either in the public interest or their best interests as citizens, consumers and workers.

---

[3]Professor John Quiggin, 'People have lost faith in privatisation and it's easy to see why', The Conversation, 10 August 2016. https://theconversation.com/people-have-lost-faith-in-privatisation-and-its-easy-to-see-why-63198
[4]Correspondence from Rob Lucas (then Shadow Treasurer) to Nev Kitchin (PSA General Secretary. 12 January 2018)

An Agenda in Search of an Evidence-Base

The current Treasurer Rob Lucas has continued to maintain that "there are many current examples where public services are being successfully delivered by private or non-government suppliers (and) we have a responsibility to continue such options where it is clearly in the public interest to do so."[5]

But he has failed to articulate a clear rationale for determining what is 'in the public interest', and the basis for evaluating what constitutes 'successful delivery' other than the highly problematic and contested view that South Australians are getting better quality services at a cheaper cost. Neither does he provide evidence-based arguments to counter several decades of accumulating evidence on the inherent flaws in the nature of privatised, for-profit services and the dearth of convincing evidence that private provision outperforms the public sector when all factors are taken into consideration.

Governments talk about the importance of evidence-based policy making and the need for sound business cases and processes which ensure contract compliance in relation to their privatisation ventures. However, they show a distinct lack of willingness to promote or engage in informed public discussion about privatisation and its implications and impacts on the community. This unwillingness also extends to making the information which would assist in evaluating whether it is in the public interest available on the grounds that it is not in the commercial interests of the private operators.

The deals between governments and the private sector continue to be surrounded by confidentiality and commercial-in-confidence arrangements which limit public access to information about contracts and operational matters. This is antithetical to the democratic right of citizens to know where and how public funds are being spent, and in whose interests, and makes a mockery of government talk about greater transparency and public accountability.

Cuts – Closures – Consultancies – Privatisations: In Whose Interest?

In South Australia, as elsewhere, a multiplicity of public services are being delivered by giant Australian-based and foreign-headquartered multinational companies and corporations through their taxpayer-funded contracts with governments. This has been accompanied by the entrenchment of powerful consultancy firms who advise governments on the public sector and undertake seemingly endless reviews which almost invariably recommend cutting and privatising public services and public sector jobs.

They have enormous lobbying capacity and influence in domestic political, policy and funding environments, and due to extensive tax minimisation strategies many pay relatively little (or no) tax in Australia, with few formal avenues for public scrutiny of how they operate, both here and in other jurisdictions.

What their annual reports do make very clear though is that their primary accountability is to their shareholders not the public. They also show that their largest shareholders are huge banks, investment funds and the 'super-rich'. Many are subsidiaries of global banks and operate as 'nominee' custodian companies which pool investments and hold the shares of a variety of institutional and individual entities.

[5] ibid.

By regulation they are not required to disclose the identities of these investors which include superannuation funds, sovereign wealth funds, insurance companies, board members of companies, and wealthy individuals and families. By virtue of the magnitude of their investment capital and holdings, the global mega-custody nominee companies[6] are also the largest shareholders across not only the companies profiting from their contracts with government but also Australia's largest banks and other Australian listed companies and largest industries.[7]

The PSA is fundamentally opposed to increasing proportions of the South Australian budget being delivered to private business interests and global corporations who operate with relatively little public scrutiny and accountability. South Australians are entitled to know how much wealth is being taken out of South Australia by way of profits being made by these private companies.

They and the governments with whom they enter into contracts portray their operations as smooth and efficient. But there is a growing body of evidence in Australia and elsewhere which reveals a very different picture. When this information is made public it is frequently dismissed as 'anecdotal and subjective', 'historical and of limited relevance to the current situation', and/or not relevant to what is happening in a particular jurisdiction because it relates to problems with the operations of the companies concerned in a different jurisdiction.

The PSA considers that documented evidence of the operations of corporations in other jurisdictions is relevant to considerations of their operations here. There is a certain irony in governments' reluctance to allow public access to details of their operations yet willingness to dismiss information about deficiencies in private provision which are frequently brought to public attention in the first instance by the media, so-called 'disgruntled employees' and whistle-blowers as 'anecdotal and subjective'. It is a matter of public record that much of this information is subsequently verified by official investigations and inquiries.

Accordingly, the PSA believes it is in the interest of all South Australians that their operations are submitted to public scrutiny; that it is both short-sighted and misguided not to consider how they operate across jurisdictions, both within Australia and internationally.

The promises of more cost-effective and better services have not materialised. Privatisation after privatisation has resulted in increased costs to the state and the public, a reduction in the quality of services to the public which governments seem limited in their capacity to manage and/or control, multiple instances of private operator failure, an erosion of public sector capacity to develop policy, design and deliver services, and increased risks for the state with governments having to spend even more money to rectify or return to public hands.[8]

In short, the PSA's campaigns against privatisation are underpinned by very real concerns around the impacts on public sector service delivery, jobs and workers, the needs of the community, the public interest over private profit in both the short and long term, and what genuinely represents 'best value' for South Australians in the expenditure of public funding.

---

[6]Such as HSBC Custody Nominees, J P Morgan Nominees, Citicorp Nominees, National Nominees and BNP Paribas Nominees; James Fernyhough, 'Busting the banks' claim they are owned by ordinary Australians', The New Daily, 13 November 2017 https://thenewdaily.com.au/money/finance-news/2017/11/13/big-bank-ad-campaign/

[7]See for example Downer Annual Report 2020 p142: Top 20 Shareholders; Lendlease Annual Report 2020 p219: Top 20 Shareholders; Healius Annual Report 2020 p120: Top 20 Shareholders; Sonic Annual Report 2020 p160: Top 20 Shareholders

[8]People's Inquiry into Privatisation, 2017 Inquiry Report, *Taking Back Control. A Community Response to Privatisation;* https://percapita.org.au/wp-content/uploads/2018/05/Taking_Back_Control_FINAL.pdf

The PSA commends the Inquiry for its intention to subject privatisation in South Australia to greater public scrutiny and critical examination in the interests of greater understanding, transparency and public debate about issues which affect the lives of our members as both workers and citizens, and all South Australians.

It is imperative that the Inquiry, through its terms of reference, addresses the central question of whether privatisation in South Australia is in the public interest; and to advocate for alternative approaches to the provision of equitable high-quality public services where it is clearly not in the public interest.

Defining Privatisation: Who Controls the Agenda?

Before turning to consideration of the specific terms of reference we need to be clear about the definition of privatisation that informs our submission. We reject narrowly-conceived views of privatisation which some in government prefer. These include the view that a measure can only be genuinely called privatisation if it involves the direct 'selling off' of public assets and that retaining ownership of an asset with its operation and management 'merely' transferred through contracting out/outsourcing to the private sector/NGOs/not-for-profit organisations is not a 'real' privatisation.

In our view limited definitions such as these are generally attempts to deflect ministerial and government accountability for their privatisation agendas and avoid public scrutiny of their operations.

In 2016 the Australian affiliates of Public Services International (PSI), the global union federation of workers in public services, undertook an Australia-wide inquiry into privatisation. Known as the People's Inquiry into Privatisation, it arose as a response to the Turnbull government directing the Productivity Commission to enquire into the further privatisation of Australia's public services without a consideration of whether handing over control of our services to corporations was in the best interests of all Australians. The definition adopted by the Inquiry, together with privatisation expert Dexter Whitfield's perspective "that in determining the scale, cost and impact of different forms of privatisation … we need a fuller and clearer understanding of process, impacts, vested interests and political dimensions that drives these policies",[9] provides the frame of reference for our submission:

'Privatisation' is the transfer, in whole or in part, of public assets and/or service provision from the government to an entity outside the government. Privatisation includes the outsourcing of service delivery, sale of public assets, 'user choice', voucher systems, public-private partnerships, commissioning, social impact investment, and mutualisation.[10]

---

[9] Dexter Whitfield, 'Public Alternative to the Privatisation of Life', Spokesman Books, November 2019 p.xvii
[10] People's Inquiry into Privatisation, 2017 Inquiry Report, Taking Back Control. A Community Response to Privatisation, p13

Reforming the 'Failing Public Sector'

These perspectives also take into account the fact that contemporary privatisation also extends to government policy development and implementation. The last several decades have seen the dominance of what has become known as New Public Management (NPM) according to which the 'failing public sector' must be reformed by bringing in ideas, techniques and practices from the private sector.[11]

Not surprisingly this has been a growth market for the private sector. It has seen the increasing influence of private sector firms and consultants/contractors advocating the primacy of the private sector in providing advice, consultation, research, reviews, evaluations, etc, and undertaking policy and planning work previously delivered by state authorities/public agencies.[12]

The impact of these developments on the public sector, its workforce and public perceptions of the public service cannot be over-stated. It informs the commissioned consultancies which demean and denigrate the public sector, its management, workforce and service delivery, and laud the superiority of the private sector, as well as Government/Ministerial announcement of further consultancies, reviews and threatened/proposed privatisations to reform the 'failing' public sector. The constant undermining of public confidence in the public sector is not an unintended consequence; its purpose is to provide legitimacy to further privatisations.

Our submission will expand on the issues briefly outlined in this introduction with examples from privatisations across a number of areas of public sector activity in South Australia as they relate to the Inquiry's terms of reference. It will also briefly consider issues not explicitly referred to in the terms of reference, but which we consider to be vital to the Inquiry's deliberations as they impact heavily on both our members and the SA community in general. These include:

- the intensification of the impact of privatisation on public service capability and capacity to provide the services upon which our community relies (including during the current COVID-19 pandemic).
- the role of the public sector in social and economic recovery from the pandemic.
- strategies to rebuild public sector capacity in areas which have been hollowed out by privatisation and build capacity in new areas.

The PSA urges the Inquiry to recommend the adoption of a number of measures designed to (1) end the culture of secrecy and lack of public transparency and accountability around privatisation which currently exists, and (2) protect the community from the detrimental impacts of privatisation including:

- a guarantee of genuine transparency, ongoing monitoring and review, and openness to public scrutiny;

---

[11] pp.17-18

[12] Southgate Institute for Health, Society and Equity and the South Australian Council of Social Service, 'SA: The Heaps Unfair State: Why have health inequalities increased in South Australia and how this trend can be reversed', Flinders University 2020. p7. https://www.flinders.edu.au/content/dam/documents/research/southgate-institute/sa-heaps-unfair-state-final-report.pdf

- measures to ensure that any future privatisation proposals detail (1) a process for genuine consultation with workers and service users, and (2) the evidence-base for the proposal and why it is in the public-interest (preferably in plain language) including details of benefits, costs and risks, which takes consideration the impact it would have on service provision and the community;
- that estimates of cost-savings take account of the total costs of the proposed privatisation including costs of implementation, including hidden financial and human costs which frequently accompany the privatisation of services;
- the introduction of legislation or policies which safeguard the public against detrimental impacts of privatisation; and
- measures be to be taken when a privatisation is demonstrated to have had a detrimental impact on the community, including binding commitments to rectify these deficiencies including the restoration of services to public hands.

TERM OF REFERENCE ONE

THE COST TO THE PUBLIC OF PRIVATISED SERVICES

PRIVATISATION OF STATE-OWNED ASSETS

University of Queensland Economics Professor John Quiggin's widely published research on twenty years of electricity privatisation in Australia, which has seen public assets built up over generations sold off at a fraction of their real value comprehensively analysed performance, quality, efficiency, reliability, prices, labour costs and productivity, private rates of return and costs of capital.

His research demonstrates that it has led to increased prices to consumers, decreased public satisfaction with the quality of privatised services, a decline in access reliability of services, and increased costs to government over the longer term.

Privatisation, corporatisation and the creation of competitive electricity markets were supposed to give consumers lower prices and more choice, promote efficiency and reliability, and drive better investment decisions. But after twenty years the evidence is that none of these promised improvements have been delivered. … My research comprehensively finds that the free market-based reform process in energy has been a failure. Reforms have failed to deliver a competitive market that benefits consumers. The evidence is there that public ownership of critical energy infrastructure is the only sensible response.[13]

Professor Quiggin's observations on the perceptions of 'most ordinary Australians' about privatisation are borne out by recent research by the Australia Institute (2019) which shows that 40 per cent of South Australians blame the privatisation of ETSA as the single biggest reason for power price increases. 60 per cent consider it to be one of the main sources of upward pressure on prices, with price gouging from energy companies the number one concern for one in three less obvious things.[14]

Rod Simms, the chairman of the Australian Competition and Consumer Commission, who had long been an advocate for privatisation, told a Melbourne Economic Forum in 2016 that the sale of electricity infrastructure and other public assets had damaged the economy and caused both him and the public to lose faith in privatisation and deregulation. "Selling public assets has created unregulated monopolies that hurt productivity and damage the economy … it's been done to boost proceeds, it's been done to boost asset sales."[15] Mr Simms also attacked the opening of the vocational educational sector to private companies and the economic and social damage it had caused, including the wastage of billions of dollars, and criticised failed privatisations and PPPs in hospitals, and other aspects of the introduction of for-profit competition in human services.[16]

---

[13] Professor John Quiggin, 'Electricity Privatisation in Australia: A Record of Failure', John Quiggin Opinion and Consulting Report Commissioned by the Victorian Branch of the ETU, February 2014 https://www.etuvic.com.au/Documents/Campaigns/Electricity_Privatisation_Report.pdf#:~:text=The%20record%20of%20failure%20for%20electricity%20privatisation%20in,and%20Reagan%20eras%20in%20the%201980s%20%26%201990s.

[14] The Australia Institute, Polling – SA Energy Prices, July 3, 2019https://australiainstitute.org.au/wp-content/uploads/2020/12/Polling-Brief-SA-Energy-Prices-WEB.pdf

[15] Quoted in Patrick Hatch, 'Privatisation has damaged the economy, says ACCC chief', Sydney Morning Herald, 26 July, 2016 https://www.smh.com.au/business/privatisation-has-damaged-the-economy-says-accc-chief-20160726-gqe2c2.html

[16] Quoted in Professor John Quiggin, 'People have lost faith in privatisation and it's easy to see why', The Conversation, 10 August 2016. https://theconversation.com/people-have-lost-faith-in-privatisation-and-its-easy-to-see-why-63198

South Australia's Lands Titles Office

As in previous privatisations involving state-owned assets, the Weatherill Government's 2017 decision to privatise the state's land titles services was justified on the grounds it would provide an immediate 'cash injection' to the state's finances. It followed just months after a similar decision taken by the NSW Government.

Like other state asset privatisations, such as electricity referred to above, the $1.6 billion[17] the government received from Land Services SA, a consortium of Macquarie Infrastructure and Real Assets and the Canadian Public Sector Pension Investment Board, to take over the processing of land transaction services for the next 40 years did not represent its true value to the state. Neither did it adequately take into account the long-term impact of the decision and the loss to the state of much of the net revenue being generated by the Lands Titles Office (LTO) in return for a short-term cash boost.

Prior to the sale it had been a long-term net revenue generator for the state. With its privatisation, however, much of the revenue now goes into the generation of profits for the new operators.[18]

Private companies could see the long-term value of the LTO data and transactions of the data contained within and generated by the LTO and bid accordingly. Had the government adequately taken into account the loss of future revenue from the sale and undertaken a similar analysis they could have retained the LTO in public hands and generated significant revenue for the direct benefit of the state.

As in other privatisations, concerns about the potential consequences of the privatisation of the LTO such as the possibility of significant changes to fees and charges and the commercialisation of the data by the private operators cannot be fully explored due to the secrecy, lack of transparency and 'commercial in confidence' provisions surrounding the deal.

For example, a subsequent review of the LTO privatisation by the Auditor-General (December 2018) concluded that the government's failure to publish contract documents on the SA Government's Tenders and Contract website resulted in:

> *… a lack of transparency for the general public about the contractual arrangements entered into with a private service provider for critical public services and the nature of consulting advice provided by the transaction advisors.*[19]

The Auditor-General's report also criticised further secrecy around a separate private deal whereby Land Services SA (LSSA) were given an exclusive right to negotiate for the further privatisation of other state registry functions such as the SA's Motor Vehicle Registry (MVR) in exchange for $80 million.

[17]Government of South Australia, 'Commercialisation of Land services Functions, https://www.treasury.sa.gov.au/__data/assets/pdf_file/0014/37202/Questions-and-Answers-Tranche-1.pdf

[18]The then Treasurer Mr Koutsantonis said the SA Government would receive an ongoing royalty stream from the sale, worth 12.5 per cent of any money made by commercialising data held by the Lands Titles Office, in addition to a $1.6 billion upfront payment, which he said would be invested in critical infrastructure and essential services.

[19]Report of the Auditor-General, Report 12 of 2018, 'Land Services Commercialisation Project', 13 December 2018; p14

Under the deal, if the state and LSSA did not enter into a privatisation agreement for the MVR by 12 October 2020, or the state appointed a third party to manage the MVR before this date, then the state must either repay LSSA the $80 million, including interest charges at 10% per annum, or grant LSSA an additional seven year extension to the existing 40 year term of the Land Services Agreement. Repaying the $80 million plus interest would have cost the taxpayer up to $104 million.[20]

The SA Government did not perform formal analysis demonstrating the reasonableness of the interest condition before selecting MIRA as the service provider. For example, no financial analysis was performed to assess the SA Government's potential maximum financial exposure from this interest condition, and whether the proposed interest rate was reasonable relative to market interest rates or other relevant benchmarks such as industry rates of return. As a result, it is possible that the ERN condition may not achieve value for money for the State.[21]

---

[20]Auditor-General's Report p.13; Section 9.16 The National Tribune, Auditor-General critical of Labor's secret deal in controversial $1.6bn Lands Titles Office sell-off, 13 December 2018, https://www.nationaltribune.com.au/auditor-general-critical-of-labor-s-secret-deal-in-controversial-16bn-lands-titles-office-sell-off/
Tom Richardson, 'Govt 'forced' to privatise motor registry – or pay back millions – under Labor deal', InDaily, 16 May 2018 https://indaily.com.au/news/2018/05/16/govt-forced-to-privatise-motor-registry-or-pay-back-millions-under-labor-deal/
Rob Lucas, Media Release, 'Libs say No to Labor's Secret Privatisation Plan for Motor Vehicle Registry', 21 December 2019 https://www.roblucas.com.au/media-releases/libs-say-no-to-labors-secret-privatisation-plan-for-motor-vehicle-registry
[21]Auditor-General's Report p.13

"A 'Forensic Analysis' of South Australia's Privatisations?"

During Parliamentary debate into the establishment of this Inquiry the Treasurer made much of the privatisations during Labor's sixteen years in government prior to the election of the Marshall Government in March 2018. He was insistent that these should be subjected to the same scrutiny, 'forensic analysis' even, as those undertaken or proposed by the Marshall Government.

The PSA would welcome a genuine 'forensic analysis' of all privatisations in South Australia over the last three decades. However as the Treasurer would be very aware, this is fraught with difficulty regardless of which party is in government.

Mr Lucas claims that there are many examples of public services being successfully delivered by the private sector; that governments have a responsibility to consider privatisation options when it is clearly in the public interest to do so.[22] However these claims are not accompanied by an evidence-base which details why particular privatisation options are in the public interest and the criteria by which they are determined to be successful and represent 'value for money'.

Rather, announcements of privatisation contain a formula rationale: privatisation is in the public interest because private sector operators are able to deliver better quality public services at a lower cost to government. Cost savings to government will serve the dual interests of the public as taxpayers, who will get (as they are repeatedly told by government) "a better bang for their buck", and as individual consumers because they will get better services at a reduced cost.

However any actual evidence to support these claims, if it even exists, is suppressed on the grounds of 'commercial in confidence' arrangements between the government and the private operator.

The PSA does not dispute the need for governments to consider whether cost savings can be made in the operation and delivery of services. What we do contest are simplistic assertions by governments which completely fail and/or deliberately obscure 'a forensic analysis' of the full 'cost' implications of privatisation.

Determining the real costs of private provision would include public access to a range of costs which contribute to the cost of public delivery and function to obscure how much privatisation is really costing the public. They include costs associated with the tendering and contract process, consultancy and legal services, monitoring performance, new administrative costs associated with privatisation processes and departmental overheads from which private operators benefit, new costs to the public sector associated with the introduction of 'market' mechanisms such as 'market testing', contestability, competition, benchmarking, and the costs to the state/public of contract failures.

What this government, like all governments in SA since the 1990s, is reluctant to do however is to allow the kind of public scrutiny of privatisation initiatives which would allow for genuine evidence-based judgements and informed public debate/discussion.

A valid approach to cost would take into account not only the full financial dimension of costs but also the human and social costs and issues which arise when the interests of shareholders conflict with the public interest and delivery of quality public services. In financial terms these costs are far greater than just the amounts paid to contractors, and include many costs associated with privatisation processes which are not routinely considered in the limited amount of public information governments are prepared to reveal.

[22]Correspondence from Rob Lucas (then Shadow Treasurer) to Nev Kitchin (PSA General Secretary). 12 January 2018

SOUTH AUSTRALIA'S PRIVATE PRISONS

DEPARTMENT FOR CORRECTIONAL SERVICES

South Australia's two privately-run prisons, Mount Gambier Prison and the Adelaide Remand Centre are operated by British-headquartered G4S and Serco respectively. Both are wholly-owned subsidiaries of international corporations. According to them, and the government, this global experience and expertise enables them to deliver better value to the government/taxpayers with greater public accountability and transparency than the inefficient bureaucratic public sector.[23]

Government Announcement re Privatisation of the Adelaide Remand Centre

Prior to delivering the Marshall Government's first budget the Treasurer observed, "We've inherited a financial mess, but we're not going to use that as an excuse to break our promises".[24] The following day the budget papers contained the announcement of the privatisation of the Adelaide Remand Centre.

Headed *'Better Prisons – Adelaide Remand Centre – Contestable Service Delivery',* the rationale predictably focussed on cost-savings and the benefits of competition, with no acknowledgement of the widely acknowledged higher costs associated with the complexity of operating remand centres:

This measure provides savings as a result of the transfer of operations of the Adelaide Remand Centre to a private sector provider. The Adelaide Remand Centre operates at a higher cost of service relative to other South Australian prisons. Transferring the management of operations to a private provider will deliver prison services at a lower cost.

Savings will be determined as a result of a competitive procurement process for a suitable service provider.

Greater competition will advance correctional services by creating a more agile and sustainable prison service.[25]

Equally predictably, the March 2019 announcement that Serco had been awarded the contract was first made public in a communication from Serco to their shareholders through a stock exchange announcement. It made much of Serco's extensive history as a provider of high quality cost-effective services, which it subsequently claimed in March 2020 was delivering cost-savings in the order of $8 million each year to the State.[26]

[23]Serco's 2020 Annual Report describes the company as "a leading provider of public services … a trusted partner of governments, delivering superb services that transform outcomes and make a positive difference to our fellow citizens." Serco Annual Report 2020 p2
[24]Quoted in Daniel Keane, 'SA budget 2018: Public service cuts, potential privatisations key points of Liberal plan', ABC News, 4 September 2018
[25]https://www.treasury.sa.gov.au/__data/assets/pdf_file/0006/38958/2018-19-Budget-Measures-Statement.pdfBudget Paper 5 p.
[26]https://www.serco.com/aspac/news/media-releases/2020/adelaide-remand-centre-delivers-positive-outcomes-for-south-australia

Rupert Soames, Serco Group Chief Executive noted that: *"We are very pleased to have been chosen by the South Australian Government to manage Adelaide Remand Centre and deliver these very important services … (which) will deliver straightforward interventions that deliver long lasting and positive effects … (drawing on) our extensive experience operating correctional facilities within the Australian criminal justice system, as well as in New Zealand and the United Kingdom."*[27]

The PSA will have more to say about Serco's extensive experience of operating correctional facilities in Australia, New Zealand and the UK in terms of both cost and quality, but our initial consideration of privatising the ARC is focussed on lack of a publicly accessible evidence-base for the claims made by both the government and Serco.

Prison Privatisation and Public Accountability

> Policy makers in Australia tend to look to the UK for solutions to their policy dilemmas and we have concerns about that because the UK is ahead of us and there is evidence that they have failed in many areas already. The state's capacity to remove someone's liberty is an enormous power. It is a huge responsibility and to allow private-for-profit providers to be engaged in that space is … a serious concern. If government are going to claim that private prisons offer better and more cost effective services there needs to be evidence of that.[28]

Studies of prison privatisation in Australia note that while there have been some improvements in terms of accountability and performance measurement over nearly three decades of private prisons in Australia, to date there is still a dearth of what has been systematically made publicly available. The commercial-in-confidence provisions of the private prison contracts protect the private providers – and the government – from the level of transparency necessary for both genuine public accountability and a systematic evaluation of the cost to the state and to the public.

In 2016 Dr Jane Andrew, Associate Professor of Accounting at the University of Sydney Business School and several of her colleagues undertook a major study of private prisons in Australia on a state-by-state basis. It provides a valuable perspective on the wider question of costs and accountability in relation to prison privatisation, which also has wide applicability to privatisations in general:

The first dimension of accountability consists of the mechanisms that the government can use to ensure that the services it purchases from private contractors are delivered to an agreed standard. This is what we refer to as 'internal' accountability, in that mechanisms make a contractor responsible to the government, but not necessarily to the broader public. The second dimension of accountability is 'external', and consists of mechanisms for making the public aware of the nature and performance of contracts between the government and private contractors. External accountability is therefore important, allowing the public to hold those responsible for the prisons' operations to account. Accountability helps mediate assessments of cost, performance and efficiency. After all, a private prison can only be said to provide accountability if the performance, costs and efficiency of its services is clearly communicated to the public.[29]

[27]ibid.
[28]The University of Sydney Business School, Accounting research raises doubts about prison privatisation: Holding Australia's private prisons to account,' Accounting research holds private prisons to account – The University of Sydney, 8 April 2019
[29]Associate Professor Jane Andrew, Dr Max Baker and Dr Philip Roberts, Prison Privatisation in Australia: The State of the Nation. Accountability, Costs, Performance and Efficiency, June 2016 p2 https://sydney.edu.au/business/

Evaluating the Total Cost of Privatised Services

Their study also makes it clear that the question of 'cost' is much wider than the nominal value of the contract:

> Costs reflects the expense to the state of having prisoners incarcerated in private facilities, including not only amounts paid to contractors, but also expenses involved in tendering contracts and monitoring performance, costs associated with contract failures, and the broader costs of the custodial system.[30]

A valid evaluation of the total cost of privatised prisons would take all these considerations into account. But even on the basis of a more limited assessment of cost their study concludes that:

> … there is insufficient publicly available information to determine whether or not private prisons provide a better approach to the delivery of prison services as compared to the public system. The purported benefits of introducing private prisons along the lines of accountability, costs, efficiency and performance still remain to be proven. In order to establish the impact of privatisation on the custodial system, a range of cost and performance data must be made available by those states with private prisons. A genuine comparison in terms of performance, cost and efficiency will only be possible once all private prisons are subject to similar levels of public accountability.[31]

They also note that the cost data which governments provide is routinely distorted in order to give the appearance that the costs of private prisons are less than they actually are and that there is lack of access to the estimates and assumptions that go into the production of the numbers.

Specific Cost Factors Related to Mount Gambier Prison:

Cost of contract: Unlike some other states there is no information from South Australia that compares the costs of public and private prisons.[32]

Cost per prisoner per day: Cost per prisoner per day is a central metric for understanding the cost of custodial services. There is no published cost per prisoner per day for Mount Gambier Prison.[33]

Performance measures: There is no detailed information in the public sphere on how the prison is meeting key performance targets.[34]

Innovations: Owing to the lack of information and reports on Mount Gambier there is no way of determining the types of innovations G4S may have introduced to the sector.[35]

[30]ibid.
[31]op.cit. p4
[32]Andrew et al 2016 p34
[33]ibid.
[34]Andrew et al 2016 p36
[35]ibid.

"Mount Gambier appears to operate in an accountability void..."

The study also noted that in 2009 the Director of Strategic Services for the SA Department of Correctional Services gave evidence to a NSW Government inquiry into prison privatisation and claimed that Mount Gambier was "extremely price-competitive and offered good value for money" but no statistical or cost information concerning the prison was provided. Similarly G4S has not provided this information in its public submissions either.

While the contract is publicly available, including the KPIs (Key Performance Indicators) used to measure contract compliance, information related to performance outcomes and the associated PLFs (Performance Linked Fees)[36] are not. As is the case in other states, the reports produced by the contract monitors at Mount Gambier are not available to the public. In addition, the DCS annual report in SA does not provide performance or cost information that is clearly attributable to Mount Gambier; the state does not have an Independent Inspector of Prisons; and the Ombudsman does not provide details about prisoner complaints in its annual report. As a consequence, Mount Gambier appears to operate in an accountability void....[37]

"There is no way for a reasonable person to assess the actual performance of these prisons ..." [38]

While noting that South Australia's decision to make the contract for Mount Gambier publicly available as of 2011 was a move in the right direction, the 2016 study concluded that there was still not enough information in the public domain to provide a clear assessment of the performance of the prison. Subsequent research undertaken by Associate Professor Andrew and her colleague Dr Max Baker which was presented in their submission and representations to the New South Wales Government's Inquiry into the privately-operated Parklea Correctional Centre, and new work begun in 2019, shows that their 2016 findings remain valid. Public reporting remains poor, the veil of commercial in confidence and lack of transparency continues to obscure operations, and the total cost of private prisons remains unknown with the state currently bearing a lot of costs which could be borne by private providers, which makes private prisons look artificially cheaper to run.[39]

[36]Performance Linked Fees (PLFs) – used in private correctional centres to incentivise good performance by linking financial payments to performance.
[37]Andrew et al 2016 p36
[38]Jane Andrew and Max Baker, Hearing Transcript NSW Government Inquiry into the operations of Parklea Correctional Centre, 2018 p35 https://www.parliament.nsw.gov.au/lcdocs/submissions/59792/0011%20Dr%20Jane%20Andrew%20and%20Dr%20Max%20Baker.pdf
[39]University of Sydney Media Release, 'University research raises doubts about Parklea and private prisons across Australia, 8 April 2019 https://www.sydney.edu.au/business/news-and-events/news/2019/04/08/holding-private-prisons-to-account.html

> While there have been some improvements in publicly available information it remains the case that the general lack of cost-related information, the redaction of key information, and the absence of data on the full costs of contracts makes it all but impossible to establish the real costs of privatised prisons and fails to provide a foundation for ongoing government and private operator claims that they are more cost effective than public sector delivery, perform better (despite performance requirements for public and private prisons not being equivalent) and fully accountable to the public.[40]

"If privatisation delivers, why does it have to be shrouded in secrecy?"[41]

In light of the lack of public information about the operation of Mount Gambier Prison, the PSA urges this Inquiry to question both the evidence-base for the former Labor Government renewal of G4S' contract in 2017 and the Marshall Government's decision that further prison privatisation in South Australia, including the privatisation of the Adelaide Remand Centre, is 'in the public interest', how the 'cost-benefits' are determined, and the operations of which other private prisons in Australia it drew on as examples of successful cost-effective private sector delivery by Serco and G4S.

Costs Associated with Contract/Private Operator Failure

Some recent developments in Australia and New Zealand concerning the costs associated with private operator failure, including cases where governments have taken the decision that the only redress to the magnitude of these failures is to return the operation of these prisons to public hands, is worthy of consideration by this Inquiry. Essentially these privatisations have resulted in governments having to spend additional money to redress problems or bring services back into the public sector.

2018 Queensland Crime and Corruption Commission's Taskforce Flaxton: Return of Southern Queensland Correctional Centre and Arthur Gorrie Correctional Centre to Public Control

In 2018 long-running concerns about the operation of prisons in Queensland led to the establishment of the Queensland Crime and Corruption Commission's Taskforce Flaxton, with the specific brief of examining corruption and corruption risks in Queensland's correctional services facilities, including excessive use of force.

[40]The University of Sydney Business School, Accounting research raises doubts about prison privatisation: Holding Australia's private prisons to account, Accounting research holds private prisons to account – The University of Sydney, 8 April 2019
[41]Associate Professor Jane Andrew, Transcript of Appearance at Hearing of NSW Legislative Council Inquiry into Parklea Correctional Centre and other Operational Issues, Hansard, 28 September 2018 p35 https://www.parliament.nsw.gov.au/lcdocs/transcripts/2046/Transcript%20-%20 28%20September%202018%20-%20CORRECTED.pdf

It was fuelled by intense media scrutiny involving FOI applications following: (1) the adverse findings of a 2016 Queensland Audit Office Review into the operations of the Arthur Gorrie Correctional Centre (AGCC) and the Southern Queensland Correctional Centre (SQCC), operated by Serco and the GEO Group respectively, which found that while the private operators had delivered costs savings, this was due to employing fewer correctional officers, fewer medical staff, and the fact that they were free of the overheads required to run a state wide prison system; and (2) a shocking unreleased 2017 report by Queensland's chief inspector of prisons portraying the prisons as overcrowded, increasingly violent and unsafe with massive drug problems.[42]

The Taskforce report highlighted significant problems across Queensland's entire prison system but it identified specific problems at SQCC and Arthur Gorrie which it attributed directly to the fact they were privately operated.

QCCC Taskforce Flaxton Finding – Private Prisons

> The State is responsible for the humane containment, supervision and rehabilitation of offenders. A significant proportion of prisoners will be detained in one of Queensland's two privately operated prisons — AGCC and SQCC. This marketised approach, where prisons are operated by private, profit-driven organisations, disconnects the State from direct responsibility for the delivery of privately operated prisons. This model creates challenges for the State in ensuring prisoners detained in privately operated facilities are treated humanely and have appropriate access to programs and services. In 2016, the Queensland Audit Office (QAO) reported that the private operators had not consistently met QCS's expectations for best practice performance against the contracted key performance indicators (KPIs)and identified the need for Queensland Corrective Services (QCS) to strengthen how it manages operator performance to drive continual performance improvement.[43]

The release of the Taskforce Flaxton report led directly to the Queensland Government announcing that due to the operational failures of Serco and GEO the two prisons would be returned to public control.

Queensland Government Response: Return to Public Control is in the Public Interest

Announcing the Government decision to return the two private prisons to public control and operation, Corrective Services Minister Mark Ryan said it would not only "strengthen corruption resistance in Queensland prisons and lead to greater overall integrity" but also lead to greater safety in prisons given that the Taskforce had directly attributed the higher number of assaults on staff at SQCC and AGCC to Serco and GEO's reduction in staff numbers in order to cut costs.

Significantly the Government made the decision fully aware of the cost implications of increasing staffing levels in the interests of safety and security.

---

[42]Mark Willacy and Alexandra Blucher, 'Inside Australia's 'powder keg' private prison', ABC Investigations, 20 June 2018, https://www.abc.net.au/news/2018-06-20/inside-arthur-gorrie-correctional-centre/9837260?nw=0

[43]Queensland Crime and Corruption Commission, 'Taskforce Flaxton, 'An examination of corruption risks and corruption in Queensland prisons', December 2018 p10 https://www.ccc.qld.gov.au/sites/default/files/Docs/Public-Hearings/Flaxton/Taskforce-Flaxton-An-examination-of-corruption-risks-and-corruption-in-qld-prisons-Report-2018.pdf

Minister Ryan was emphatic that the move back to public operation, which would cost the state/ taxpayers an extra $111 million over four years in increasing staff numbers to a safe level, was justified because increased safety was in the public interest.[44]

2020 Western Australia's Melaleuca Prison Returns to Public Sector Management

In April 2020 the Melaleuca Remand and Reintegration Facility (now Melaleuca Women's Prison) was returned to public hands following the early termination of private operator Sodexo's contract, which had been due to end in 2021.[45] Sodexo had won the contract in 2016 but a scathing Inspector of Custodial Services report in 2018 raised serious questions about Sodexo's operation of the prison. The report highlighted major inadequacies in contract management and monitoring, governance arrangements, staffing, and the services and facilities at the prison, including totally ill-suited infrastructure. There was, he said, a "bewildering lack of clarity around some basic operational matters."[46]

At the time the report was released, the then Acting Services Minister said the situation at Melaleuca had come about due to the previous government's "ideological obsession" with privatising public prisons, which had led to "a poorly written contract that has resulted in very poor and unsafe conditions for both prisoners and staff … it was a rushed and botched attempt to lock-in the next government to a contract with a private prison operator for the next five years."[47]

The report made it clear that Sodexo was unable to effectively manage and operate the facility for the cost it had contracted with the government to deliver. In its first two years of operation it incurred significant operating losses which directly impacted on the operation of the facility. This was reflected in Sodexo's "lean staffing levels in all areas", a "lack of adequate services for prisoners" and "limited capacity to add to the existing infrastructure."[48]

"Sodexo's contract failure created risks for themselves, the women prisoners, and the Department"

[44]Tracey Ferrier, 'Qld to end private jails experiment', 7News, 4 April 2020 https://7news.com.au/politics/qld-to-take-back-control-of-private-jails-c-23790
Melanie Vujkovic, Queensland Government to run two privately owned prisons in bid to reduce assaults', ABC News, 26 March 2019,
[45]https://www.abc.net.au/news/2019-03-26/queensland-private-prisons-to-be-run-by-state-government/10938192
Government of WA, Media Statement, 'Melaleuca female prison to be returned to public hands', 23 December 2019 https://www.mediastatements.wa.gov.au
[46]Phil Hickey, 'Abysmal, bewildering': New report raises concerns with women's prison', WA Today, 30 June 2018 https://www.watoday.com.au/national/western-australia/abysmal-bewildering-new-report-raises-concerns-with-women-s-prison-20180630-p4zoqx.html
Office of the Inspector of Custodial Services, 2017 Inspection Of Melaleuca Remand and Reintegration Facility, April 2018 https://www.oics.wa.gov.au/wp-content/uploads/2018/06/Report-117.pdf
[47]Phil Hickey, 'Abysmal, bewildering': New report raises concerns with women's prison', WA Today, 30 June 2018 https://www.watoday.com.au/national/western-australia/abysmal-bewildering-new-report-raises-concerns-with-women-s-prison-20180630-p4zoqx.html
Hamish Hastie, Then there was one: WA left with just one private prison with Melaleuca to change hands, WA Today, 23 December 2019 https://www.watoday.com.au/politics/western-australia/then-there-was-one-wa-left-with-just-one-private-prison-with-melaleuca-to-change-hands-20191223-p53mkl.html
[48]Office of the Inspector of Custodial Services, 2017 Inspection Of Melaleuca Remand and Reintegration

The Inspector found that Sodexo's failure to ensure that they properly understood the terms of the contract created risks for themselves, the women prisoners, and the Department. Notwithstanding this however, they had signed the contract and the Government was entitled to expect the company to deliver against it.[49]

Sodexo's ongoing operational failures led to the government's decision to return Melaleuca to public sector management and operation. It was a clear recognition, like that of the Queensland Government, that the standard of provision expected by the state was incompatible with cost-saving as the primary consideration. This was a particular consideration in relation to Melaleuca according the Corrective Services Minister because many women who enter custody are from disadvantaged backgrounds, have been subjected to family violence and have low self-esteem. Despite the cost implications for government, transferring Melaleuca prison back to public hands would provide "more rehabilitative opportunities and greater flexibility for prisoner cohort management ... (and) give the State far more options to better manage Western Australia's female offender population."[50]

2017 Mt Eden Prison New Zealand

In light of Serco losing its SQCC contract with the Queensland Government, we also note the loss of its Mt Eden contract (Auckland) in 2017 due to operational failures on a large scale, which will be considered in further detail in the following section of our submission.

'Safer and More Secure?' Conflict between Cost-Cutting, Lack of Transparency and Safety/Public Responsibility

In terms of the overall cost to the public of privatisation, these examples, and other findings from numerous studies and inquiries into the operation of private prisons highlight the negative impacts which occur when a primary focus on cost cutting strategies, targets and processes conflicts with the fundamental public responsibility of providing safe care.

They also raise fundamental questions about why governments appear to be blind to these failures and are prepared to accept what has been described as "a culture of reduced public accountability and transparency" and private operators publicly maintaining the superiority of private prisons. For example, evidence presented to the 2018 NSW Government Inquiry into Parklea led to the government announcing that GEO's contract would not be renewed when the current contract expired in 2019. Three companies were shortlisted as tenderers for the new contract, for which the public sector was not permitted to tender; Serco, G4S and Broadspectrum. While the decision not to renew GEO's contract is eminently understandable on the basis of the damning findings of the inquiry, the decision to shortlist Serco and G4S is less so.

[49]op.cit. p.iv
[50]WA Government Media Statement, 'Melaleuca Prison Returns to Public Sector Management', 10 April 2020 https://www.mediastatements.wa.gov.au/Pages/McGowan/2020/04/Melaleuca-prison-returns-to-public-sector-management.aspx

SA PATHOLOGY AND SA MEDICAL IMAGING

DEPARTMENT FOR HEALTH AND WELLBEING

In addition to the privatisation of the ARC, the government's 2018 budget also contained a series of measures focussed on 'inefficiencies' in SA's public health system, announcing that public pathology services and state-funded medical imaging services faced privatisation if substantial cost savings target were not met.

Government Announcement re Potential Privatisation of SA Pathology and SA Medical Imaging

'An efficient public pathology service': Previous external reviews analysing the efficiency of public pathology services suggested that South Australia delivers services at significantly higher cost than similar services interstate and in the private sector. The level of inefficiency has previously been estimated at more than $40 million per year. Pathology services are a contributing factor to the South Australian health network operating above the national efficient price in the delivery of public health services. Efficiencies will therefore be pursued in SA Pathology, with the intent of delivering a service consistent with interstate peers. With the implementation of local health network boards from 2019–20, the public pathology service will be accountable for its performance. Should efficiencies not be achieved, it will be open to those boards to procure services from alternative providers.[51]

'***An efficient public imaging and diagnostic service':*** Previous external reviews analysing the efficiency of public imaging services suggested that South Australia delivers services for around 30 per cent higher net cost when compared to equivalent hospitals interstate. This equates to a full year impact of approximately $6.2 million. Imaging services are a contributing factor to the South Australian hospital network operating above the national efficient price in the delivery of public health services. Efficiencies can be pursued in SA Medical Imaging Services, with the intent of delivering a service consistent with interstate and private sector peers.[52]

As stated in the Budget Papers, the denigration of these services as highly inefficient in terms of cost and performance was on the basis of reviews by commissioned consultancies often costing many millions of dollars per review, the most recent being KPMG's review of SAMI and a 2017 review of SA Pathology by Korda Mentha.

However, outside the rarefied world of corporate consultants who have built fortunes undertaking reviews for governments, SA Pathology and SA Medical Imaging are highly respected quality services with a reputation as leaders in medical research and training.

A number of public health experts, and the unions and professional associations representing the interests of the services and their employees, spoke out against the Government's position. Among other things they made it very clear that the cost savings target by 2019-20 would have been impossible to achieve without cutting several hundred scientific and technician jobs.

[51]https://www.treasury.sa.gov.au/__data/assets/pdf_file/0006/38958/2018-19-Budget-Measures-Statement.pdf Budget Paper 5 p79 Additional issues re the proposed devolved health system with local health boards having the ability under the Act to employ staff directly. Because individual boards will receive their funding directly from Treasury, there is a real danger they will cut back on staff and services and create different conditions and wages across health, creating inequalities between communities.
[52]https://www.treasury.sa.gov.au/data/assets/pdf_file/0006/38958/2018-19-Budget-Measures-Statement.pdf Budget Paper 5 p79

This would have substantially impacted on the capacity of the public providers to provide the level and quality of services rightly expected by the public and on public health outcomes as a whole which affects individuals and communities across the state.

Associate Professor Dr William Tam, then President of the AMA(SA), commented publicly on the vital roles of SA Pathology as a public pathology provider, including pathology research, training and accreditation; roles which private providers cannot perform:

… SA Pathology fulfils vital roles as a public pathology provider. Pathology is the unsung hero of the health system, providing vital information for diagnosis and treatment. High-volume, low-complexity tests are the bread and butter of private pathology firms but SA Pathology also performs low-volume, high-complexity tests, vital for diagnosing cancer and infectious diseases. These tests would be sent interstate at significant cost and delay. This is bad news for SA patients waiting anxiously for their results, particularly in regional parts of the state. And to add insult to injury for regional communities, it's likely that regional areas will also lose local collection centres…. Squeezing the lifeblood from SA Pathology will have unintended consequences for our health system — making it slower, less effective.[53]

The considered view of public health experts, rather than that of commissioned corporate consultants, was that privatising SA Pathology would be a false economy because the provision of diagnostic testing and targeted treatment leads to a reduction in health costs over time as it reduces the need for more expensive procedures at a later time. Investment in public pathology and imaging services acts to contain future health costs in the interests of both the personal health costs to individuals and the total public investment in health.

In addition to existing evidence in the public sphere in SA on the impact of cutting these services, the PSA researched other jurisdictions in Australia and internationally where public healthcare systems have been opened up to the private sector. This has seen the rapid rise of large corporate and other private providers operating under a diversity of brand names across key areas of public health, including pathology, medical imaging and hospitals, whose operations have been substantially funded in Australia by Medicare/Australian taxpayers.

Their operations in other states in Australia, where public pathology and imaging services have been largely privatised, forms a significant part of the context by which the SA Government labels our public providers 'inefficient' in contrast to their interstate and private sector peers.

In just 30 years, Healius (formerly Primary Health Care), which operates in South Australia as Abbott Pathology, has grown from a single 24-hour, bulk-billed medical practice into a multi-billion corporation with a vast commercial network of pathology, medical centres, IVF, imaging, day hospitals and allied health services.

[53]William Tam, 'The odds are stacked against SA Pathology reaching the $25 million target', The Advertiser March 24, 2019 https://www.adelaidenow.com.au/news/opinion/william-tam-the-odds-are-stacked-against-sa-pathology-reaching-the-25-million-target/news-story/c508de508276939f6d184c395d94a4f5

It is one of the biggest 50 companies on the Australian stock market and Australia's largest provider of Medicare-billed pathology testing and other services.[54] Together with Sonic, which operates in South Australia as Clinpath, the two companies account for three-quarters of the multi-billion dollar market.

Sonic, a Sydney-based global healthcare group of companies, also grew from a small local operation in the 1980s. It specialises in providing pathology/clinical laboratory and radiology/diagnostic imaging services to clinicians, hospitals, and community health services, and through its aggressive overseas acquisition strategy (2002 – present) has grown to become the world's third largest provider of pathology/clinical laboratory services; the first company to do so on a global basis. Its commercial interests outside Australia have become so vast they currently generate approximately 60% of the company's revenues, and Sonic describes its operations as 'a Sydney-headquartered decentralised international federation of medically-led diagnostic practices.'[55]

The ways in which these giants and other providers, including private equity firms which now form an integral part of the volatile market which healthcare has become, operate is very different from public providers. Private operators provide a service but their primary obligation is to their shareholders. In order to be competitive and maximise shareholder returns their business models include:

- 'cherry picking' the most profitable services and not offering those which are not profitable, leaving these tests to be provided by the public provider;
- charging higher 'out of pocket' fees;
- cutting staffing levels and employing higher levels of inexperienced/less qualified/untrained/casual staff (deskilling and less job security);
- closing down laboratories and relocating services away from local areas;
- outsourcing to other providers not mentioned in their contracts; and
- other cost-cutting practices which compromise access, quality and safety of service provision.[56]

At its worst, such as in the case of the incorrect analysis of hundreds of cervical tests in Ireland (involving Australian-based multinational Sonic's US subsidiary CPL), the consequences have been fatal and are highly relevant to the issues being considered by this inquiry. The deaths of a number of Irish women as a result of private operator failure led to more than 100 legal cases against the state and the private laboratories involved with litigation costs in the order of €50 million. The Irish government was forced by public pressure into an official inquiry carried out by Dr Gabriel Scally, an eminent UK public health expert, an undertaking which led one financial analyst to observe that "increased government scrutiny is almost always a value-destroying exercise for listed companies."[57]

Dr Scally's report identified that the entire system for cervical cancer screening in Ireland was "doomed to fail at some point" because of the operational model of the private providers contracted to deliver the program and failures in the monitoring regime. This included the secret outsourcing

[54]In January 2019 Healius was the subject of media attention following a failed $2 billion takeover bid from major shareholder Chinese multinational the Jangho Group which has a shareholding of 16 per cent. Jangho's background is in construction supplies but has been diversifying out of building materials and into healthcare, through several investments in Australia. Patrick Hatch, 'Health giant Healius receives $2b takeover offer from Chinese investor', Sydney Morning Herald https://www.smh.com.au/business/companies/healius-receives-2-02b-takeover-offer-20190103-p50pd6.html Jan 3 2019
[55]Sonic, 2017 Annual Report
[56]See Term of Reference Two discussion of private pathology provision in Victoria.
[57]Brendon Lau, 'Why the Sonic Healthcare Limited (ASX:SHL) share price is falling today' 28 May 2018 https://www.fool.com.au/2018/05/28/why-

of smear tests to facilities in the US and the UK outside the boundaries of the contracts. He also uncovered what he considered to be "an entirely unacceptable lack of public accountability and transparency" in relation to the program, which made it "all too easy" for the public, including the women and their families, to speculate that there have been conspiracies involving laboratory companies and that collusion has taken place to cover up scandalous failures.[58]

Significantly he concluded that to be successful, public health programs (like screening, vaccination, or infectious disease surveillance) require a skilled and valued public health workforce … (and) that the limited public health medicine input into CervicalCheck was to its detriment at great cost to both individuals and the state.[59]

As it turned out, the threatened privatisation of SA Pathology did not occur, due in part to COVID-19 and rapid public awareness that SA Pathology was leading the country in its response to the pandemic. The government quickly retreated from its former position of how inefficient SA Pathology was and its threats of privatisation. Although the Premier initially stopped short of ruling out privatisation he was fulsome in his praise for the public provider for its central role in preventing the spread of coronavirus in South Australia, and described SA Pathology's clinical service director as an "absolute hero" for his role in SA's coronavirus fight.

SA Pathology has stepped up to the plate during the coronavirus pandemic and provided South Australians with a world-class COVID-19 testing service that has reduced the spread of the virus and saved lives.[60]

The following week Health Minister Stephen Wade ruled out the privatisation of SA Pathology, saying that the Government was "putting to bed the option of outsourcing pathology services."[61]

It is not however out of the realms of possibility that future threats to SA Pathology will emerge once the pandemic emergency is over.

The PSA urges this Inquiry to advocate the need for a policy and funding environment for public health services, including SA Pathology and SA Medical Imaging, which guarantees the level of human and technical resources required to ensure provision of high quality public health outcomes rather than minimising costs.

[58]Dr Gabriel Scally's report was released in September 2018. The full report is available at http://scallyreview.ie/wp-content/uploads/2018/09/Scoping-Inquiry-into-CervicalCheck-Final Report.pdf
[59]Scally Report, Foreword, p.vi
[60]Bension Siebert, 'Premier refuses to rule out future privatisation of coronavirus testing agency SA Pathology, ABC Radio Adelaide, 16 April 2020
[61]'SA Government confirms no privatisation of coronavirus testing agency SA Pathology', ABC Radio Adelaide, 22 April 2020

PUBLIC TRANSPORT, INFRASTRUCTURE PLANNING AND PROVISION, AND FACILITIES MANAGEMENT ACROSS THE PUBLIC SECTOR

Department for Infrastructure and Transport (DIT) formerly the Department for Planning, Transport and Infrastructure (DPTI)

While a number of DIT functions had previously been privatised, the last several years have seen the full privatisation of partially privatised services and new privatisations to the extent that the work of the public sector in planning, operating and managing the transport system is now fully in private hands, as is road maintenance across the state. Similarly, facilities management which had been partially privatised is in the process of being fully privatised.

The level of privatisation in DIT is now so high that it is tempting to wonder if the Department could be more aptly renamed DOIT – the Department for Outsourcing Infrastructure and Transport – with the department increasingly transformed from a public service provider to a manager of private contracts, with policy planning and design of service delivery (along with other management and governance functions) transferred from the public sector to newly created authorities, consultants and 'external contractors'.

This has many implications for the services provided to the South Australian community, not least of which are questions of the costs involved. Before turning to a consideration of cost-related aspects it is relevant to briefly outline several government policy developments which provide much-needed context.

Government Establishment of Infrastructure SA

The Government's promulgation of the *Infrastructure SA Act 2018* shortly after coming to power is a clear sign that privatisation was on its agenda. The Act provided for the establishment of Infrastructure SA (ISA), an advisory board to oversee the provision and management of infrastructure in South Australia. According to the official statement of its function, its role was the provision of independent advice to government on 'infrastructure planning, investment, delivery and optimisation', reporting directly to the Premier – not subject to Ministerial direction in order that it could provide independent advice which 'might differ to that of other government agencies'.[62]

Of the seven members initially appointed to the board, four were private sector representatives, three public sector Chief Executives. At the time of its establishment, two of the CEs had extensive histories within, and connections, with the private sector, one of them being the Chief Executive of DIT, Tony Braxton-Smith. Mr Braxton-Smith had been appointed as CE of DIT in October 2018, following senior management roles with Transport NSW, CEO of Great Southern Rail during the period it was owned by Serco, and Transport Serco Australia.[63]

The government appointed Tony Shepherd, who is widely regarded in the corporate world and conservative government circles as a pioneer of privatised public infrastructure, as chair of ISA.

[62]https://www.infrastructure.sa.gov.au/about-us 2018
[63]https://www.infrastructure.sa.gov.au/about-us/our-board 2018. The ISA's current website notes several changes to the board, with Mr Braxton-Smith no longer a member.

Among his many roles, Mr Shepherd was chair of former Prime Minister Tony Abbott's 2013 National Commission of Audit. The Commission promoted privatisation through outsourcing, competitive tendering and procurement, and strongly recommended cuts to government spending and the number of public sector agencies, recommendations which would have seen the loss of many thousands of public sector jobs.[64] Mr Shepherd was also a major player in the formation of Transurban, a consortium which was formed in 1996 to operate the Kennett Government's first Melbourne private road project. From these beginnings it has grown into a massive enterprise with enormous political power and is now one of the world's largest toll road operators.[65]

A Note on Market-Led Proposals (Unsolicited Proposals to Government):
One of Transurban's corporate strategies centred on Market-Led Proposals (MLPs); unsolicited private-sector initiated proposals to government for the development and delivery of government projects such as infrastructure and/or services through negotiation rather than a competitive procurement process.

A 2018 study Grattan Institute study, 'Who's in the room? Access and influence in Australian politics' which investigated the growing access and influence of lobbyists in the political process and formulation of public policy and its impacts, contained several case studies of 'special interest' influence. One of these focussed on Transurban and the role of its unsolicited proposals to government in the creation of its toll road empire. The study noted that (1) while unsolicited proposals may throw up new ideas, they also exclude competition since governments generally negotiate with the project proponent exclusively, and (2) while Transurban's lucrative project deals are worth billions to the company and protect the budget balances of governments in the short-term, they risk poorer outcomes for taxpayers and drivers compared to a competitive tender process.[66]

Within this context, the PSA notes that in South Australia unsolicited proposals to government, including those in the critical area of infrastructure, continue to be categorised as those which 'do not fit into existing procurement processes', i.e. not subject to formal governance procedures, which adds to existing concerns about lack of transparency.

Transurban was also featured in a November 2019 Victorian Auditor-General's report into whether MLPs were being assessed in accordance with government requirements, which found conclusively that they were not; that the business case for the deal with Transurban was not sufficiently comprehensive and did not have a sufficiently transparent cost-benefit analysis; that it created a monopoly advantage for Transurban; and that Transurban could not have secured or delivered its funding for the project without "direct government policy decisions and parliamentary support."[67]

Involvement of the Private Sector in the Planning and Delivery of Infrastructure

Not surprisingly, Infrastructure SA's 20 Year Strategy document (May 2020) leans heavily to a greater role for the private sector in the planning and delivery of South Australia's public infrastructure in the interests of fiscal responsibility and greater efficiency in the expenditure of public funds.

[64]Emma Griffiths, 'Commission of Audit recommends cradle-to-grave cuts in report released by Federal Government', ABC News, 2 May 2014 https://www.abc.net.au/news/2014-05-01/commission-of-audit-report-released-by-federal-government/5423556?nw=0v
[65]Mr Shepherd oversaw Transurban'slisting on the ASX, and its fortunes have grown to the extent that it now inthe ASX Top 20 list (Number 16 June 2020)
[66]Wood, D., Griffiths, K., and Chivers, C.,'Who's in the room? Access and influence in Australian politics', Grattan Institute 2018, p70
[67]VAGO, 'Market-led Proposals', November 2019. https://www.audit.vic.gov.au/sites/default/files/2019-11/20191127-Market-led-Proposals-report.pdf

It advocates "the potential of PPPs and other contestable delivery models to provide greater discipline in new infrastructure" and calls on the government to "proactively consider where outsourcing of public services could provide efficiencies and improved services", including the franchising of rail and tram service operation, and also the 'exploration' of user pays models to funding infrastructure as an alternative to general government revenue.[68]

July 2019: Government Creation of the South Australian Public Transport Authority

In July 2019 all public transport operational, maintenance and customer services functions were moved from DPTI to the newly created South Australian Public Transport Authority (SAPTA), a separate body not covered by the Public Sector Act. Steering clear of the mention of privatisation, then Minister Knoll's announcement of the formation of SAPTA focused on what he called (1) the government's need for a body with the expertise to improve SA's under-performing public transport services, and (2) the government's assembly of "an experienced team with great technical expertise that will provide frank and fearless advice to government and independent, external advice and guidance on a broad, customer-focused reform program for the state's public transport services."[69]

It is not difficult to see through the euphemisms and recognise that SAPTA was designed to facilitate further privatisation of the public transport system. It provides a clear example of running down what had once been seen as key public sector function through ongoing budget and staffing cuts, accusing it of being inefficient and under-performing, and then transferring the function outside the public sector.

The government's appointee to head the four-person authority was Reece Waldock. Until his retirement in 2016 Mr Waldock had been Chief Executive of the Public Transport Authority in Western Australia from 2003. During this period his role had been expanded by the then Liberal Coalition Government's decision to integrate the PTA, the Department of Main Roads, and the Department of Transport, which led to his appointment to serve concurrently as Director-General of the WAPTA, Commissioner of Main Roads WA and CEO of the PTA for a five year term.

It has been noted that during this time departmental expenditure on consultancies, including what had been referred to as 'management reviews on previous management reviews', increased significantly, and that attempts to gain access to information about the Department's use of consultancies through FOI had been unfruitful.[70] It is also notable that a 2019 Downer corporate document, 'Downer in WA', shows the extent to which it has prospered as a result of government contracts over the last two decades, including bus operations, trains and road maintenance in the infrastructure and transport area.[71]

[68]Infrastructure SA, 20-Year State Infrastructure Strategy Snapshot, pp.6-9 https://www.infrastructure.sa.gov.au/data/assets/pdf_file/0007/197512/20-Year-State-Infrastructure-Strategy-Snapshot.pdf
[69]Government Media Release, SAPTA Board appointments, 27 June 2019 https://www.premier.sa.gov.au/news/media-releases/news/sapta-board-appointments 27/06/2019 | Stephan Knoll MP
[70]Kent Acott, 'Reece Waldock: polite but virtually invisible', The West Australian 8 April 2015 https://thewest.com.au/news/reece-waldock-polite-but-virtually-invisible-ng-ya-105493
[71]Downer Group, 'Downer in Western Australia', 2016 https://www.downergroup.com/Content/cms/Documents/Brochures/T2_WA-Brochure_082016_01_Lres.pdf

Another of the government's appointees was Mr Fergus Gammie who had been the Chief Executive of the New Zealand Transport Agency from March 2016 until his resignation in December 2018 following high profile operational failures and scandals under his leadership.[72] The government also appointed Ms Monica Ryu, then partner in L.E.K, a global management consulting firm, one of whose specialities is advising corporations and governments within the transport sector on transport policy development, privatisation, restructuring and commercialisation strategies.[73] Ms Ryu is the author of several publications focussed on the 'benefits' of private sector operation of public transport services.[74]

It is difficult to see Infrastructure SA and SAPTA as anything but creations of the government to advance a privatisation agenda in spite of a public assurance that it did not have one. It is also noteworthy that shortly after the formation of SAPTA, the government announced its intention to privatise the Adelaide Metro tram and train services operated by DPTI, despite the fact that the Liberal's 2018 election platform made no mention of privatisation in its public transport policy.

DIT has also undertaken the full privatisation of its road maintenance function.[75] Predictably the then Transport Minister's announcement of the successful tenderers for road maintenance contracts for an initial seven years from November 2020 to November 2027, with provisions for a further six years, worth a combined total of $2.4 billion awarded to Downer Metro, Downer RN, Fulton Hogan RS and LBJV (Lendlease Boral Joint Venture) Outback focussed on the superiority of the private sector in service delivery at a cost which would benefit the taxpayers of South Australia:

> '… under the new model, all road maintenance will be delivered in conjunction with industry to take advantage of their expertise. … These new contracts will allow us to leverage the expertise and efficiency of industry to deliver better and safer roads for South Australian motorists. … Through these new contracts we have been able to get a better bargain for taxpayers to drive their dollar further.[76]

Similar issues surround the details of DPTI/DIT contracts for these privatisations as those associated with private prisons outlined earlier. The following instances give particular insights into the difficulties associated with (1) getting public access to cost data and other information which would be required for a detailed analysis of the contracts themselves; (2) the basis for the government's claims that South Australians would receive better services at a lower cost; and (3) the validity of the government's specific claim that the deal would save taxpayers an estimated $118 million over 12 years and the performance measures that would ensure this was so. They also highlight the question of 'hidden costs' associated with privatisation.

[72]Lucy Bennett,'New Zealand Transport Agency boss Fergus Gammie resigns as review into vehicle warrants continues', New Zealand Herald, 10 Dec, 2018 https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12174441'NZTA 'failed everyone' over fatality – chairperson', 22 November 2018 Phil Pennington https://www.rnz.co.nz/news/national/376582/nzta-failed-everyone-over-fatality-chairperson
'Fatality demanded tough response sooner, admits NZTA', 22 November 2018 https://www.rnz.co.nz/news/national/376496/fatality-demanded-tough-response-sooner-admits-nzta
[73]https://www.lek.com/about-lek
[74]Ms Ryu's publications include Public Transport, Private Operators – Delivering Better Services Through Franchising with TTF Australia (July 2012); On The Buses: The Benefits of Private Sector Involvement in the Delivery of Bus Services (February 2016)
[75]Around 60 per cent of road maintenance services had been outsourced by Labor governments in 2006, 2011 and 2013. Minister Knoll's announcement covered the remaining 40 per cent of road maintenance; ie. all state government road maintenance has now been outsourced to private contractors. The new contracts are with the same companies as those previously contracted by Labor.
https://www.premier.sa.gov.au/news/media-releases/news/contracts-awarded-for-south-australian-road-maintenance
[76]https://www.premier.sa.gov.au/news/media-releases/news/contracts-awarded-for-south-australian-road-maintenance

Privatisation of Metropolitan Adelaide Train Services

Government announcement of intention to privatise (July 2019):

The State Government will release tenders to contract for the operation of Adelaide Metro tram and train services, to deliver better and more customer focussed services for South Australians.

The Government will enter into a performance-based franchise contract that keeps the operator focussed firmly on the efficiency and quality of service delivery to customers. … Under this model, we will be able to deliver more efficient services, so we can reinvest back into the network to provide better services.

Outsourcing of operations is increasingly a preferred business model for delivery of public transport services around the world, because it blends government ownership and control with the best practices the private sector can bring to operate efficiently and deliver better services.[77]

Government Announcement of Keolis Downer as New Operator of Adelaide's Trains (January 2021):

The Marshall Government's commitment to deliver better services for train passengers is another step closer, with experienced private service provider Keolis Downer Pty Ltd set to operate the Adelaide Metropolitan Passenger Rail Network from the end of this month.

… This contract will not only deliver better services but will also mean very significant savings to SA taxpayers. The Government's estimate of $118 million over 12 years in savings remains.

Following a competitive tender process, Keolis Downer Pty Ltd, signed on to operate the Adelaide Metropolitan Passenger Rail Network from the end of January 2021.[78]

The claim that the contract was awarded through a competitive tender process is highly contested. So too is the estimate of cost savings in the Treasurer's release which is in stark contrast with statements by the then Transport Minister in 2019 when the Government's intentions were first announced. In a radio interview he was unable to say how much money would be saved by privatising South Australia's train and tram services, or if it would deliver any savings at all.[79]

[77]https://www.premier.sa.gov.au/news/media-releases/news/building-a-better-public-transport-network 01/07/2019 | Stephan Knoll MP | Better Services
[78]https://www.premier.sa.gov.au/news/media-releases/news/better-train-services-right-on-schedule-as-drivers-sign-up 01/01/2021 | Rob Lucas MLC | Better Services
[79]RTBU SA/NT, 'SA Transport Minister reveals that privatisation may not save a single cent in 'trainwreck' interview',https://www.rtbu.org.au/sa_transport_minister_reveals_that_privatisation_may_not_save_a_single_cent_in_trainwreck_interview

The Minister's public commentary also had a heavy focus on the inadequacy of public sector provision, telling the media that private business is "able to provide a customer-focussed service in ways governments struggle to", that a performance-based franchise with the private operator would keep it firmly focussed on efficiency and quality customer-service delivery, and that commissioning a private contractor would give the Government greater capacity to "enforce key performance indicators".[80]

"Getting the best bang for our buck"? Costs Associated with the Outsourcing Process

From the outset the initiative has been mired in controversy, with questions around the costs incurred as part of the process a central aspect. These include the cost of Minister Knoll spending several months travelling around the country and to Europe to see how other jurisdictions operate and manage their public transport systems in order to identify the best operating model for the SA Government to select.

As a side note, whether the taxpayers of South Australia got the 'best bang for their buck' (as the government constantly assures South Australians privatisation will deliver) from this mission is questionable. On the basis of his travels he said it was very clear that the model the government had chosen as best for South Australia was similar to the successful models of privatised public transport operating in places like London and Melbourne. Unfortunately there is a wealth of evidence from London and Melbourne which disputes how successful they have been.

This includes research which disputes the government's claims about the cost savings from competitive tendering of metropolitan public transport services, including those in Melbourne, in an analysis of a 2017 Infrastructure Australia report, *Improving Public Transport: Customer Focused Franchising,* and its associated technical report from Price Waterhouse Cooper (PwC). The report argued the case for substantial government cost-savings and research into its validity was undertaken by two prominent University of Sydney transport academics, John Stanley and David Hensher. Key points from their analysis include the following:

- The PwC report presents Australian and international examples of competitive tendering of rail and bus services. It concludes that first-round rail tenders will deliver operational cost savings of 15%-20% (conservative and high estimates respectively) by the end of the first tender and 25%-32% by the end of the second.
- Stanley and Hensher say PwC ignores international experience which is contrary to the sources PwC uses[81]. They cite major papers which show, for example, that during the first two rounds of rail franchising in the UK costs rose after privatisation; and that the European experience of tendering regional passenger services in 16 countries did not have a significant effect on efficiency and productivity.
- Sources which argue that Victoria's train/tram privatisation had not led to savings for taxpayers.

[80]Quoted in Eugene Boisvert and Casey Briggs, 'SA Government to privatise operation of Adelaide Metro trains and trams', ABC News 1 July 2019 https://www.abc.net.au/news/2019-07-01/adelaide-trains-and-trams-to-be-privatised/11267236; Bension Siebert and David Washington, Adelaide's train and tram services to be privatised, 1 July 2019 https://indaily.com.au/news/2019/07/01/adelaides-trains-and-tram-services-to-be-privatised/

[81]John Stanley and David Hensher, 'Why touted public transport savings from competitive tendering are too high', The Conversation, 6 June, 2017 https://theconversation.com/why-touted-public-transport-savings-from-competitive-tendering-are-too-high-78527

Stanley and Hensher concluded that taking account of evidence ignored by PwC, as well as the sources PwC cites which they claim raise questions about their objectivity, an assumption that rail privatisation will deliver cost savings of 25%-32% by the end of Term Two tenders is, “to say the least, heroic.”

“I Will Take That Question on Notice”

Turning specifically to the tendering process for Adelaide’s train services, there are a number of concerning issues centred around DIT Chief Executive Tony Braxton-Smith’s oversight of the rail privatisation process.

One of these concerns Mr Braxton-Smith’s engagement of Mr Fergus Gammie, a former colleague, as project director for outsourcing of rail services on a 20 month contract worth up to $1.4 million.

As we have previously noted Mr Gammie was also one of the Marshall Government’s appointees to its newly formed SA Public Transport Authority in July 2019. It appears from information extracted from Mr Braxton-Smith during a parliamentary Budget and Finance Committee hearing that his engagement of Mr Gammie took place at around the same time, namely the third of June 2019.[82]

Mr Braxton-Smith and Mr Gammie’s statements on the public record at a meeting of the Legislative Council Budget and Finance Committee meeting in August 2020 confirm their connection and the nature of Mr Gammie’s engagement. Mr Braxton-Smith stated that “When government made its policy decision in 2019 to outsource the rail operations I identified Mr Gammie as one of a handful of people in the country who has the expertise and the prior experience in similar projects and he was subsequently engaged through a single source procurement.[83] He subsequently confirmed that the decision to undertake ‘a sole source procurement’ was his and that he directed the department accordingly. When asked who had signed off on the PR100, the authorisation not to go to public tender for a contract worth in the order of $1.4 million, Mr Braxton-Smith could not recall and took the question on notice.[84]

Mr Gammie also confirmed to the committee that he was being paid as a contractor, selected as a preferred bidder without going to tender, at a daily rate up to a possible total of $1.4 million. He refused to disclose the actual rate at which he was being paid on the grounds it was “commercial-in-confidence”.[85]

At the December hearing of the Budget and Finance Committee, more questions were asked as Mr Braxton-Smith had been less than forthcoming in providing the details surrounding Mr Gammie’s appointment. Unsuccessful attempts had also been made for the contract details through FOI requests, and it was revealed that the determination not to release the contract details was made by Mr Braxton-Smith.

Chairperson: *Are you able to provide the committee the instrument that has engaged Mr Gammie, the contract?*

Mr Braxton-Smith: *I took the question on notice I think last meeting and I thought we provided some additional information, but I’m happy to again take that question on notice.*

[82] Hansard, Legislative Council Budget and Finance Committee, 7 December 2020 page 1604 number 13286.
[83] Hansard, Legislative Council Budget And Finance Committee, 25 August 2020 page 1405
[84] Hansard, Legislative Council Budget And Finance Committee, 25 August 2020 pp. 1411-1412 Number 11780
[85] Hansard, Legislative Council Budget And Finance Committee, 25 August 2020 p1411 Number 11774

Chairperson: I*s there any reason you can't provide the contract, because I note that there have been FOI requests and other requests? I think you have determined, as the FOI Officer, not to release the contract for the person you know well, Fergus Gammie. Is there a reason you have determined that that should not be subject to FOI or not to give it to this committee?*

Mr Braxton-Smith: *It is subject to FOI, but the determination (not to provide the contract) was made on the advice of our FOI officers … I'm pleased to provide a copy of it (the determination) if you would like me to take the question on notice.*[86]

Mr Braxton-Smith also confirmed that two other former colleagues from his days in Transport NSW had been 'identified' by him and engaged by DPTI on million dollar plus single source procurement contracts – Mr Ray Partridge and Mr Peter Andrews – who was contracted as program director for the procurement of the outsourced DPTI bus and tram services contracts, and also engaged in the procurement process for the full outsourcing of Across Government Facilities Management Arrangements.[87]

Mr Braxton-Smith's answer to the question of why so many senior people were being employed via contract rather than as public sector employees was instructive.

> The conduct of procurement processes of this scale and nature is particularly specialised … there are (only) a couple of handfuls of people who have the prior experience and capability who work across jurisdictions across the eastern seaboard and elsewhere in Australia.[88]

He said that because DIT employees lacked the specialist expertise, and the contracts were for a relatively short duration, the only other alternative would have been to commission a specialist advisory firm like PwC, KPMG, Ernst and Young or Deloitte, which would have cost significantly more.

It is undoubtedly true that the costs of commissioning one of the Big 4 would be more. However it does beg the dual questions of the erosion of South Australia's public sector management functions and how it had apparently become settled that overseeing the transfer of public sector functions to the private sector through lucrative contracts, with key details protected by 'commercial-in-confidence' arrangements, is either a legitimate public sector function or expenditure of taxpayer funds. This becomes even more pertinent when very highly paid external contractors are brought in seemingly on the sole basis of a Chief's Executive's personal connections without any apparent oversight or accountability on the part of the Minister.

Mr Braxton-Smith was also involved in 'behind-the-scenes' manoeuvring with Keolis Downer who were subsequently awarded the contract. At a parliamentary committee hearing in July 2019 he revealed that it had been he who had urged Minister Knoll to travel to Newcastle earlier in the year to meet with Keolis Downer.[89]

[86] Hansard 7 December p1603
[87] Hansard 7 December p1604 number 13287
[88] Hansard 7 December pp1604-5 number 13292
[89] Stephanie Richards, DPTI boss details minister's meetings with potential public transport contenders, In Daily, July 22, 2019 https://indaily.com.au/news/local/2019/07/22/dpti-boss-details-ministers-meetings-with-potential-public-transport-contenders/

Although Mr Braxton-Smith insists that all concerned were scrupulous in ensuring that no matters were discussed that might influence the procurement process, and Minister Knoll's protestations that all aspects of the tender process were "all above board", "all proper", and "being conducted at arm's length from me and my office", the Newcastle meetings took place without Minister Knoll first seeking probity advice despite being aware that Keolis Downer was likely to be in contention for the tender.[90]

"All Above Board": The Competitive Tender Process?

When tenders for the privatisation of Adelaide's rail services were ultimately released, Minister Knoll continued to publicly maintain the government line that the privatisation would result in superior services at a lower cost to taxpayers, and that the savings would be re-invested into improved service provision. The three consortia shortlisted in early 2020 to bid for the contract to begin in 2021 for 8 + 4 years were Adelaide Next, a consortium between Deutsche Bahn and John Holland with Bombardier as a sub-contractor; TrainCo, a consortium between Transdev and CAF (Spanish head-quartered rail manufacturing multinational *Construcciones y Auxiliar de Ferrocarriles*); and Keolis Downer.[91]

In March, the government and DPTI CE were forced to concede on Minister Knoll's often-repeated statement that the government was motivated primarily by improved service provision rather than the budgetary bottom line. Mr Braxton-Smith told a parliamentary committee that the government would need to find alternative savings/'efficiencies' if the rail privatisation did not proceed.[92]

Whistle-Blower Information – the Train Privatisation Process (September 2020)

In September 2020 disturbing information about the tender process from a whistle-blower was made public. Among the many irregularities with the process was information about cost issues which require investigation.

- In March 2020, within weeks of the bid process commencing, Keolis Downer and TrainCo both attempted to pull out of the process but were encouraged by DPTI to continue and submit a bid.
- Keolis Downer lobbied both the Adelaide Rail Transformation Project (ARTP) Project Director (Mr Gammie) and DPTI CEO (Mr Braxton Smith) for a 'loser fee' in order to remain in the process. They cited the potential lack of competitiveness of their bid given that (a) John Holland (part of Adelaide Next) had recently won the tram privatisation contract and would therefore have an 'inside running', and (b) Bombardier, also part of Adelaide Next, had been maintaining Adelaide's trains for the last 15 years and whose rolling stock is being delivered for new train sets. They also cited a lack of information in the process being released by DPTI to prepare their bid.
- In April 2020 they again attempted to pull out of the process but were encouraged by DPTI to continue and were offered a $1million fee if unsuccessful.
- Bids were subsequently received from Keolis Downer and Adelaide Next, with TrainCo not submitting a bid citing a lack of information and a rushed bid process by the SA Government.
- Keolis Downer's bid was significantly lower than that of Adelaide Next, and contained an order to

---

[90] ibid.
[91] Tom Richardson, 'Rail privatisation needed to meet budget savings: Transport boss', InDaily, 31 March, 2020 https://indaily.com.au/news/local/2020/03/31/rail-privatisation-needed-to-meet-budget-savings-transport-boss/
[92] ibid.

further reduce costs if required.

- Documents revealed that Keolis Downer's 'very attractive price' was designed to guarantee their winning the contract, and that it would involve a significant reduction in the workforce – train drivers, front-line and operational staff – and outsourcing of the rail maintenance function.
- The Keolis Downer proposal did not contain the highest score against the other bid for their Tailored Industry Participation Plan, which assesses the economic benefit through jobs, investment and supply chain opportunities, nor did it score the highest in other evaluation criteria, yet they were the 'preferred' bidder by DPTI, all because of price.
- DPTI evaluators outside the main privatisation project team have been deliberately kept in the dark about what offer they were evaluating and their recommendations were often overlooked particularly given the lack of detail and risks in the Keolis proposal.
- The focus of the core and 'close knit' ARTP evaluation team since the first week of bid evaluation has been on the Keolis Downer proposal. That team is mainly made up of external consultants to DPTI who were involved in the Melbourne train franchises which have had mixed results.

Leaked correspondence from Bombardier to the ARTP Probity Officer dated 18 August 2020 reveals the preferential treatment accorded to Keolis Downer:

> *It is essential to the integrity of a bid process that all bidders are provided with equality of opportunity throughout the bid process; and the evaluation process is objective and based solely on the merits of each bid and transparently perceived to be so.*
>
> *Against this, we first learned that the State had entered into early discussions with Keolis Downer following an approach by a reporter from The Advertiser. We consulted with the State on this point, and the State confirmed that conversations were indeed taking place. We were advised that the discussions were not negotiations but were for the purpose of clarifying aspects of the Keolis Downer bid submission.*
>
> *To date, Bombardier Transportation has received negligible questions in relation to any aspect of its submission. In our experience of competitive tenders, this is highly unusual.*
>
> *... In the context of concerns regarding the government's ongoing discussions with Keolis Downer, the Adelaide Next consortium queried whether it should continue the efforts towards its submission preparation. ... The Adelaide Next consortium was concerned to be advised in response: "It's up to you."*
>
> *We are further concerned to read in at least two reports of Keolis Downer being named as the front runner in the bid. This seems to the preempt the evaluation process which the State has represented will be undertaken. The reports suggest further special dealing in that Keolis Downer sought to leave the process and required payment for bid costs, if they were unsuccessful, as a condition of their continued participation in the bid process. ...*
>
> *The media sources refer to whistleblowers in relation to the ARTP. This at a minimum raises the concern that there is at least one person with inside knowledge of the bid process who considers that they need to take the serious step of becoming a whistleblower.*

Legislative Council Budget And Finance Committee, 25 August and 7 December 2020

A number of questions in regard to the matters raised above were asked at the Legislative Council Budget And Finance Committee in late August.[93] The answers provided by Mr Braxton-Smith are less than transparent. We include the following extensive quotes from the Committee transcript as a pertinent example of the difficulties involved in attempts at public scrutiny of the costs involved in privatisation deals entered into between government and the private sector.

Chairperson: *Very soon after this rail project started in March 2020, did any of the proponents attempt to pull out of the process?*

Mr Braxton-Smith: *We will take your question on notice …*[94]

Chairperson: *Can you then take on notice and provide if, in March 2020, Keolis Downer and Trainco informed the government they were intending to pull out of the process, and can you take on notice and inform at the appropriate time whether a month later, in April 2020, the same two potential tenderers, Keolis Downer and Trainco, again attempted to pull out of the process? Are you able to answer now, because you raised it in your opening statement—I think it has been described as the lose fee of $1 million; how did that come about and was that always part of the tender process?*

Mr Braxton-Smith: *I will take your questions on notice …*[95]

Chairperson: *Can you take on notice and provide an answer to: was it Keolis Downer specifically that requested the $1 million lose fee?*

Mr Braxton-Smith: *I will take your question on notice.*[96]

Chairperson: *Can you also take on notice who it was that Keolis Downer specifically lobbied to include the $1 million lose fee?*

Mr Braxton-Smith: *I will take your question on notice.*[97]

Chairperson: *Can you take on notice also: did all three potential bidders submit a final bid?*

Mr Braxton-Smith: *I will take your question on notice.*[98]

Chairperson: *Specifically, can you take on notice, did Trainco submit a final bid and, if they didn't, what reason did Trainco state for not submitting a final bid?*

Mr Braxton-Smith: *I will take your question on notice.*[99]

[93]Hansard, Legislative Council Budget And Finance Committee, Tuesday, 25 August 2020
[94]Hansard, Legislative Council Budget And Finance Committee p.1420 number 11860
[95]p.1420 number 11861
[96]p.1420 Number 11862
[97]p.1420 Number 11863
[98]p.1420 Number 11864
[99]p.1420 Number 11865

Asked about the offer of $15,000 bonuses for public sector train drivers to sign on with Keolis (see TOR3), Mr Braxton-Smith replied: … *there is a $15,000 bonus incentive to all employees who are employed under one of the Rail Commissioner agreements, and that incentive is a longstanding and customary approach taken by a government when it outsources any of its activities. We are dealing in accordance with a well-established precedent.*[100] Asked whether it was the government or Keolis Downer who funded the bonuses, he simply replied: *It is a decision for government; the government is funding it.*[101] In response to questioning about whether the cost of the bonuses was factored into the total cost of the outsourcing contract, Mr Braxton-Smith again took the question on notice, saying that incentive payment would be made by the government, but he was unsure in which budget line it would appear.

This led to the committee chairperson observing: If it was not but for the privatisation, this incentive would not be being paid. I am wondering whether that is factored into the privatisation. Can you take on notice what other things the government may be responsible for if it was not but for the privatisation. If we are looking for costs that the department or the state is incurring that they would not have incurred if the rail was not being privatised, can you go through and on notice provide a full list of those? … (A)re there other things that are a result of the privatisation that the government may be paying for but not putting into the overall cost.[102]

Mr Braxton-Smith's response, "Apart from the cost of the procurement process?", led the Chairperson to simply reply, "Anything you can think of."[103]

At this point, Associate Professor Andrew's remark about the difficulties any reasonable person would have about assessing the actual cost and performance of privatised prisons comes to mind,[104] as it appears to be equally applicable to determining the full costs of privatisation in other areas of public sector activity.

ALP Commitment on the Privatisation of Public Transport

The extent of the controversies and irregularities surrounding the process demand further investigation. In this context we welcome public statements by the current Opposition Leader Peter Malinauskas regarding the privatisation of public transport in South Australia. Media reports in October 2019 noted Mr Malinauskus' announcement that if successful in the 2022 State Election the ALP would (1) establish an Independent Commission of Inquiry to forensically examine the contracts; and (2) reverse the Marshall Government's privatisation of SA's trains and trams and examine returning bus operations and services to the Department for Infrastructure and Transport.[105]

[100] Hansard, Legislative Council Budget And Finance Committee, Tuesday, 7 December 2020 pp.1615-1616 Number 13400
[101] p.1616 Number 13401
[102] p.1616 Number 13403
[103] p.1616 Number 13404
[104] Jane Andrew and Max Baker, Hearing Transcript NSW Government Inquiry into the operations of Parklea Correctional Centre, 2018 p35 https://www.parliament.nsw.gov.au/lcdocs/submissions/59792/0011%20Dr%20Jane%20Andrew%20and%20Dr%20Max%20Baker.pdf
[105] Opposition Leader Peter Malinauskus quoted in Matt Smith, 'SA Labor Opposition Leader Peter Malinauskus promises to reverse public transport privatisation if they win the next election', The Advertiser, 11 October 2019

This indicates a potential change in approach by the ALP which has overseen numerous privatisations while in government (notably twice renewing contracts for bus services entered into by a Liberal government in 2000). Mr Malinauskus' announcement not only publicly acknowledged serious inadequacies in private sector delivery of public transport and public opposition to privatisation, but also that running public transport is a core function of government and an essential public service:

> … public transport commuters and motorists overwhelmingly oppose privatisation and we know the evidence elsewhere shows privatisation of public transport simply doesn't work… South Australians deserve a high-quality, affordable public transport system, which puts people before profit.[106]

Keolis Downer Lack of Transparency

It should also be noted that lack of transparency appears to be a feature of Keolis Downer operations. Its deal with the NSW Government to operate public transport services in Newcastle referred to earlier was the subject of public criticism for its lack of transparency.[107]

Two years into the contract media attention was drawn to the fact that the cost of the ten year contract had grown by more than $84 million. An updated 'contract award notice' was posted on the government's tendering website which showed Keolis Downer's initial $450 million price had grown to $534 million. The government responded that the revised contract value factored in annual indexation which was not included at the time of signing.

> The revised $534 million contract value, which is 18 per cent higher than the original figure, represents an annual indexation rate of just over two per cent if it has been calculated over the full 10-year life of the deal.
>
> Transport for NSW would not confirm if the "total forecast price" would be updated periodically throughout the contract, which runs out in June 2027.
>
> The contract includes a schedule of when price adjustments for inflation will be applied, but this section of the deal has been redacted in the publicly available version of the document.[108]

[106]See also ABC News, 'Labour pledges to reverse planned privatisation of Adelaide train and tram network', 12 October 2019 https://www.abc.net.au/news/2019-10-12/labor-pledges-to-reverse-adelaide-public-transport-privatisation/11596800
[107]Ian Kirkwood and Dan Proudman,' Keolis Downer to run Newcastle light rail, buses and ferries says Baird government', Newcastle Herald, 12 December 2016 https://www.newcastleherald.com.au/story/4349836/keolis-downer-awarded-contract-to-run-newcastle-public-transport-gallery/
[108]Michael Parris, Keolis Downer's Newcastle private transport contract price jumps $84m, Newcastle Herald, 29 January 2019 https://www.newcastleherald.com.au/story/4831412/newcastle-bus-drivers-underpaid-after-privatisation/

INFANT THERAPEUTIC REUNIFICATION SERVICE

DEPARTMENT FOR HUMAN SERVICES

Before turning to TOR2 we will conclude this section with an issue from a relatively small program which illustrates the government's apparent relentlessness in its approach to privatisation which it is difficult to see as anything but an ideological predisposition. It concerns a program whose annual salary cost was around half a million dollars, a fraction of the cost of even one of the three short-term external contractors brought in to oversee outsourcing in DIT referred to earlier.

The Infant Therapeutic Reunification Service – an award winning program[109] connected to the Women's and Children's Hospital – was established in 2011. It was the only service of its kind in South Australia, with a highly skilled and experienced multidisciplinary integrated team of psychiatrists and allied health professionals providing therapy for families, babies and children under three years old, where the child is at risk of, or has been subject to, maltreatment and/or neglect.

Prior to 2019, the ITRS was jointly funded under a Memorandum of Understanding between Women's and Children's Health Network (WCHN), South Australia's leading provider of health services for children, young people and women and the Department for Child Protection (DCP).

The PSA understands that early intervention funding, including the ITRS, was transferred from DCP to the Department of Human Services (DHS).

The small but valuable program had its funding cut in 2020, with the government planning to privatise the management of the service by putting it out to tender to the private or NGO sector as part of an overall plan to invest $4.3 million in family reunification services over the next five years through the Department for Child Protection.

It needs to be noted that the decision to cease funding was based on a DHS review of the service which produced an extremely flawed report which was biased towards the outcome of ceasing funding. The report was subsequently provided to the unions whose members were impacted by the decision, the PSA and SASMOA, by Child and Adolescent Mental Health Services (CAMHS). Despite comprehensive data and information being provided by the team, the report contained largely inaccurate data and assumptions. Issues included it being undated with no authors noted, and no identifiable engagement with ITRS staff about the work they undertake or their Model of Care, or with other stakeholders.

Following advocacy by the unions and a meeting with CAMHS Executive and members, the DHS agreed to withdraw the report but not the decision to cease funding.

At the time the annual salary cost of the program was approximately $500,000, and the most recent evaluation (prior to the flawed DHS evaluation) undertaken by/for DCP in 2017, calculated that the ITRS saved DCP over $600,000 a year. Their data showed that 82% of all children supported by the program had not been subject to a further substantiated notification.

[109]Bension Siebert, 'SA Government urged not to privatise service that reunites parents with infants, ABC News, 3 October 2020 https://www.abc.net.au/news/2020-10-03/sa-government-urged-not-to-privatise-infant-protection-service/12729314 Accessed 18 June 2021

Staff working in the program and other services who have worked with the ITRS, as well as families impacted by the decision, spoke out against the move but unfortunately to little effect. We are unable to provide certain information due to possible consequences for individuals, including concerns about breaching families' privacy and potential effects on the functioning of their families. However, the PSA has serious concerns about the impact of this decision on disadvantaged families and children at risk, and the consequences of removing an effective, low-cost public health program successfully keeping children safe and out of state care. Given that the cost of a single child in state care when other interventions have been unsuccessful – in this case withdrawn – is in the order of $500,000 per annum it is difficult to imagine what, if any, evidence-base or cost-benefit analysis exists for this decision.

This came on top of the 2019 closure of the Department for Child Protection's Financial Counselling service, which assisted young people and families in care to live independently after the government failed in its attempt to privatise it to the NGO sector due to lack of interest and/or the expertise to provide the service.[110] What has occurred with programs like these highlights (1) serious concerns about outsourcing community and social services to the NGO sector and the emergence of new for-profit schemes such as social investment bonds into what has traditionally been seen as the not-for-profit sector; and (2) the question of whether private sector and NGO operators and operating models are appropriate for particular public sector services.

With the child protection system already under stress it makes no sense to cut cost-effective preventative programs that relieve pressure on the system now and into the future. Both measures were short-sighted decisions sold as saving costs to the government which will ultimately cost taxpayers more in the long term.

[110]The program was ultimately cut except for a small allocation of additional funding to Anglicare.

TERM OF REFERENCE TWO

THE QUALITY OF PRIVATISED SERVICES AND THE OUTCOMES FOR THE PUBLIC, PARTICULARLY WITH RESPECT TO DISADVANTAGED MEMBERS OF THE PUBLIC

In our consideration of Term of Reference One, we outlined a number of our concerns around the lack of publicly available data and information to accurately assess questions of the total cost of privatisation to South Australia.

Similar concerns surround access to data relevant to considerations of quality and a disjuncture between notions of 'quality' in terms of how it is considered in government documents such as departmental annual reports on the operation of privatised services.

ACROSS GOVERNMENT FACILITIES MANAGEMENT ARRANGEMENTS (AGFMA)

Future AGFMA: A 'Best-of-Breed Model' for Facilities Management in South Australia

Through AGFMA, the Department for Infrastructure and Transport provides contract administration for facilities management across most government agencies in South Australia. The government had announced its intention in June 2020 to implement a new, "modern", "best-of-breed model" for AGFMA to come into effect in late 2021. Under the existing model, DIT-Facilities Services management had provided around 50 per cent of services with the other 50 per cent being provided through a contract between Spotless and the Transport Minister, with the contract administration being undertaken by DIT's AGFMA Section. It was immediately clear that 'Best-of-Breed' was a euphemism for 'Not the Public Sector'.

> Cabinet has made a decision to progress to a fully outsourced service delivery model for a future AGFMA, with this model to commence from late 2021. Cabinet further determined DPTI should commence market sounding on the outsourced model prior to a formal proposed procurement process commencing in the coming months.
> ...
> Under the future model, the administration and works coordination role will be entirely met by specialised external Facilities Management Service Providers, who bring the benefits of modern, best-practice systems and processes.[111]

The four short-listed tenderers for the contract were Spotless, BGIS, Ventia and Jones Lang LaSalle.

Before turning to Spotless's record of service delivery and quality it is worthy of note that the former Chief Operating Officer of Spotless during the period of its loss-making performance prior to being taken over by Downer in 2017, has been the President and Managing Director of BGIS Asia Pacific since 2019.[112]

BGIS Australia Pty Ltd was formerly known as Brookfield Global Integrated Solutions Australia Pty Limited after being taken over by Brookfield Asset Management Inc., a Canada-based asset management firm which provides real estate services, facilities management services, project management and workplace services.[113] Several of BGIS's more recent acquisitions in Australia have focussed attention on the multi-billion dollar global corporation, which is structured through tax havens in Bermuda and the Cayman Islands. In 2019 it bought out Healthscope's private hospital empire and also acquired Aveo, Australia's largest aged care operator.[114]

[111]AGFMA Newsletter June 2020 https://www.dit.sa.gov.au/data/assets/pdf_file/0008/678824/June_2020_AGFMA_Newsletter.pdf
[112]Spotless Annual Report 2016/2017; Dana Nelson profile; https://au.linkedin.com/in/dana-nelson-18362747; https://www.businessnews.com.au/Person/Dana-Nelson
[113]https://www.ibisworld.com/au/company/bgis-australia-pty-ltd/431079/
[114]Michael West, 'WA brings Brookfield to heel but no excuse for privatising essential services', 29 November 2019. West also notes that the sale of Western Australia's rail freight assets to Babcock & Brown, which then sold it to Canadian financiers Brookfield, has been a classic example of the perils of monopoly privatisations. Brookfield closed down 2,100k of narrow gauge rail track in WA, made a 280 per cent return from this monopoly and funnelled profits offshore. Services has gone down, prices have gone up, and taxpayers and rail users have been disadvantaged, considerably. (Michael West, https://www.michaelwest.com.au/wa-brings-brookfield-to-heel-but-there-is-no-excuse-for-privatising-essential-services/

However, Spotless's claim of a successful 70-year history of contribution to quality public services and public satisfaction overlooks some notable features of its operations. Spotless is now 88 per cent owned by the Downer Group, which has substantial road maintenance contracts with the South Australian Government worth over a billion dollars over the life of the contracts, following a successful hostile takeover bid in July 2017.[115] Corporate analyst Michael West characterises Spotless' corporate history as *'chequered'; an acquisition-hungry corporation created by private equity which has engaged in constant restructuring, tax minimisation, acquisitions and losses whose corporate strategy left it vulnerable to the takeover.*[116]

A search of publicly available information in South Australia about the quality of Spotless' operations and how it impacts on the public reveals a different picture, frequently not as pleasant as its website proclaims. These media reports have drawn attention to issues with the quality and related costs this has imposed on the public of SA.

Ventia, which was announced as the successful tenderer on 7 July 2021, is one of the largest essential services providers in Australia and New Zealand. It was created in 2015 following the merger of Leighton Contractors Services division, Thiess Services and Visionstream. In 2020, Ventia acquired Broadspectrum, formerly Transfield Services.[117] Transfield Services, where Tony Shepherd began his private sector career in the private development and ownership of infrastructure in Australia, was re-branded Broadspectrum in 2015 following intense negative publicity and controversy around the operation of its detention centre contracts on Nauru and Manus Island.[118]

Quality Issues With Spotless' Facilities Management Contract Performance in Health

Back in 2011 when it was announced that Spotless had been contracted to provide maintenance for the new Royal Adelaide Hospital ($2.3 billion facility), a number of internal DPTI documents were leaked to the media. The documents revealed numerous serious breaches of Spotless' AGFMA contract.

Under the contract (then scheduled to run until 2015) Spotless was contracted to provide services including day-to-day and preventative maintenance of most government departments. Spotless' breaches of contract included:

- Failure to prepare and maintain a plant and equipment register.
- Non-compliance with legionella requirements by failing to maintain cooling towers effectively.
- Failure to ensure all financial claims to departments are accurate and valid, resulting in overcharging estimated at more than $500,000 a year.[119]

In one document obtained by *The Advertiser* a senior DPTI staff member stated: "It is my opinion that Spotless has committed a fundamental breach of the contract".[120] This led to DPTI's executive director of building management seeking Crown Solicitor's advice about possible courses of action.

[115] Downer's 2019 Annual Report notes that "together they are the leading provider of integrated services in Australia and New Zealand, operating across a diverse range of industry sectors: business; defence; education; government; healthcare; power; water; senior living; stadia, venues and leisure; transport; and PPPs.
[116] West's analysis of Tax Office data shows that prior to being taken over by Downer, Spotless had paid no tax for several years, and that since the takeover Downer has profited from Spotless' tax losses.
[117] https://www.ventia.com/page/about-us
[118] The Australian, 'Transfield changes name to Broadspectrum', 3 November 2015
[119] David Jean, 'Company 'breached' $100 million maintenance contract', The Advertiser, 24 November 2011 https://www.adelaidenow.com.au/news/south-australia/company-breached-100m-maintenance-contract/news-story/63d3be208bfa9842b6cf3dab78b0f42d
[120] ibid

The Crown Solicitor's advice, dated 16 May 2011, suggested the breaches were sufficient to enable the contract to be legally ended. Despite the evidence, Spotless convinced the Government that it took its contract and service obligations "very seriously, in particular, statutory compliance", and when the contract was re-tendered in 2014 Spotless was successful in its bid to have the contract renewed for four years.[121]

Loss of Contracts with FMC and Modbury Hospital: In May 2018, Spotless lost its bid to renew its contract with Flinders Medical Centre and Modbury Hospital for the provision of non-clinical services, including food and cleaning services. It was noted that substandard food was a significant factor in Spotless losing the contract.[122]

Royal Adelaide Hospital: Spotless is a sub-contractor to Celsus, the consortium being paid about $400 million per year for the design, construction and maintenance of the hospital's non-clinical services until 2046 as part of a Public-Private Partnership with the SA government. Under its $100 million facilities management contract Spotless is currently responsible for delivering a broad range of non-clinical support services including Facility Help-desk; Cleaning and Domestic Services; Patient Support Services; Orderly Services; Catering; Car Parking Services; Internal Linen Distribution; Facility Maintenance; Grounds and Gardens Services; Asset Management; Pest Control Services; Waste Management; Bulk Stores; Information and Communication Technology.[123]

Poor Service Quality: Since the opening of the hospital in September 2017, there have been constant complaints about the quality of food and late meal deliveries. The volume of complaints was such that Spotless faced the threat of financial penalties for the substandard delivery of food to patients in 2018.

In April 2018 Health Minister Stephen Wade was reported as saying that a contract administrator was in the process of calculating reductions which could apply to the most recent quarterly invoice the government had received from Spotless:

> The fact of the matter is that we don't believe that the food has been delivered over the past six months in full fulfilment of the contract and we'll be looking for abatements on the next payment through SA Health. Taxpayers should not have to pay for services that are not delivered. … About half the quality issues raised in relation to the contract relate to food … the timeliness issues I understand have been significantly improved … but we're continuing to have issues in what I regard is one of the most critical areas of service delivery, which is special meals for our most vulnerable patients.[124]

Power Blackouts: In February 2018 a range of failures led to a 17-minute power outage. The blackout occurred while at least two patients were undergoing surgery on operating tables. It also disrupted other treatments and resulted in some people being stuck in lifts.

[121] ibid
[122] Mitch Mott, 'Spotless loses contracts with Flinders Medical Centre and Modbury Hospital amid criticism over food quality at RAH', The Advertiser May 22, 2018 https://www.adelaidenow.com.au/news/south-australia/spotless-loses-contracts-with-flinders-medical-centre-and-modbury-hospital-amid-criticism-over-food-quality-at-rah/news-story/875c66062df1b75ae423e7c29c0c25f3 Isabel Dayman and Rebecca Puddy, 'Job losses expected as SA hospital provider loses contracts', ABC News, 21 May 2018 https://www.abc.net.au/news/2018-05-21/job-losses-expected-as-hospital-provider-loses-contracts/9784146
[123] https://www.rah.sa.gov.au/careers/working-at-the-rah
[124] Nick Harmsen, 'Royal Adelaide Hospital contractor under fire over substandard food supply', ABC News 24 April 2018 https://www.abc.net.au/news/2018-04-24/royal-adelaide-hospital-food-under-fire-over-food/9692676

Reports into the incident revealed that Celsus initially blamed a software glitch for the blackout, which occurred during a test of some of the hospital's six backup diesel generators. However a subsequent independent review conducted by Frazer-Nash Consultancy established that Celsus, through its maintenance contractor Spotless, was directly responsible for the blackout which occurred when two of the generators ran out of fuel. It found Spotless failed to act on alarms which prevented the automated fuel transfer system from topping up the generator's tanks, even though the alarms had been sounding for days, and were still sounding at the time maintenance staff tested the generators under full load.

SA Health conducted a separate review into communications before, during and after the blackout. The review found:

- The consortium did not inform SA Health that it would be testing the generators, despite a contractual requirement to provide monthly maintenance schedules.
- A formal process of notifying senior staff about the emergency via text message was not activated.
- Senior staff in operating theatres were informed the power was back on and operating could resume before the hospital's commander issued an official "all clear".

In the ensuing period the usual claims were made that lessons had been learned that Spotless had put new systems in place, and that changes had been made to improve communication between the health department and the private operators delivering services to the hospital.[125]

Spotless' RAH Contract a Downer Liability: In November 2017, Downer first reported to the ASX that they had identified the RAH services contract acquired as part of its takeover of Spotless as "a cash-negative under-performing contract" in the first year of its 30 year term. A subsequent annual report listed the hospital contract as a liability.[126]

At the time of the Downer takeover of Spotless, the largest acquisition in Downer's history, Downer Chief Executive Grant Fenn described the acquisition as a significant investment in Downer's strategy to expand its service offering from the resources, transport and utilities sectors to health, education, corrections, defence and other areas of government. More importantly, he said, the Downer management team has what it takes to turn the Spotless business around and to create a highly competitive, customer focused and successful service organisation. In February 2018, Downer again advised the market that its facilities management subcontract was cash negative and under-performing.[127]

[125] Nick Harmsen, ABC News, 'No guarantee RAH blackouts won't occur again', 22 May 2018 https://www.abc.net.au/news/2018-05-22/royal-adelaide-hospital-blackout-report/9786458
Nick Harmsen, 'Four probes into why Adelaide's biggest hospital lost power' February 9, 2018
https://www.inkl.com/glance/news/four-probes-into-why-adelaide-s-biggest-hospital-lost-power?section=lead-stories
[126] Downer Market Update, 27 November 2017 https://www.downergroup.com/downer-market-update; Spotless ASX release, Market Update, https://www.asx.com.au/asxpdf/20171127/pdf/43plnkw48dnlz6.pdf
[127] Stuart McKinnon and Sean Smith, 'Downer launches $1.27b bid for Spotless', The West Australian, 21 March 2017) https://thewest.com.au/business/markets/downer-set-to-launch-13b-bid-for-spotless-ng-b88420954z

The Cost to the Public of Spotless' Poor Quality Performance: Failed Contract Compliance and Cost Blow-Outs

In 2018 ongoing issues around contract compliance and operating costs led to significant tensions between Spotless and the government.[128] During the course of talks with Celsus about the hospital's ongoing operational problems, the government argued that Spotless should face financial penalties for inadequate service delivery. For its part, Spotless claimed that its cost-blowouts were due to having to put on more staff as a result of technical and design problems with the new hospital and that the hospital defects hurt its ability to provide timely services.[129]

Spotless argued that if it was not successful in reaching agreement with the government through discussions or arbitration proceedings, it was likely to incur operating losses up until September 2022, the five year anniversary of the subcontract term. In this scenario, the estimated present value of the losses would be $93.8 million (after tax) as at June 2018.[130]

As a result, Spotless submitted a 'reset proposal' to the State and Celsus in May 2018, outlining its perspective on the issues faced in delivering services and seeking revised commercial arrangements, including an increase to its monthly service fee.

Dispute Resolution – Spotless to Get More Money

In August 2019, the Treasurer announced that the State Government had reached a financial settlement to end its long-running legal dispute with Celsus. However the resolution came at a significant cost to SA taxpayers with the consortium, including Spotless, receiving more money under the agreement. He said the in-principle deal, agreed with the Celsus consortium, would cost taxpayers an extra $16 million in today's dollars with payments to be staggered over several years.[131]

---

[128] Katrina Stokes, 'Royal Adelaide Hospital: Unions predict 'further cost blowouts'', 12 April, 2018 https://www.adelaidenow.com.au/news/south-australia/nurses-union-predicts-further-cost-blowouts-at-royal-adelaide-hospital/news-story/65a2a85ada1d862212d1579a9e7ee878
ABC News, Leah MacLennan, "Royal Adelaide Hospital contract in doubt after Spotless reveals $93.8 million loss,'16 August 2018 https://www.abc.net.au/news/2018-08-16/spotless-royal-adelaide-hospital-contract-in-doubt/10126596
Jenny Wiggins, 'Downer's troubled Spotless Royal Adelaide hospital contract nears resolution', Australian Financial Review, 10 May 2018 https://www.afr.com/companies/downers-troubled-spotless-royal-adelaide-hospital-contract-nears-resolution-20180510-h0zvuh
Tom Richardson, 'Fresh legal dispute over Royal Adelaide contract as losses mount', InDaily, 16 August 2018 https://indaily.com.au/news/2018/08/16/fresh-legal-dispute-over-royal-adelaide-contract-as-losses-mount/

[129] Jenny Wiggins, op.cit. 10 May 2018

[130] Tom Richardson, 'Fresh legal dispute over Royal Adelaide contract as losses mount', InDaily, 16 August 2018 https://indaily.com.au/news/2018/08/16/fresh-legal-dispute-over-royal-adelaide-contract-as-losses-mount/

[131] Nick Harmsen, 'SA Government settles compensation case over Royal Adelaide Hospital defects, running costs', ABC News, 21 August 2019 https://www.abc.net.au/news/2019-08-21/sa-government-settles-rah-compensation-case/11434280

Serco and G4S

With regard to correctional services, all the operators of private prisons in Australia, including G4S and Serco, claim they have an excellent record of quality service provision. However where performance issues with the operation of private prisons in other Australian jurisdictions have been subjected to significant public scrutiny, major failings in the quality of service delivery have been identified.

Information from within prisons and media reports, verified by inquiries, about serious incidents in Australia's private prisons provide shocking examples of private operator failure. And while their defence runs along the lines that these issues are endemic to all prisons – 'what about-ism' – it raises serious questions about whether contract managed prisons, with their alleged capacity for superior performance, provide models for the reform of Australia's corrections environment and are the answer to current deficiencies in the prison system.

Major issues associated with cutting costs – under-staffing, high staff turnover, replacement of experienced staff with casuals/juniors often inexperienced, without adequate training and lacking familiarity with operations of prisons – have led to unsafe environments with serious breaches of security. (See TOR3 for Serco and the ARC)

Both Serco and G4S have an extensive history of high-profile scandals and failure to meet contractual obligations associated with their business operations. The scandals have attracted significant media attention, and in the UK have been the subject of official inquiries by the National Audit Office and the Government's Public Accounts office and others, and a number of criminal and statutory investigations.

In December 2014 the UK House of Commons Committee of Public Accounts publicly released the report of one of its inquiries into the cost of contracting out public services to the private sector and quality of the services provided. The inquiry had been precipitated by public disquiet, including media publicity around a 2013 report of the National Audit Office warning of a growing "crisis of confidence" around the performance of private sector operators.[132] Serco and G4S both featured prominently in both reports.

Launching the Committee's findings, the Committee Chair, the Rt Hon Margaret Hodge MP stated:

> The private sector delivers around £90bn worth of complex services on behalf of the public sector – half of public sector expenditure on good and services … too often the ethical standards of contractors have been found wanting. It seems that some suppliers have lost sight of the fact that they are delivering public services, and should do so in accordance with public service standards.

[132] G4S is one of the companies which have been identified as contributing to concerns about the role of the private sector in public service delivery. These concerns include the lack of transparency over profits, performance and tax paid; the inhibiting of whistleblowers; the length of contracts that taxpayers are being tied into, and the number of contracts that are not subject to proper competition. (Adam Withnall, 'Atos and G4S pay no corporation tax despite profiting from billions pounds worth of public sector contracts, as auditors warn of 'crisis of confidence' over private contractors', The Independent, 12 November 2013 https://www.independent.co.uk/news/uk/home-news/atos-and-g4s-pay-no-corporation-tax-despite-profiting-from-billions-pounds-worth-of-public-sector-8935272.htm

> The case of G4S and Serco overcharging the Ministry of Justice for years on electronic tagging contracts was the starkest illustration of both contractors' failure to work in the public interest and government failure to safeguard taxpayers' money.
>
> G4S apologised to us for getting it wrong and Serco said the affair was 'unacceptable and unethical; frankly, we are deeply ashamed of it'.
>
> We have examined similar cases where there are allegations of the misuse of taxpayers' money. Serco's altering of performance data on its contract for out-of-hours GP services in Cornwall is an unacceptable example. Two other G4S contracts have been referred to the Serious Fraud Office to investigate, and another Serco contract has been referred to the City of London police.
>
> The legitimate pursuit of profit does not justify the illegitimate failure to conduct the business in an ethical manner. A culture of revenue and profit driven performance incentives has too often been misaligned with the needs of the public who fund and depend on these services.
>
> Contractors simply have not shown an appropriate duty of care to the taxpayer and users of public services. Contractors talk of corporate renewal and a need for a new way of thinking about how companies do business with the Government – but this must be turned into real action.[133]

This, and other high profile inquiries, resulted in highly adverse findings against Serco and G4S, including loss of contracts, payment of many millions of pounds in restitution for fraud and prevention of tendering for further contracts for specified periods of time. Public questions have been frequently raised about why companies with what has been described as 'a litany of high profile failures' continues to be bailed out by the state and awarded new contracts. Despite this, and Serco and G4S's assurances that they had learned their lessons and were committed to improving their performance, their record over the ensuing years tells a different story and we consider this ongoing history is relevant to this Inquiry.

2014 Pathology Overcharging: Leaked documents from Britain's biggest pathology provider, established by Serco in partnership with Guy's and St Thomas' hospitals in London, revealed overcharging of millions of pounds for tests and services. This came about following frequent allegations of cost-cutting and clinical failings. Internal documents show increasing concern amongst senior consultants who claimed that staff cuts and a lack of investment since privatisation left some laboratories close to disaster. "In internal emails clinicians said the company had an 'inherent inability ... to understand that you cannot cut corners and put cost saving above quality."[134]

---

[133] Margaret Hodge quoted in Wired Gov, 'Transforming contract management: report published, December 2014https://hardwired gov.net/wg/news.nsf/articles/Transforming+contract+management+report+published+11122014112541?open
House of Commons Public Accounts Committee, Forty-seventh Report of Session 2013–14, 'Contracting out public services to the private sector', December 2014 https://publications.parliament.uk/pa/cm201314/cmselect/cmpubacc/777/77704.htm
[134] https://www.independent.co.uk/news/uk/politics/exclusive-overcharging-by-outsourcing-giant-serco-costs-nhs-millions-9695342.html

2015 – 2017 Rainsbrook, Medway and Oakhill Secure Training Centres: Over a period from 2015 to 2017 G4S lost its contracts to run the Rainsbrook, Medway and Oakhill Secure Training Centres [135] amidst long-standing allegations of the abuse and mistreatment of children, including high levels of violence, serious misconduct and failure to deliver contracted services at an appropriate level, which were substantiated by Ofsted (Government Office for Standards in Education, Children's Services and Skills) and Care Quality Commission (CQC) reports.[136]

2017 Paradise Papers: The Paradise Papers [137] revealed that the compliance arm of law firm Appleby listed Serco as a "high risk client" due to a history of controversies, engagement in fraud, cover-ups of abuses in facilities it runs, business irregularities, financial failures, and fatal errors surrounding many of its contracts. In addition to the above, these included problems associated with Serco's involvement in Obamacare, its activities as part of a consortium the UK's Office for Nuclear Regulation accused of breaching responsibilities for the handling of radioactive waste, and the running of prisons in Australia and New Zealand.[138]

2016 – 2018 HMP Birmingham Prison: G4S won the contract to operate HMP Birmingham in 2011 for the following 15 years. At the time it was the first public sector prison to be transferred to the private sector. In 2018 the Ministry of Justice removed the governor and took back control of the prison. This was the culmination of a highly publicised 2016 incident where prisoners rioted, G4S lost control of the prison, and the Government was forced to send in emergency public sector teams to regain control.

Following the riots the Ministry of Justice instigated what it called an 'intensive period of improvement measures' but this had little success. The chief inspector of prisons, Peter Clarke, said he was "astounded that HMP Birmingham had been allowed to deteriorate so dramatically":

Prison gangs perpetrating the violence "could do so with near impunity", he said. Inspectors saw prisoners who were evidently under the influence of drink or drugs, which went unchallenged, including widespread use of the psychoactive drug spice. He said he had no confidence in the ability of the prison to make improvements. "There has clearly been an abject failure of contract management and delivery ... the inertia that seems to have gripped both those monitoring the contract and delivering it on the ground has led to one of Britain's leading jails slipping into a state of crisis."[139]

---

[135] Secure training centres are for children in custody up to the age of 17. Three STCs in England and Wales: Medway, Oakhill, Rainsbrook were all run by G4S under contracts with the Youth Justice Board

[136] Simon Gilbert, 'Shocking levels of violence at kids' prison', 9 Aug 2017 https://www.coventrytelegraph.net/news/local-news/rainsbrook-prison-violence-fights-report-13449785
Alan Travis, 'Rainsbrook private youth prison sees rise in use of force and restraint', 6 May 2016
https://www.theguardian.com/society/2016/may/06/rainsbrook-private-prison-youth-jail-ofsted-cqc-force-restraint
https://www.independent.co.uk/news/uk/home-news/youth-prison-deemed-unsafe-less-than-two-years-after-staff-accused-of-physical-abuse-a7788716.html
BBC News, 'G4S Medway young offenders centre staff suspended over abuse claims', 8 Jan 2016
https://www.bbc.com/news/uk-england-kent-35260927
https://www.theguardian.com/business/2017/nov/21/g4s-oakhill-youth-jail-violence-vandalism-weapons-ofsted-cqc
https://www.thetimes.co.uk/article/staff-at-oakhill-g4s-run-youth-detention-centre-unable-to-control-inmates-cqllkd99m

[137] Based on millions of leaked documents from two offshore service providers and the company registries of 19 tax havens obtained by German newspaper Suddeutsche Zeitung

[138] Christopher Knaus, 7 November 2017 https://www.theguardian.com/business/2017/nov/06/serco-a-high-risk-client-with-history-of-failures-offshore-law-firm-found; Zeb Holmes and Ugur Nedim, 13/11/2017 https://www.sydneycriminallawyers.com.au/blog/serco-run-facilities-fraud-failures-and-fatal-errors/

[139] Jessica Elgot, MoJ seizes control of Birmingham prison from G4S, Guardian 20 August 2018 https://www.theguardian.com/business/2018/aug/20/moj-seizes-control-of-birmingham-prison-from-g4s Kate Holton and Sarah Young, UK government takes control of crisis-hit prison run by G4S, Reuters, August 20, 2018 https://uk.reuters.com/article/uk-britain-prison-g4s/uk-government-takes-control-of-crisis-hit-prison-run-by-g4s Simon Hattenstone and Eric Allison, G4S should be a failed company by now. But the government won't allow it, 23 December 2016 https://www.theguardian.com/commentisfree/2016/dec/23/g4s-prisons-contracts-hmp-birmingham

Closer to home, in addition to issues addressed in Term of Reference One, examples of operator quality failure include the following.

2015 WA Prison Transport Contract: Serco lost its prisoner transportation contract during the course of a government inquiry into the quality of the service following incidents such as the escape of a convicted rapist and an alleged armed robber from a Serco prison van, and a violent escape from hospital on the watch of Serco correctional officers. Serco itself had taken over the contract from G4S in 2011 following the much-publicised death on an Aboriginal elder on a long distance journey in the back of a G4S van in 2008, and the escape of nine inmates from holding cells at the Supreme Court in Perth in 2004.[140]

2017 Mt Eden Prison New Zealand: As previously mentioned Serco lost its Mt Eden prison contract and was later fined NZ$8 million following widespread evidence, confirmed by a high profile report by the Chief Inspector of prisons, of understaffing and poor supervision and reports of extreme violence and evidence that staff were a primary source of contraband.[141]

March 2018 Port-Phillip Prison: The Victorian Auditor-General's Report, 'Safety and Cost Effectiveness of Private Prisons' came about due to growing public concerns about whether the maximum-security Port Phillip Prison, operated by G4S, and the medium-security Fulham Correctional Centre (GEO Group) were safe and cost effective following adverse media reports. While he found that their operating costs were lower than for comparable public prisons,[142] largely due to lower staffing levels, he determined that the two prisons were not always meeting their service and performance requirements to run safe and secure particularly in relation to assaults, escapes, a riot, unnatural deaths, serious assaults and drug use, with Port Phillip failing to meet a greater number of 'performance thresholds' than Fulham.[143]

---

[140] https://www.watoday.com.au/national/western-australia/serco-loses-wa-prison-transport-contract-20150616-ghpjad.html; https://www.perthnow.com.au/news/wa/wa-government-dumps-prisoner-transport-contract-with-security-firm-serco-ng-cbef7da80937fa7938181926e81d216e Serco Watch (a WA based civil society group that monitors the delivery of public services and public functions by Serco and other corporations) made an extensively documented submission to the 2015 WA Government Inquiry into the Transport of Persons in Custody in Western Australia which comprehensively addressed Serco's long history of poor performance in prisoner transport and consistent failures to meet contractual obligations.

[141] https://www.radionz.co.nz/news/national/327855/it%27s-haere-ra-to-serco-as-mt-eden-prison-contract-ends; https://www.crikey.com.au/2018/11/05/despite-crisis-after-crisis-government-contracts-still-go-to-serco/; Chief Inspector's ReportMECF https://www.corrections.govt.nz/resources/strategic_reports/chief_inspectors_reports_into_circumstances_surrounding_organised_prisoner_on_prisoner_fighting_fight_club_and_access_to_cell_phone_contraband.html

[142] See Associate Professor Jane Andrew's observations about the complexity of comparing cost factors between different prisons in Term of Reference One

[143] Victorian Auditor-General's Office, 'Safety and Cost Effectiveness of Private Prisons', March 2018 https://www.audit.vic.gov.au/report/safety-and-cost-effectiveness-private-prisons

September 2018 Acacia Prison: Prison sources, including prison officers, went public with concerns about serious issues, describing Acacia as a “dangerous and unsafe work environment”- “a powder keg waiting to explode.” These issues included overcrowding, severe understaffing (as few as 83 officers to 1400 prisoners), and staff corruption, with Acacia officers charged last year for smuggling drugs and sexual misconduct.[144]

Here in South Australia, Mount Gambier Prison was the focus of reports that staff feared for their safety due to G4S running “very lean” (ratio of prisoners to staff) to win renewal of its contract in 2017. These reports were sparked by the rape of a female staff member by a convicted murderer in July 2017, and the PSA is aware that many staff repeatedly expressed concerns about working conditions and safety. Because of the commercial-in-confidence provisions in the prison’s contract there is no public access to the terms of Safe Operating Procedures within the prison.[145]

[144] Perth Now, WA prison officers claim Acacia bursting at the seams, a powder keg waiting to explode, 17 September 2018 https://www.perthnow.com.au/news/wa/wa-prison-officers-claim-acacia-is-bursting-at-the-seams-and-a-powder-keg-waiting-to-explode-ng-b88961589z
[145] Andrew Dowdell, ‘Mount Gambier Prison rape case lead to fears that safety will be put at risk as private operators aim for contract renewal’, Adelaide Now, 30 January 2018 https://www.adelaidenow.com.au/news/south-australia/mount-gambier-prison-rape-case-leads-to-fears-that-safety-will-be-put-at-risk-as-private-operators-aim-for-contract-renewal/news-story/d6d4ab1daf17a43cccc21b554cff57bf

HEALTH

Ongoing cuts to the scientific workforce mean private pathology providers are unable to provide pathology services to the highest possible standards. It is anathema to the provision of high quality public health services to have private pathology providers cutting the very workforce which delivers quality results for treating clinicians and patients who rely on these. … Unfortunately some private pathology providers are not interested in quality healthcare standards with evidence showing a repeated strategy of stripping hospital laboratories of testing and scientists. The loss of local pathology testing can put other key clinical services at risk like emergency departments, obstetrics and oncology through delayed turnaround times and other quality standards deteriorating.[146]

Our brief consideration of privatised pathology and medical services in Term of Reference One outlined serious questions relating the privatisation of public health provision and its impacts on the community from experience in other jurisdictions. That experience underlines the importance of high standards of safety, quality and timeliness in the provision of pathology and imaging services and why we believe it is so important that their models are not imported into South Australia.

South Australians want, and expect, high quality public services which are effective, efficient and sustainable over the longer-term; that it is a fundamental responsibility of government to ensure good health outcomes and access to best quality diagnosis and treatment for all South Australian regardless of their background, circumstances, wealth/income or location. This expectation cannot be met in the absence of high standards of safety, quality and timeliness, all of which require appropriate resourcing including a well-trained, skilled/experienced, properly qualified workforce.

This is at odds with interstate experience where public pathology services have been privatised. Take for example the experience of privatised pathology in Victoria where Dorevitch Pathology (the Victorian subsidiary of Australia's second largest pathology provider Healius), and Australian Clinical Laboratories (owned by private equity firm Crescent Capital) are among the Victorian government's preferred private providers.

Bendigo: The Bendigo community, where public pathology services were first privatised in 2012, has been particularly ill-served. When Healthscope Pathology was awarded its five-year performance-based contract to take over pathology services in 2012, the Bendigo Health Chief Executive and the Chief Operating Officer of Healthscope both publicly vowed to retain all existing staff and improve services without additional costs to the community. According to Healthscope's Chief Operating Officer:

[146] Medical Scientists Association of Victoria http://msav.org.au/wp-content/uploads/2016/01/Stat-Report-2016-22.pdf; Medical Scientists Association of Victoria, 'Public hospitals and private pathology providers', January 2018 http://msav.org.au/news/public-hospitals-private-pathology/

> Our immediate concern is to maintain employment, maintain a range of testing and ensure the status quo so there is no disruption to staff and patients. Long-term we see this as a strategic decision. We have a void in our regional Victorian spread and this fills that gap for us and allows us to provide more consistent and comprehensive services for the wider geographic region adjacent to Bendigo. We are quality-driven…[147]

Three years into the contract Healthscope sold the Australian component of its financially troubled pathology division to major Australian private equity firm Crescent Capital Partners, the most active private equity manager in healthcare transactions in Australia over the past ten years,[148] in order to focus on its more profitable private hospital operations. The July 2015 $105 million deal saw Crescent, which also owns one of Australia's biggest pathology providers, Australian Clinical Labs (ACL), take control of 550 collection centres and 31 pathology laboratories across South Australia, Victoria, NSW and the NT, including Bendigo health's pathology services. Despite the same assurances as in 2012 about maintenance of quality services there has been a significant decline since the ACL takeover.

In early 2017 ACL announced that it would be closing the Bendigo Hospital's microbiology laboratory as a result of 'reviewing' its regional laboratory sites and subsequent decision to centralise all routine microbiology testing currently performed in Bendigo to its Clayton facility in Melbourne's south-eastern suburbs. In addition to safety and quality concerns arising from this decision, including significant detrimental clinical risks, an increase in turn-around times for test results, the decision put the jobs of seven workers at the laboratory in jeopardy.[149]

Medical staff at the hospital publicly expressed their concerns about the adequacy of pathology services provided to Bendigo Health by ACL, which were seen as indicative of wider problems with privatisation of essential health services being 'shaved away' at the local level with widespread ramifications for public pathology services across Australia.[150]

> It is simply not good enough that patients in Bendigo are not being given the highest quality of care because a private pathology provider has now walked away from delivering a critical pathology service.[151]

In March 2019 in the midst of concerns with significant delays in results of pathology tests requested by GPs in Victoria's regional cities, public attention was again focussed on Bendigo. This time it was local GPs going public with their concerns about ongoing problems since the privatisation of pathology services in Bendigo, in particular by increasingly common delays in results for diagnostic testing. Their concerns were backed up by the Chair of the Royal Australian College of General Practitioners Victoria, who expressed his personal concerns about changes in what was "once a rapid, highly responsive pathology service."[152]

[147] Jason Watts, 'Pathology privatised at Bendigo Health', Bendigo Advertiser, 27 February 2017, https://www.bendigoadvertiser.com.au/story/74764/pathology-privatised-at-bendigo-health/
[148] https://au.linkedin.com/company/crescent-capital-partners
[149] Jason Watts, 'Union says lab closure could put patients at risk', Bendigo Advertiser 18 April 2017 https://www.bendigoadvertiser.com.au/story/4605244/union-says-lab-closure-could-put-patients-at-risk/
[150] Jason Watts, 'Bendigo Health to lose microbiology lab', Bendigo Advertiser 17 May 2017, https://www.bendigoadvertiser.com.au/story/4668506/bendigo-health-to-lose-microbiology-lab/
[151] ibid
[152] Emma D'Agostino, 'GPs wait on private pathology provider to turnaround tests', The Bendigo Advertiser 8 March 2019 https://www.bendigoadvertiser.com.au/story/5944916/gps-wait-on-private-pathology-provider-to-turnaround-tests/

Dorevitch's business model has seen it grow through amalgamation with many specialist and regional pathology practices. Like Bendigo's experience with Healthscope and ACL it too has a history of operational practices which compromise quality and safety, which impact particularly heavily on rural, regional and remote communities. The Medical Scientists' Association of Victoria describes it as focussed on the bottom line of maximising profits: reducing staff numbers, deskilling its workforce through employing less qualified workers, relocating services away from local areas, and other practices which compromises quality and safety of service provision.[153]

Submissions to a 2017 Department of Health and Human Services consultation paper on pathology services provided numerous examples of problems with the outsourcing of public pathology in Victoria, including several major issues with Dorevitch in South Western Victoria and the Latrobe Valley.

Latrobe Valley: When Latrobe Regional Hospital contracted out its pathology services to Dorevitch Pathology trading as Gippsland Pathology Services, significant issues quickly emerged. The contract was awarded in 2011 despite concerns about whether it would be able to fulfil its service agreement to deliver effective and quality pathology services for the Latrobe Valley community. These concerns were borne out by subsequent issues which emerged from Dorevitch's operation of the pathology contract, and their consistent failure to comply with key contract performance requirements relating to quality and clinical care performance standards.[154]

South Western Victoria: In 2015 Dorevitch took over pathology services at the Warrnambool Base Hospital and Camperdown Hospital, replacing Healthscope when it sold its pathology division. In an all too familiar pattern it made a number of workers redundant, cut the hours of a number of others, and some workers were subjected to a loss of LSL entitlements. This impacted not only on the capacity to deliver quality services to the region but also added to the number of regional jobs cut by Dorevitch and had adverse flow-on consequences for other healthcare services and the local economy.[155] Similar concerns to those in Bendigo followed a 2019 proposal by Dorevitch to send test samples from the Latrobe Valley's medical centres/hospitals to its central laboratory in Melbourne's Heidelberg, contrary to assurances which were given in order to win the contract that all pathology testing would remain on site.[156]

[153] Medical Scientists Association of Victoria, 'Public hospitals and private pathology providers', 18 January 2018 http://msav.org.au/news/public-hospitals-private-pathology
[154] ibid
[155] Health Workers Union Response to the Department of Health and Human Services Victoria Pathology Plan 2017 Consultation Paper 'Examples Of Victorian Public Pathology Outsourcing Gone Wrong' p12 https://www.google.com/search?q=Examples+Of+Victorian+Public+Pathology+Outsourcing+Gone+Wrong%E2%80%99&ie=utf-8&oe=utf-8&client=firefox-b-ab
[156] Heidi Kraak and Bryce Eishold, 'Fears pathology move would delay results', The Latrobe Valley Express, http://www.latrobevalleyexpress.com.au/story/5980949/fears-pathology-move-would-delay-results/ 29 March 2019

TERM OF REFERENCE THREE

THE IMPACT ON EMPLOYMENT RATES, CONDITIONS AND LOCATIONS, ESPECIALLY RURAL AND REGIONAL EMPLOYMENT

In the privatisation sphere it is common for employees to fear repercussions if they publicly discuss issues around their employment and working conditions. However information from our members and other employees affected by privatisation across the public sector and briefings provided to the PSA by senior government officials shows a significant impact on the public sector workforce. While this is widely felt across the entire sector there are particular concerns in rural and regional areas where public services constitute a significant source of employment, and the multiplier effect of job losses on rural and regional communities.

PSA members across the entire sector have expressed many industrial concerns including the workplace and human impact of staff reductions, increased workloads, different pay rates for the same work, little prior notice of impending privatisations, lack of genuine consultation and inadequate planning processes, increased stress levels, low morale, and uncertainties about their future. But the concern most felt by an overwhelming majority of members is job security, or more precisely, the lack of it.

On the information the PSA has available, thousands of jobs have been lost across the public sector arising from privatisation in the following areas- Lands Titles Office, Adelaide Remand Centre, Domiciliary Care Services, Disability Services, Financial Counselling Services, Community Service Order Program, Family Day Care,

LANDS TITLES OFFICE

When Land Services SA (a consortium of Macquarie Infrastructure and Real Assets and the Public Sector Pension Investment Board) won this contract it was a newly created company and did not have any existing management or employees. Existing staff of the LTO were invited to volunteer to join the company as employees, but staff were not told how many or what jobs were available prior to this process. Those who expressed interest were then interviewed by the company, with some offered employment on common law contracts.

The privatisation of the LTO has had a significant impact in country locations. Offices have closed in country locations with staff either being redeployed or taking a separation package.

Transferred Employees: The new LTO operator was unable to recruit enough staff to run the service through this process. As a result the Government made the decision to "transfer" staff from Government to the private company using section 47 of the Public Service Act to enable them to operate until the new operator recruited enough additional staff.

Section 47 of the Public Sector Act: Assignment of Duties

A public sector agency may from time to time determine the duties of a person as an employee of the agency and the place or places at which the duties are to be performed.[157]

This was the first time a government had used the Act in this way, as the intention of Section 47 was to enable the transfer of employees within agencies, not to use public servants to facilitate the operations of an inadequate privatisation tender, or indeed to work for the profit of a private company. The PSA considers providing public sector workers to work for the private operator to whom they have sold a state asset to be a scandalous misuse of Section 47 of the Act, and a gross misuse of public funds.

This remains an important issue as Section 47 has been used in other privatisations, the worst example being DIT's recent rail privatisation (see Section 1). What the government has done makes it possible for companies to tender without having the capacity to fulfil the requirements of the tender contract. It is a matter of deep concern which goes to the most basic principles of the role of the public sector, and betrays employees who have dedicated their working lives to the good of the South Australian community.

The intention of Section 47 has been properly demonstrated most recently where staff in the public sector have volunteered and been assigned to roles in the management of South Australia's COVID-19 response.

We urge this Inquiry to consider the implications of the misuse of Section 47 in the context of privatisation, and to recommend that the purpose of this section of the Act is clarified and strengthened to uphold the principle that it applies to transfers within the public sector and cannot be interpreted or used to support the operations and profits of private companies which are unable to actually run a public service without the support of state employees.

[157] South Australia, Public Sector Act 2009, p24. https://www.legislation.sa.gov.au/LZ/C/A/PUBLIC%20SECTOR%20ACT%202009/CURRENT/2009.37.AUTH.PDF

ADELAIDE REMAND CENTRE

DEPARTMENT FOR CORRECTIONAL SERVICES

Following Serco winning the tender to operate the Adelaide Remand Centre (ARC), most staff were transferred to other prisons in the Correctional Services system or took separation packages. However issues with Serco's operation of the ARC have impacted on their work as prison officers in the prisons to which they have transferred as the remand centre has connections to them all through the transfer of prisoners once they leave the ARC.

Most of these problems stem from staffing issues associated with Serco's operating model which does not adequately take into account the complexity and extremely staff intensive nature of remand centres. The ARC is seriously understaffed. Pre-privatisation approximately 70 officers were on duty a day; it is now down to approximately 20 a day. The understaffing is compounded by the fact that the new officers employed by Serco lack previous prison experience, let alone the intensive demands of a high security facility, and have not been adequately trained which contributes to dangerous work practices making jobs more hazardous with serious breaches of security. This has created problems for inmate, officer and community security, including the safety of other workers in the prison such as social workers, health workers and chaplains.

Direct consequences include a significant increase in the number of drugs coming into the prison, which has been estimated at three to four times previous levels. When these inmates go from the ARC to other prisons in the state system, a significant number arrive drug-affected and bring drugs in on their person. New inexperienced staff are also frequently unable to control aggressive behaviours shown by inmates which previous officers had the capacity to monitor and deal with through their experience and the fact that there were far more of them. This then impacts on the prisons to which they are transferred, with officers reporting that prisoners are arriving more belligerent and needing to readjust because the new culture of the ARC is so different.

… we have all seen a marked increased in unruly, self-entitled and general bad behaviour from prisoners transferring from the ARC to a prison because there is little or no direction given to them by the private staff there. Prisoners with acute mental health needs and associated behaviours are being transferred here with no record of any issues in their case notes. Incidents are going unreported at the ARC, prisoners are giving us many stories of the ARC being flooded with drugs … the direct result of poor supervision, low staffing levels and poor staff training. It has made our jobs considerably more dangerous as we are having to deal with unpredictable and drug affected prisoners in a lower security prison environment.

Correctional Officer and PSA Member (potential identifiers removed)

The government has not released its full report into the December 2020 prisoner escape from the ARC which put the community at risk as the escapee was not recaptured for several days. Despite the secrecy surrounding the details of the escape, the Corrections Minister claims that staffing levels were not a factor in the escape,[158] the first in approximately 20 years. It is known however that the prisoner had been left unsupervised for almost an hour, which former ARC prison officers say is due to the overall shortage in staff under Serco which has significantly reduced the level of prisoner monitoring and supervision that had previously existed.

Its operations to date raise serious questions about the government's prison benchmarking agenda; forcing private sector staffing levels and practices – saving money by cutting jobs and employing less experienced/trained staff without due regard for staff, inmate and public safety – on state-run prisons under the guise of greater efficiency.

[158] ABC News, 'Inmate left unsupervised for 52 minutes at high-security SA jail before planned escape: report', 22 January 2021 https://www.abc.net.au/news/2021-01-22/summary-report-into-remand-centre-escape-of-jason-burdon/13079856

AGED CARE AND NDIS – DOMICILIARY CARE SERVICES AND DISABILITY SERVICES

DEPARTMENT OF HUMAN SERVICES

Domiciliary/Royal District Nursing Service (RDNS): The initial process of privatising Domiciliary Care was an improvement on many other privatisation processes in terms of consultation, maintenance of wages and conditions, secure employment and incentive bonuses.

The PSA was involved in discussions with the then Labor Government well prior to implementation of new federal funding arrangements for Aged Care, and staff were surveyed about the key principles of service delivery for the tender process. A number of their suggestions were taken on board; for example preference for a not-for-profit organisation, commitment to quality of service and current staffing levels, and a commitment to maintenance of staff conditions and job security.

The RDNS, now part of the Silverchain group, won the tender. The package which was negotiated and offered to staff to work for them included maintenance of existing conditions with staff employed under their existing agreement for at least two years or longer if a new agreement was not reached.

All staff including contract staff and those on workers compensation were offered positions by RDNS and information sessions were held with both RDNS management and Department of Human Services management to explain people's rights and options. Staff were then asked to nominate if they wanted to work for RDNS or not. The vast majority, around 300 staff, nominated to work for the RDNS, with approximately 50 staff redeployed elsewhere in the Department.

The conditions of service and working conditions of the employees who chose to work for the RDNS did not substantially change, and they have maintained their jobs and conditions until very recently. The RDNS (Silverchain) has proposed a new enterprise agreement with reduced wages and conditions. It appears that the new arrangements will be more consistent with the familiar operational model of most privatised services as they include lower pay and reduced wages.

There were no country locations for this service so it has not impacted on country regions.

Disability Services (Youth, Community, Equipment, and Allied Health Services): Because of the new arrangements associated with the NDIS, these services were already in the process of changing from service delivery to assisting clients in the development of NDIS plans and transferring the management of clients to the NGO sector or other service providers, as per their NDIS plans.

Direct privatisation occurred in the youth area through the creation of an Employee's Mutual and ASSIST. The service was tendered in a similar way to the RDNS with the same conditions, with disability services provider Minda the successful tenderer.

The clients of a number of Government disability community services in the country, including disability accommodation, were individually moved to alternate placements and staff redeployed, transferred or had their contracts terminated.

The final area to be privatised was Domiciliary Equipment Services. This service was largely abolished because a private provider could not be found and 40 staff were redeployed or offered separation packages.

Over several years the overall disability and aged care workforce in Human Services has been almost completely removed from Government. A particularly unfortunate consequence has been the loss of a vast amount of staff knowledge, experience and expertise from the public sector. Most staff had been working in this area for a long time, and in a number of areas what was lost to the public sector has not been replicated by the private sector. Unfortunately the loss to the public sector has also been felt by many disabled and older South Australians who are no longer receiving the level of care they previously experienced.

Disability Accommodation: In order to privatise this area, the Department of Human Services initiated an extensive "re-shaping" process. In what has become an all too common practice associated with privatisation, the service was restructured to match the NDIS funding model in order to make it more attractive to a private provider.

On behalf of their members, the United Workers Union and PSA opposed the privatisation on the grounds that (1) clause 15.1 of the *SA Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2017* agreement meant that the jobs of approximately 1,200 disability support workers who worked in the houses could not be outsourced, and (2) concerns that the clients of the public sector service were more challenging and complex than the cohort that existed in the private sector.

Clause 15.1 of the agreement, which has the force of law, is very clear on the question of outsourcing, contracting out, or privatisation.

15. Security of Employment:

15.1 The Employer agrees that during the life of this Agreement, no further work performed by weekly paid employees covered by this Agreement will be outsourced, contracted out or privatised. Additionally, the Employer agrees not to enter into any arrangements to outsource, contract out or privatise work performed by weekly paid employees during the life of this Agreement, even if the operative date of such arrangement is after the nominal expiry date of this Agreement.[159]

Because the intention was to privatise, all new roles in the proposed structure were limited to a two year tenure which created a great deal of uncertainty and very poor morale for the public sector workers concerned. In addition, the new structure was very lean which would have contributed to serious workload issues, particularly in the shift supervisor and team manager roles.

In the end, the service has remained in the public sector as the private sector was not interested. Unfortunately though a huge amount of goodwill has been lost during the two year restructure process and the fight continues to have roles across the service made ongoing and workload and staffing issues addressed in order to ensure stability for clients.

Over this period approximately 100 staff were redeployed, made redundant, or took separation packages, and there are still unassigned staff doing project work in the disability services area within

[159] South Australian Employment Tribunal, South Australian Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2017, File No. 251 of 2018, Page 19 of 217 https://www.saet.sa.gov.au/app/uploads/mp/files/enterprise_agreements/files/south-austral-public-sector-wages-parity-enterprise-agreement-weekly-paid-2017.64bdc729de7eac9a05876ee912712711.pdf

the Department who could be given funded roles in the work they are doing, including developing standards for care for NDIS clients in the private sector.

What this particular issue demonstrates is that it is still possible to provide a service in the public sector under the individualised funding model in disability and this is also possible in Aged Care, as all country based hospitals have aged care facilities.

As it stands, the service will be a state government service operating under an NDIS funding model. If run well, it has the potential to generate revenue and would certainly meet an important human and social need; namely supported accommodation for people with disabilities the private sector will not take because their needs are considered too challenging and complex, i.e. financially unviable under a profit-driven model. The PSA considers that the government should invest in and support this vital accommodation service for South Australians with disabilities.

FINANCIAL COUNSELLORS

DEPARTMENT FOR CHILD PROTECTION

In yet another case of failed privatisation, the Department for Child Protection attempted to outsource its effective Financial Counselling Program. No NGO was willing to tender for the program because they lacked the capacity to provide this specialised function and the level of funding offered by the government was insufficient to expand their capacity.

Prior to the attempted outsourcing process the government had announced a cut of $4 million to the Financial Counselling Program (September 2018), which it proposed to replace with an allocation of $1 million to the already overstretched and underfunded NGO sector.

It was noted at the time that the pressure on NGO financial counselling services was already severe, with extended waiting times and the capacity to only meet 60% of the demand for their services. The expectation that NGO providers could pick up the level of service provided by the DCP financial counsellors for less than a quarter of the funding was described as both less than a quarter of the funding was described as "unreasonable and unworkable."

As a result of the failed privatisation the service was effectively abolished and 60 dedicated financial counsellors lost their positions and were redeployed or took a separation package. At least eight were in country offices where there is very little NGO support for child protection. These staff members are now largely working as case managers or social workers if they are still in the Department of Child Protection.

It is hard to fathom the logic in both economic and human terms of cutting a unique program which provided specialised support to assist families to manage their financial situations and help keep vulnerable and at-risk young children out of state care.

In this context, the PSA considers that the increase in numbers of children in state care is in part due to the loss of these specialist staff who had previously supported vulnerable families to access resources and structures that enabled them to keep their children. The impact of more children in care has repercussions for all workers in child protection. It has increased workloads, created unsustainable levels of overtime, and failed to provide sufficient numbers of staff to care for the increased numbers. A particularly unfortunate consequence is that the intensification of pressure has led to an extremely high turnover rate of around 50%.

COMMUNITY SERVICE ORDER PROGRAM

DEPARTMENT OF HUMAN SERVICES (YOUTH JUSTICE)

The metropolitan component of the CSO program was privatised to the Service to Youth Council but the country regional service is still provided by the Department of Human Services (Youth Justice).

The program is a fundamental part of the youth justice system with special legislation aimed at stopping young people who have broken the law from entering and being trapped in the cycle of crime and prison. Because of the shockingly high and growing number of Aboriginal young people in detention in South Australia, the provision of culturally appropriate support for young Aboriginal people was a major focus of the program. It is difficult, complex and sensitive work which requires experience, commitment and ongoing relationships to provide the sense of stability that young people at risk require, and it is a testament to the quality of youth justice work in the public that around 70% of all young people in the program completed their hours of service.

As a result of the metropolitan privatisation, all metro staff – 30 youth workers – were deemed excess to requirements and either redeployed or took separation packages. A number were redeployed to the Kurlana Tapa Youth Training Centre because they were employed in the OPS classification. As a result many have left the area of community youth work because the move to a detention setting diminished their job satisfaction.

Like a number of other privatisations considered in our submission it is hard to see this decision as anything but ideological. The program was transferred to the NGO sector which employs workers on low wages in insecure work. This saved no money, dismantled an effective service based on strong local relationships, and led to the loss of experienced public sector staff. A few senior staff, who were also involved in developing the tender and coordinating the hand over to the Service to Youth Council, remain in the department in order to coordinate the country program.

FAMILY DAY CARE

DEPARTMENT FOR EDUCATION

The proposal to privatise this service which regulates the quality of the provision of Family Day Care across the state and provides Family Day Care providers with information training and development will affect staff based in both metropolitan and regional areas. It will affect 61 staff, eight of whom work in the country and will find it difficult to obtain alternative employment.

ROAD MAINTENANCE

DEPARTMENT FOR INFRASTRUCTURE AND TRANSPORT

The government's decision to fully privatise road maintenance across South Australia will have a direct impact on 123 FTE staff (excluding road crews).

The road maintenance workforce is divided into three categories:

- Road crews who are employed under the Weekly Paid Enterprise Agreement and so remain in government employment due to clause 15 of the Agreement (see Disability Accommodation). There were, however, a large number of casual and contract employees who either lost their positions or were employed directly by the new companies – Downer, Fulton Hogan and Lendlease Boral Joint Venture.
- Tradespeople, largely electrical, who were employed under the Government Trades Agreement. These workers were all offered a position in the new company and most went under transfer of business arrangements and with a $15,000 bonus. Those who left generally took a separation package.
- Salaried employees employed under the salaried enterprise agreement, the *South Australian Modern Public Sector Enterprise Agreement: Salaried 2017 (SAMPSEAS).*[160] The state government refused to make the $15,000 bonus offered to trades staff available to salaried employees who wished to transfer to the new provider. Only a very few were offered positions with the new companies and subsequently employed under transfer of business arrangements. Those who chose not to work for the private companies or were not offered a position were either redeployed or took a separation package.

A significant issue arising from this privatisation is the lack of trade jobs now available in government. The privatisation of roads, rail and maintenance has almost totally removed all government trades positions making it impossible to access redeployment rights. This has left DIT with a large number of unassigned staff who were unable to be redeployed into the Department or elsewhere in government. This is especially true in country regions, and also applies to key specialist staff employed under the salaried agreement.

As a result of concerns raised by the PSA and other unions, the Department established a retraining centre where support could be provided for skills development for unassigned staff. This has been received well but it is yet to be tested as to whether it will be adequate to enable staff to transition to alternate employment.

Country workers have been more affected than those in the city because a number of depots near where they lived have closed. These include the Mount Gambier and Victor Harbor depots. The Murray Bridge depot has been retained while the Naracoorte depot remains as a small base for Fulton Hogan. This has meant country workers have either had to move, resign or become unassigned. Unsurprisingly, placing staff in alternate government roles in country locations is extremely difficult, especially for those who have specialist skills.

[160] South Australian Employment Tribunal, South Australian Modern Public Sector Enterprise Agreement: Salaried 2017, https://www.saet.sa.gov.au/app/uploads/mp/files/enterprise_agreements/files/south-australian-modern-public-sector-enterprise-agreement-salaried-2017.491448e03b1d74a1c4b7420833948243.pdf

The Port Augusta depot is still in operation, albeit with a significantly reduced staff presence (two employees) whose roles are in monitoring and evaluation, a function retained within government. Road crews are also still employed out of this region.

The retained function in Government involves approximately 30 staff engaged in contract management, surveillance and monitoring, which is largely based in Adelaide.

TRAMS AND TRAINS

DEPARTMENT FOR INFRASTRUCTURE AND TRANSPORT

Around 1000 FTE staff have been impacted by this privatisation. All tram and train drivers were offered employment with the private companies. For trams, most staff transferred to employment with the new provider under Transfer of Business Arrangements, with a three year 'no forced redundancy' guarantee and a $15,000 bonus from the state government, although this did not apply to salaried staff. The remainder became unassigned. The end result was fewer staff to operate the trams which has resulted in increased workloads and unreasonable overtime demands.

The train privatisation process rolled out in a similar way. Offers of employment were made to all train drivers but only some of the other staff. The package on offer included a three year 'no forced redundancy' guarantee, Transfer of Business arrangements and a $15,000 bonus (although again not for salaried staff).

Not enough train drivers and other staff took up the offer to work for Keolis Downer and there was a significant shortfall in staff which would have left Keolis Downer unable to run the train system. Because of this, the Government again used Section 47 of the Public Sector Act (see Lands Titles Office) to make train drivers 'available' to the new private operator. In addition, to 'facilitate' the transition to Keolis Downer the State Government also decided to continue to run the Gawler Line until the electrification process was completed.

As a result of these developments there is now a mixture of employment arrangements in Adelaide's metropolitan rail system; those directly employed by Keolis Downer, those employed by the state and 'on loan' to Keolis Downer; and those directly employed by the state operating the Gawler Line.

Staff were told they would be "on loan" to Keolis Downer for up to two years, possibly longer. This has caused a great deal of uncertainty and distress because these workers had made a definite decision not to work with Keolis Downer and are now being compelled to do so. They had no say about this as the Department has determined that it has the right to deploy them to work for the private company.

Some of these workers were close to the end of their working life as train drivers. This decision has denied them options that many were considering such as developing alternate skills to continue their career in government, or accessing the training support being offered to redeployed staff or even taking a redundancy package.

Because the lack of detail and clarity about the arrangements, including (1) the time frame for return to government, (2) their day-to-day management and rights as public servants working for a private company, and (3) the process for determining which employees would be able to go back to Government, the PSA and the other unions have insisted on proper consultation about these arrangements with a full consideration of all the issues entailed.

The PSA also has significant concerns about the legitimacy and ethics of the public sector carrying the burden for a company which was essentially unable to deliver on the contract into which they had just entered. This adds a new layer of controversy and irregularity to a privatisation process already mired in controversy as outlined in Term of Reference One. There have been no penalties against Keolis Downer which means the public of South Australia are essentially subsidising Keolis Downer through the supply of labour.

The PSA believes that seconding public sector workers to work for a private company is highly unethical, inconsistent with the principles of the Public Sector Act, and possibly maladministration due to the improper use of public resources and funds.

ACROSS GOVERNMENT FACILITIES MANAGEMENT ARRANGEMENTS (AGFMA)

DEPARTMENT OF INFRASTRUCTURE AND TRANSPORT

The announcement of the government's decision to fully privatise DIT's Across Government Facilities Management Arrangements (AGFMA) came as a shock to the affected employees, including management, and the tradespeople and contractors delivering these services, none of whom had been consulted. The employees directly affected by the decision were largely salaried staff whose jobs involve managing the delivery of maintenance services sub-contracted to approximately 5,000 local trades people. Local contractors in country regions raised significant concerns that big global service and maintenance companies would not employ local tradespeople, which led to a commitment from the Minister that ensuring a regional presence would be part of the tender specifications.

The importance of a strong regional presence was also stressed by staff in other agencies such as school principals who depend on being able to access support in developing minor works proposals and rely on local contractors' understanding of the regulations required in areas such as building or maintaining playgrounds or removing asbestos. Clearly, a strong local relationship between small local maintenance companies is vital to ensure quality of work, value for money and high levels of compliance with regulations and safety standards.

Unfortunately it appears that the interpretation of regional presence is not clearly defined, which could result in a significant reduction of public sector employment in country regions and with no guarantees of employment for local business.

In addition, country AGFMA staff (around 70 across the state located in Mount Gambier, Murray Bridge, Port Pirie, Port Augusta, Whyalla, Port Lincoln, Clare and Berri) were extremely concerned that the proposal for the retained structure in the Department stated that all positions would be based in Adelaide. This removed future employment options for country employees that are available for metropolitan staff. The only options left for country staff are to try to find work elsewhere in their location (a very limited option in many country areas), move to the city or take a package.

The option of taking a separation package contains its own risks, as it disqualifies employees from performing any work which is funded by government. This would prevent any previous government employee from being able to undertake maintenance work, including administrative or contract management in country locations as nearly 100 per cent of this type of work in most country locations is state government funded.

There are no requirements in the tender for the private provider to offer employment to any existing AGFMA staff, and there are very few options for alternate public sector employment in country gions, especially as all other areas of DIT have been severely reduced in country regions due to the privatisation of road maintenance and land services.

OTHER KEY ISSUES

ABCC Impact: In the areas of road maintenance and rail services where there are federal agreements, the legislative requirement to comply with the Australian building code meant that a number of union rights in agreements were removed in order for the company to be compliant with the code.

Transfer of Business: The Federal Fair Work Act has provisions which enable workers transferring from one company to another doing the same or similar work to continue to work under the terms of their existing enterprise agreement. For state agreements the Enterprise Agreement becomes a federal instrument and also falls under this legislation.

This legislation is vital in maintaining the rights of workers in the public sector whose job could be privatised overnight and then re-employed on inferior wages and conditions. It is vital that this legislation remains in place and is improved to also include provisions for no forced redundancies and the right to have conditions and wages maintained rather than reduced through the enterprise bargaining process over time. The BOOT (Better Off Overall Test) does not really address this circumstance.

This is particularly relevant in areas such as the RDNS (previously discussed) where Silverchain is looking to significantly cut the wages and conditions of previously employed government workers in their enterprise bargaining process.

The State Government could also legislate to ensure previously employed government staff have access to guarantees in employment and working conditions if their area of work is privatised, as occurred during the privatisation of the electricity system.

Sub-contracting and Transfer of Business Rights: When a business contracts out part of the business they have won in a tender, the Transfer of Business legislation does not apply. This has become a way around the right for protection of working conditions under enterprise agreements during the process of privatisation.

A recent example is the rail contract with Keolis Downer. Keolis Downer has outsourced some of the work involved in its contract, such as cleaning, station maintenance and servicing of trains to Spotless. Spotless did not offer any employment to these staff and as they were not covered under the Transfer of Business Provisions of the Fair Work Act, Spotless was able to employ staff on lower wages and poorer conditions.

Skills and Apprenticeships: Traditionally the State Government was a powerhouse for skill development in the trades because it offered many more apprenticeship opportunities than the private sector. Wider issues associated with the state of Australia’s skills shortage and apprenticeship system are outside the scope of this submission. However, the PSA has a particular concern that the privatisation of nearly all the trade areas in South Australia intensifies issues with skill shortages and poor skill development in the state, and conflicts with commitments by the government around training and skills development.

The PSA considers that it is incumbent on the state government to implement measures which ensure that private companies invest in and support apprenticeships which are vital to the maintenance of South Australia’s skills base.

Risk Management and Quality: Issues around risk assessment and risk management in the decisions made about privatisation are a major concern for PSA members across the public sector. This is an area where their deep knowledge, experience and expertise had been valued enormously for its service to the public and contribution to public safety.

In addition to issues around their working conditions, there is a great deal of anxiety and concern about the knowledge and expertise that has been lost to the sector, and the fact that many of the jobs of those left in the public sector have gone from direct project management and expert advisers to contract managers. Added to this anxiety is the fear that they will be left with the blame when things go wrong.

Job Security and the Importance of Enterprise Agreements in Saving the Jobs of South Australian workers: The number of positions impacted by the extent of privatisation across the public sector is high. It would be even higher without the protection of Enterprise Agreements, which have saved a large number of employees from becoming unemployed and contributing to an even higher level of unemployment in our state.

The Public Sector Salaried Enterprise Agreement and its industrial provisions concerning public sector job security, conditions and entitlements cover most PSA members. The retraining, redeployment and redundancy provisions in Appendix 1 of the Agreement have been instrumental in protecting jobs in certain areas and ensuring valuable and committed employees can be redeployed to other areas of Government.

Similarly the experience of our members has shown that Clause 15 of the Weekly Paid Enterprise Agreement has saved, for example, a large number of country jobs in road maintenance and over 1,000 public sector jobs in disability.

The PSA urges this Inquiry to recognise the central importance of job security as a fundamental requirement for an efficient, responsive and effective public service to protect the integrity and capacity of the public sector, the public sector workforce, and all South Australians who rely on essential public services.

TERM OF REFERENCE FOUR

THE EFFECT ON INCOME AND WEALTH INEQUALITY

South Australia faces significant well-documented demographic, social, economic and environmental challenges. Our rates of unemployment are high, particularly for young people, manufacturing is in decline due in large part to the impact of technology and globalisation, and many rural and regional communities are facing challenges to their viability with reduced service provision and local employment opportunities.

As a state we continue to have unmet needs in areas such as education, health, aged care, disability services, social and human services, housing, transport and the significant environmental challenges associated with climate change. As in the rest of Australia the gap between Aboriginal and non-Aboriginal South Australians on almost all social measures has yet to be successfully addressed.

Individuals and groups who are substantially disadvantaged and who rely on comprehensive affordable public services are especially vulnerable if the design and delivery of government policies, programs and services fails to treat them fairly.

Privatisation of Public Services Exacerbates Inequities

The existence of these inequalities and inequities has been well-documented.[161] A recent study undertaken by the Southgate Institute for Health, Society and Equity (Flinders University) and the South Australian Council of Social Service has examined the nature of inequity and the social and economic factors which have shaped individual and community outcomes in South Australia since the 1980s. It shows that inequities, including wealth and income inequality, have grown over this time; that the impacts have been hardest felt by low income workers, those reliant on social security payments and their families, especially youth, Aboriginal and Torres Strait Islanders, those re-entering the workforce and single parents.[162]

The study analyses the forces which have driven both the growth of inequity in South Australia and also diminished the capacity and expertise of the public sector to effectively respond to the social and economic consequences of these inequities. Privatisation of key government services, including health, social services, education, public infrastructure and housing, emerges as a causal factor. [163]

> One of the key effects of the dominance of neo-liberal policies and ideas in Australia and globally has been the privatisation of previously public services and utilities, often into quasi-market structures. The link between privatisation and growing health inequity in South Australia was a major emerging theme in our interviews with experts. Privatisations have occurred in many different sectors, including health and social services, housing, education, and employment services. While privatisation has clearly been a national and global trend, Victoria and South Australia have undertaken the most comprehensive agendas of privatisation.[164]

[161] Matt Grudnoff, Australia Institute, Gini out of the bottle – inequality in Australia is getting worse, 15 June, 2018 https://australiainstitute.org.au/report/gini-out-of-the-bottle-inequality-in-australia-is-getting-worse/
161 Rachel Nolan, McKell Institute, COVID-19: Why the economic fallout is exacerbating inequality, 2020 https://mckellinstitute.org.au/research/articles/covidinequality/
[162] Southgate Institute for Health, Society and Equity and the South Australian Council of Social Service, 'SA: The Heaps Unfair State: Why have health inequalities increased in South Australia and how this trend can be reversed', Flinders University 2020. p7. https://www.flinders.edu.au/content/dam/documents/research/southgate-institute/sa-heaps-unfair-state-final-report.pdf
[163] p7; p36
[164] p33

This is supported by numerous studies such as reports by ITPE (In The Public Interest) 'How Privatization Increases Inequality' and Dr Jane Lethbridge (Director of the Public Services International Research Unit) 'Unhealthy Development' on the privatisation of healthcare. The ITPE report shows that privatisation has undermined the notion of a shared responsibility to fund public services and the inequities which result when privatisation siphons money away from public services into private profits. Their analysis identifies a number of ways in which social and economic inequalities are exacerbated, including the creation of increases in user fees, new user fees, the erosion of the social safety net, inequitable wages and benefits and lower revenues for governments.[165]

Dr Lethbridge's report focuses on the damaging impact that the promotion of private healthcare has on public healthcare provision, communities and workers and the benefits it provides to multi-national healthcare companies, which has wider applicability across the sectors:

> Quality public health services protect the most vulnerable in society. They reduce income inequality, act as an equalising force and enable people to access healthcare when they need it, not when they can afford it. Publicly funded healthcare is more efficient, effective and more equitable than privately funded systems. However, despite its benefits, publicly funded healthcare has been under an intensive attack for the last 30 years, as private healthcare providers, lobbyists and international finance institutions have demanded the commercialisation of healthcare. The UK's National Health Service (NHS) has been a victim of creeping privatisation in recent years, driven by a flawed ideology that competition drives up standards and market forces improve efficiency. In reality Public-Private Partnerships (PPPs) have driven up costs, and more recently clinical commissioning has enabled companies to cherry-pick services based on high profits and low costs.[166]

These understandings underpin the need for the restoration and protection of a strong public sector with the capacity to develop and implement policies and measures to redress existing social and economic inequities and deliver equitable programs and services for all South Australians.[167]

This view of the role, function and responsibilities of the public sector is entirely consistent with the legislative framework for South Australia's public sector. Part 3 of the Public Sector Act 2009 clearly specifies the need for a strong public sector with the capacity to (1) deliver high quality services across the diverse spectrum of public needs and (2) respond rapidly to changing social and economic needs as they emerge. In addition, it specifies that the value of public assets must be maintained and enhanced, with resources managed 'effectively, prudently and in a fully accountable manner', with the public consulted and involved in improving services and outcomes on an ongoing basis.[168]

---

[165] ITPE, 'How Privatization Increases Inequality', September 2016 pp. 3-4 https://www.inthepublicinterest.org/wpcontent/uploads/InthePublicInterest_InequalityReport_Sept2016.pdf
[166] Jane Lethbridge, 'Unhealthy development: The UK Department for International Development and the promotion of healthcare privatisation', 2016. p3 https://gala.gre.ac.uk/id/eprint/16416/7/16416%20LETHBRIDGE_Unhealthy_Development_2016.pdf
[167] p9; p40
[168] South Australia Public Sector Act 2009; pp.8-9
https://legislation.sa.gov.au/LZ/C/A/PUBLIC%20SECTOR%20ACT%202009/CURRENT/2009.37.AUTH.PDF#:~:text=South%20Australia%20.%20Public%20Sector%20Act%202009%20.,of%20Act.%20Part%203%E2%80%94Public%20sector%20principles%20and%20practices

“Working to get the best results for current and future generations of South Australians”

This is further outlined in the Office of the Commissioner for Public Sector Employment’s Public Sector Values and Behaviours Framework which has a strong equity and sustainability focus and emphasises the need for collective action to “leave a lasting legacy for future generations of South Australians”. In order to achieve this the public sector must be sustainably resourced and supported to a level which enables it to:

- prioritise the diverse needs of the community in the design and delivery of services;
- uphold the rights of each individual to access services as easily as possible; and
- establish service standards that apply to all customers.

The framework also strongly promotes honesty and integrity through the creation of a culture which encourages openness and transparency and ensures all decisions and actions can withstand scrutiny, and the use of business cases and cost-benefit analyses to ensure the most efficient and prudent use of tax-payer resources.[169]

Governments frame privatisation as a means of containing costs and ensuring efficient and prudent use of taxpayer funding; what they call ‘sensible responsible restraint in government expenditure’.

Our submission has outlined the flaws in this view of privatisation. In our view, investment in the level and quality of services the community needs and ensuring equitable access to them should be seen as ‘sensible and responsible’ investment rather than viewed in a reductionist way as simply a cost which must be contained. This is neither fair nor fiscally responsible.

When the way in which public services are delivered exacerbates income and wealth inequality – higher unemployment, reduced future employment prospects and lower lifetime earnings – it inevitably produces higher social costs, reduced life chances and lower economic growth. As pointed out by the McKell Institute’s ‘Mapping Opportunity’ project: *If income inequality is left unchecked and allowed to grow without necessary intervention, it can lead to the inefficient functioning of society and be a threat to the stability and sustainability of the Australian economy in the long run.*[170]

Undermining the capacity of the public sector to deliver programs and services to the public will only further compound the disadvantage and increase inequality.

We urge this Inquiry to recognise the connection between public sector capacity and the right of all South Australians to the best quality public services regardless of differences in wealth/SES, income, location, ethnic or language background. Meeting these basic principles of fairness and equity to foster the social and economic opportunities for all their citizens is the responsibility of good governments.

[169] Office of the Commissioner for Public Sector Employment, ‘Public Sector Values and Behaviour Framework’, https://www.publicsector.sa.gov.au/hr-and-policy-support/ethical-codes/public-sector-values

[170] McKell Institute, ‘Mapping Opportunity: A National Index on Wages and Income’, January 2018 p32https://mckellinstitute.org.au/wp-content/uploads/Wages-UPDATED.pdf

This is supported by a large and credible body of national and international research. The research shows that this investment is vital to our productivity, strong economic growth and employment, and our capacity to meet future challenges associated with globalisation, technological and demographic changes.

In recent years global institutions like the OECD, the World Bank and the IMF have become increasingly focussed on the negative economic and social consequences of growing inequality and the dangers social and economic inequity to economic growth.[171]

> In the recent past the IMF, World Bank and the OECD have all produced hard evidence demonstrating that high inequality depresses economic growth. … (I)ncome inequality weakens the ability of low income groups to buy goods and services, discourages entrepreneurs from investing, reduces the incentive for productivity enhancing technological change, slows economic growth and destroys jobs. If you really want to "grow the pie" it is important to ensure that everyone is getting a fair slice.[172]

Stripping the state of its public assets and the loss of the revenue base they represented in exchange for a short-term budget 'fix' reduces the quantum of funding for the provision of public services, which compounds when the services paid for by the public are privatised and become a means of generating profits which go to increase the wealth of corporations and their shareholders – frequently foreign-based.

Commonwealth Government policy and funding frameworks which are a significant determinant of the quantum of funding available to the states for delivery of services for which they are responsible are outside the scope of this submission. However, the capacity of multinational corporations which generate wealth for their shareholders through their contracts with our government to use their global reach to engage in tax avoidance and/or tax minimisation strategies of the corporations is not.

Studies of the use of these strategies show conclusively that many multinationals, with what have been described as 'complex and opaque corporate structures', are channelling billions of dollars of revenue earned in Australia offshore to low-tax jurisdictions, shifting profits offshore and paying minimal tax, all while receiving hundreds of millions of dollars in government subsidies.[173]

They insist that they comply with all Australian tax laws, but the extent to which their activities erode the revenue base available to governments for the funding the public services on which their citizens rely is a situation that demands redress. The PSA considers it is incumbent on governments at both the Federal and State level to actively pursue strategies and formulate policies to reduce inequality and boost equitable economic growth.

[171] 'Inequality hurts economic growth, finds OECD research', 12 September 2014 https://www.oecd.org/newsroom/inequality-hurts-economic-growth.htm
https://www.oecd-ilibrary.org/employment/in-it-together-why-less-inequality-benefits-all/the-negative-impact-of-inequality-on-growth-in-oecd-countries_9789264235120-table13-en

[172] ACTU,' Inequality in Australia: An Economic, Social and Political Disaster', https://www.actu.org.au/media/1385450/actu_inequality_briefing.pdf

[173] Oxfam Australia, 'It's time for a fairer Australia: Oxfam', 20 January 2020 https://media.oxfam.org.au/tag/tax-avoidance/; Need for governments to boost transparency in companies receiving significant taxpayer funding; Jason Ward Centre for International Corporate Tax Accountability & Research (CICTAR)

TERM OF REFERENCE FIVE

THE EFFECT ON PUBLIC PARTICIPATION, SOCIAL COHESION, AND PUBLIC PERCEPTION OF THE ROLE OF GOVERNMENT

Despite the very direct and personal effect of privatisation on people's lives, decisions about privatisation have been taken out of the democratic realm, and the discussion about privatisation has become technocratic, inaccessible and opaque. There is a lack of democracy in the way decisions are made: there is a lack of meaningful consultation with stakeholders; decisions about privatisation are usually made on short-term financial grounds without considering the effect on services; and vital information about privatisation is unavailable to citizens because of 'commercial in confidence' provisions and other mechanisms that prevent scrutiny. More fundamentally, the very language of discussions about privatisations is becoming less democratic – meaning technocratic, financial, corporate, and abstract – allowing little space for people to articulate what they actually need in concrete terms. The debate is often incomprehensible to the lay person – an effect we suspect is not wholly unintended.[174]

Democratic Accountability, Governance Arrangements and Transparency

Our submission has made it clear that we are opposed to the lack of transparency and public accountability surrounding the privatisation agendas of governments. Citizens have a democratic right to know where and how public funds are being spent, and the impact on individuals and communities of changes to the way in which services are provided.

In addition to the concerns raised elsewhere in our submission we wish to draw the following to the Inquiry's attention to some specific issues relevant to this term of reference.

[174] People's Inquiry pp11-12

LOBBYISTS

The PSA has serious concerns about the increasing dominance of powerful lobbyists in the policy environment surrounding privatisation. Most, if not all, companies and corporations which have won lucrative contracts with government for the delivery of public services use the services of lobbyists and consultants.

Barton Deakin Government Relations provides an instructive example. Barton Deakin has provided lobbyist services to a number of private sector corporate clients engaged in the delivery of public services in South Australia through their contracts with government.[175] It bills itself as Australia's premier government relations advisory firm, and is widely recognised as the most highly and openly partisan government relations lobbying firm in Australia and New Zealand.

Barton Deakin's website outlines the services it offers its corporate and organisational clients: high-quality political and public policy advice to clients who need to engage with federal, state and territory Coalition governments and oppositions. This is enabled through what it describes as its 'close connections with the bureaucracy, current policy makers, influencers and decision makers and offers monitoring, intelligence gathering and strategic advice on government matters'.

Barton Deakin's Government Relations Advisers are former Coalition Ministers and Members of Parliament, Chiefs of Staff, Senior Policy Advisers, Senior Bureaucrats, Press Secretaries and party officials, many with 'deep private sector experience in key sectors' and "decades of experience, detailed knowledge of parliamentary legislative and regulatory issues and a deep understanding of policy development processes and implementation."[176]

This allows them to assist their clients to:

- develop strong and productive relationships with Liberal and National parties, whether they are in government or opposition.
- engage with government as a customer or supplier.
- ensure effective and timely input into government policy, regulations and legislative processes.
- improve outcomes from government decisions and regulations that impact on their business.
- explore opportunities for grants and government in-kind support for their business.
- enhance their company's reputation within government.
- Barton Deakin also works with national and state professional associations and non-government organisations in establishing and maintaining long-term relationships with key government stakeholders.[177]

[175] The SA Lobbyist Register for Barton Deakin shows meetings in 2019 with the Treasurer on behalf of Downer EDI; with the Premier and then Minister for Planning Knoll for Lendlease. In 2018 a meeting was held with Minister Knoll to discuss Lendlease "business development". Serco, KPMG and Transdev are also corporate clients of Barton Deakin.
[176] Barton Deakin website https://bartondeakin.com/
[177] ibid

In the month following the election of the Marshall Government, Steven Marshall's strategy and policy director from 2014 – 2016, Andrew Coombe, a 'long-time Liberal Party loyalist', became the director of Barton Deakin's Adelaide office.[178] Mr Coombe now runs his own consultancy service, Coombe Government Relations (CGR). CGR advertises its lobbying services in the areas of Government Relations, Strategic Corporate Advice and Public Policy – ensuring that its clients' "business position will be kept front of mind for public administrators and key decision makers as they undertake reform and policy debates … (and) put forward our clients' arguments and issues in a way that speaks directly to government."

We know the systems of government and have access to influential contacts … (and) will make a compelling case for your businesses in the public policy arena.[179]

CGR services provide Political Support Building; Policy Development and Analysis; Political Intelligence; Advocacy and Lobbying; and Crisis Management (described as "the provision of professional and strategic advice to minimise any possible damage to your brand if you find yourselves in trouble"). Amongst clients the CGR website lists as having worked with Andrew Coombe are Transdev (bus privatisation), Lendlease and Downer EDI (infrastructure privatisation) and KPMG.

The PSA is not suggesting that lobbying and political influence is confined to one side of politics. Neither are we suggesting any impropriety or breaches of the SA Government Lobbyist Code of Conduct,[180] which was designed to introduce greater accountability and transparency into the lobbying process in SA and imposes obligations on both lobbyists and government representatives. It is, however, difficult to see how much demonstrable accountability and transparency it actually provides.

Within this context we note the findings of a 2018 Australian National Audit Office investigation into the effectiveness of the federal Lobbying Code of Conduct which found inadequacies in the operation and monitoring of the code, with limited transparency and accountability, and nothing being done to prevent the 'revolving-door' which sees MPs go straight from office into roles as lobbyists or consultants.[181] This allows them to use their knowledge of the workings of government and the contacts they have made from their time in office, where their primary responsibility was to the public, for their own financial gain and that of the corporate clients they represent. The ANAO report made a number of recommendations for reform of the code, and what it called "a low level of compliance activity", but it was subsequently discovered by a follow-up ANAO inquiry undertaken in 2020 that none of the recommendations had been implemented.[182]

While the ANAO findings relate to lobbying at the federal level, they reinforce our concerns around (1) the ways in which corporations and organisations represented by politically-aligned lobbyists gain privileged access to government over the public; and (2) the dearth of information in the public sphere about how they operate, the nature of their dealings with government, and how this impacts on public policy decision-making, design and operation.

[178] Valerina Changarathil, 'Liberals loyalist Andrew Coombe heralds SA change of guard', The Advertiser, 2 April 2018 https://www.adelaidenow.com.au/business/sa-business-journal/liberals...

[179] https://www.coombegr.com/

[180] https://www.accountabilityrt.org/wp-content/uploads/2010/03/South-Australia-lobbyist-code-of-conduct.pdf

[181] Australian National Audit Office, 'Management of the Australian Government's Register of Lobbyists' Auditor-General Report No. 27 of 2017–18, 14 February 2018 https://www.anao.gov.au/work/performance-audit/management-australian-government-register-lobbyists
See also Michael West, 'Revolving Doors – Democracy at risk'; https://www.michaelwest.com.au/revolving-doors/

[182] Australian National Audit Office, 'Management of the Australian Government's Lobbying Code of Conduct – Follow-up Audit', Auditor-General Report No. 48 of 2019-2020, 26 June 2020 https://www.anao.gov.au/work/performance-audit/management-the-australian-government-lobbying-code-conduct-follow-up-audit

While governments continue to insist that their public policies are developed and put into practice in the interests of all South Australians, as they should be, what is happening contributes to public cynicism about the political process and a growing sense of powerlessness.

The Grattan Institute's 'Who's in the room? Access and influence in Australian politics' Study

The 2018 'Who's in the room? Access and influence in Australian politics' study investigated the growing access and influence of lobbyists in the political process and formulation of public policy. It clearly demonstrates the general lack of transparency and public accountability around the relationship between government and the companies they engage to deliver public services.

It notes that trust in government is in decline, that increasing numbers of Australians neither like nor trust the current system and have a perception that 'people in government look after themselves' and that 'government is run for a few big interests'.[183]

The study found ample evidence of an environment characterised by 'processes (which) are often opaque and standards lax' which supports this perception. Many well-resourced special interests have disproportionate access to policy makers which trumps public interest considerations. These include privileged access to Parliament House which facilitates 'casual interactions between politicians and influence-seekers', special deals for 'insiders', and lax 'revolving door' rules which permit 'cosy' relationships between politicians and influence-seekers.

> Growing public cynicism about special-interest influence is partly born of secrecy. When people can't see what's going on they assume those with the most money or the best contacts are getting a 'special deal' from policy makers. This cynicism may be justified: what we can see suggests that well-resourced and well-connected interest groups get more access and decisions often go their way.[184]

"Who's in the room matters – but who's not in the room can matter even more"

The report notes the consistent under-representation of consumers, community groups and those less privileged and advocates for significant reform:

> Public policy should be made for all Australians – not just those with the resources or connections to lobby and influence politicians. And mostly it is … but many of the "risk factors" for policy capture by special interests are present in our system. Political parties are heavily reliant on major donors, money can buy access, relationships and political connections, and there's a lack of transparency in dealings between policymakers and special interests.[185]

The study goes on to argue that, while transparency is not a silver bullet, it has an important role in countering the dominance of special interests and would give the public better information and support the demand for greater public accountability:

---

[183] Wood, D, Griffiths, K, and Chivers, C, 'Who's in the room? Access and influence in Australian politics', Grattan Institute 2018, p12
[184] Grattan Institute, op.cit.,pp56-57
[185] Kate Griffiths, Carmela Chivers and Danielle Wood (Grattan Institute), 'Influence in Australian politics needs an urgent overhaul – here's how to do it', The Conversation, 23 September 2018, https://theconversation.com/influence-in-australian-politics-needs-an-urgent-overhaul-heres-how-to-do-it-103535#:~:text=Access%20and%20influence%20in%20Australian%20politics%2C%20reveals%20that,most%20to%20gain%20%28and%20lose%29%20from%20public%20policy

> Greater transparency means more opportunity for the public, media and the parliament itself to scrutinise the policy-making process and call out undue influence or give voice to under-represented views.
>
> Second, government can boost countervailing voices through more inclusive policy review processes and advocacy for under-represented groups. This would give politicians better information with which to adjudicate the public interest.[186]

OECD Principles for Transparency and Integrity in Lobbying

We draw the Inquiry's attention to the study's recommendation of a framework for reducing secrecy around money and access, greater transparency and integrity in lobbying and improving transparency and integrity in the public decision-making process. These principles are consistent with OECD Principles for Transparency and Integrity in Lobbying and meet public expectations for transparency, accountability and integrity.[187]

- Building an effective and fair framework for openness and access
- Enhancing transparency
- Fostering a culture of integrity
- Mechanisms for effective implementation, compliance and review.[188]

While it has always been the case that there should be strong codes of conduct for lobbyists and government representatives, in the current environment of privatisation this is imperative.

[186] ibid
[187] pp.56-57 These recommendations will not create much additional administrative burden, since most of them work with systems already in place. Nor do our proposals unduly impinge on privacy – outside of security matters, it is difficult to think of instances where an official meeting between a third-party and a politician should not be on the public record. Our proposal would make more donors visible, but only those who give substantial sums well beyond the means of average Australians.
[188] https://www.oecd.org/gov/ethics/oecdprinciplesfortransparencyandintegrityinlobbying.htm

CONSULTANTS

Lack of transparency and public accountability in government outsourcing to management consultancies

In addition to our concerns about the costs and use of management consultants and their rapidly growing role in government outlined previously, their enormous growth and influence also has significant consequences for public participation and accountability.

Examinations of their influence, such as a 2017-2018 analysis by the Australian National Audit Office, show that not only are they receiving billions of taxpayers' money across Australia, but there are significant flaws and lack of transparency in the information which is publicly available about the rising use and costs of consultancy services to government.[189]

The government (at both the political and public service level) claimed the report was incorrect.[190] However these concerns, particularly in regard to the activities of the mega-consultancies, led to a 2019 federal Joint Committee of Public Accounts and Audit Inquiry into Australian Government Contract Reporting. The Inquiry, which was the first major Parliamentary investigation into the massive rise in government use of external consultancies,[191] was chaired by Liberal Senator Dean Smith. As part of the inquiry the Committee requested details of expenditure on contractors, consultants, and labour hire workers from 29 selected Government entities. After receiving submissions and several days of public hearings, however, the Committee lapsed without reporting (due to the calling of the 2019 election), with Senator Smith stating publicly:

> The public hearings explored issues such as government entities' use of, and spending on, contractors, consultants, and labour hire workers; the reasons driving the use of contractors, consultants, and labour hire workers, and the impact their use may have on the public service; and issues raised in the ANAO Information Report related to the accuracy of contract reporting, and issues relating to the transparency of the current reporting framework. The Committee has decided not to issue a report on the ANAO Audit Report No.19.[192]

"The entrenchment of an oligopolistic market for consultancy services"[193]

Despite this it is clear that not only are the major consultancy firms receiving vast amounts of public funding with limited public transparency and accountability, but they are also engaged in providing services to many of the private companies and corporations seeking and gaining contracts from privatising governments.

[189] Australian National Audit Office, Report No.19 (2017-18), 'Australian Government Procurement Contract Reporting', Chapter 5: Consultancies and management advice' pp21-27 https://www.anao.gov.au/sites/default/files/ANAO_Report_2017-2018_19.pdf
[190] See for example Bernard Keane, 'Any Pyne inquiry should take a hard look at the big four', Crikey, 2 July 2019 https://www.crikey.com.au/2019/07/02/christopher-pyne-big-four/
[191] https://www.michaelwest.com.au/big-four-inquiry-into-government-consultancy-binge-gets-buried/ Triskele 26 April 2019 Big Four: inquiry into government consultancy binge gets buried
[192] Parliament of Australia, 'Statement by the Joint Committee Of Public Accounts and Audit Providing A Progress Report On The Inquiry', 11 April 2019 https://www.aph.gpv.au: Statement Contracting Inquiry-2
[193] Keane, op.cit

The ensuing conflicts of interest are accurately summarised in the following:

> The big four are hopelessly conflicted in their joint roles as providers of audit services and providers of management consulting services both to corporations and government agencies, creating an unresolvable tension between the incentive to win contracts and their ostensible role as independent auditors. … there is literally no way for the public, or parliament, to determine if any big four consultancy is delivering value for money for taxpayers, and better value for money than a full-time APS (public sector) official would have provided in the same role. Only the ANAO can identify poor value for money or service failures, and it has a limited budget and personnel spread across the public service and a range of different kinds of audits.[194]

While these findings are at the national level, there is clear evidence that the same considerations apply to South Australia.

Given the extent of privatisation in South Australia, where the interests of private companies have become an integral part of the design and delivery of public services, the PSA urges this Inquiry to consider whether the current rules and arrangements with regard to lobbyists are sufficient to ensure transparency of the relations between them and government where privatisation is considered, and the degree to which they are independently policed.

The PSA considers that it is in the public interest that the role and function of lobbyists and management consultancy services in South Australia are subjected to far greater public scrutiny. This extends not only to the costs it imposes on the public but also to the ways in which their relationships with government impact on the public sector and actively obstruct public access to, and participation in, the decisions that shape the lives of South Australians. We urge this Inquiry to recommend accordingly.

[194] ibid

CONCLUSION

TIAA: ALTERNATIVES TO PRIVATISATION

The rationale for privatisation put forward by governments is rather like Margaret Thatcher's TINA (There Is No Alternative) slogan which signified her view that neoliberal economic and social policies, including privatisation, were the only options available and that debate was to all intents and purposes over.

During the last three decades South Australia's public assets and services have been extensively privatised and the current government's intention of further privatisation remains. However privatisation is not inevitable and there are alternatives.

There always have been alternatives, but the immediate challenges of COVID-19, together with ongoing threats such as climate change, have given the need for alternative solutions and strategies a new urgency;[195] among the many being the urgent need for more resilient and sustainable supply chains. Specifically, in the context of this inquiry, Professor John Quiggin argues that COVID has highlighted the fact that the solutions to the social and economic challenges we face lie not in neoliberalism, further/new forms of privatisation, or further diminishing the capacity and expertise of the public sector:

> ***These are ideas that should have been killed by the evidence against them that has accumulated since the beginning of the 21st Century — and particularly the Global Financial Crisis (GFC). Yet, they have remained influential and have made the pandemic catastrophe even worse than it would inevitably have been. … The pandemic has thrown into sharp relief the fact that, when the chips are down, it is the government – and not private enterprise – that keeps things going. A trend towards renationalisation, evident before the crisis, has accelerated, with Italy renationalising its main airline, Alitalia, and Spain nationalising the health system.***
>
> ***A dynamic economy, with a strong private sector, needs an equally strong public commitment to fund the physical and social infrastructure on which society depends.***[196]

The PSA urges this Inquiry to consider, and recommend, alternatives to privatisation being considered and entered into in other jurisdictions and their applicability to the delivery of public sector services in South Australia.[197]

"Stronger Public Services Through Remunicipalisation – Building a Resilient Post-Covid-19 World"

A 2020 publication by Public Services International and the Transnational Institute, 'The future is public – Towards democratic ownership of public services', provides more than 1,400 case studies from around the world where public services have been successfully brought back from private ownership and/or management. This has strengthened the capacity of public institutions to redress the negative consequences of privatisation and neoliberalism and meet the social and economic challenges ahead.[197]

---

[195] See for example Edward Cavanough, McKell Institute, '2020 transformed Australia's policy landscape. Here's McKell's contribution'. https://mckellinstitute.org.au/research/articles/2020-transformed-australias-policy-landscape-heres-mckells-contribution/ Rachel Nolan, McKell Institute, 'COVID-19: Why the economic fallout is exacerbating inequality', 2020 https://mckellinstitute.org.au/research/articles/covidinequality/

[196] John Quiggin, 'COVID-19 highlights failures of neoliberalism and privatisation', Independent Australia, May 19 2020 https://independentaustralia.net/politics/politics-display/covid-19-highlights-failures-of-neoliberalism-and-privatisation,13908

[197] Dexter Whitfield, 'Equitable Recovery Strategies', European Services Strategy Unit Report 11, 5 July 2020. Available at https://apo.org.au/node/306662

[198] Satoko Kishimoto, Lavinia Steinfort and Olivier Petitjean (eds), 'The future is public – Towards democratic ownership of public services' https://publicservices.international/resources/news/stronger-public-services-through-remunicipalisation-building-a-resilient-post-covid-19-world?id=10788&lang=en

The report notes that the provision of equitable access for all to quality public services is a fundamental role of government … (and) that privatised services are particularly unfit to deliver equity and are less effective and resilient in times of crisis for users and workers alike. In Ireland, Spain, Italy and Switzerland, governments have temporarily taken control of private hospitals and clinics, and some countries have requisitioned manufacturing facilities to change production lines to produce needed health material.[199]

A genuine notion of 'the public interest' founded on investment in universal access to sustainable quality public services should be the key determinant of our social and economic priorities.

ACT Commitment re Privatisation

In the context of returning services from private ownership and/or management to the public sector, the recent ACT commitment regarding privatisation is noteworthy. In September 2020 ACT Labor announced that if returned to government it would keep public services in government hands and ruled out privatising ACT Government-owned entities or outsourcing public services. The commitment was accompanied by an acknowledgement that privatising Government assets and services in many jurisdictions had put jobs at risk, and led to poorer quality services and higher prices for users:

Instead of cutting jobs and services we will keep public services in public hands as part of our plan to protect and create more than 250,000 local jobs by 2025 as part of Canberra's recovery from COVID-19. Now more than ever, Canberrans are relying on good, effective Government services.

To this end, it made a written commitment to protect public services by introducing a legislated framework by the end of 2021 that would:

- ensure a public interest test is applied before any privatisation is considered;
- maintain pay and conditions of employment for any privatised jobs; and
- guarantee ongoing public accountability and transparency for any privatised services.[200]

Privatisation is a failed ideology. Privatisation has demonstrably resulted in diminished public services; private profits coming before community services; higher costs to taxpayers and community members accessing services; less efficient services; the stripping of the state's asset and revenue base; and a hollowing out of the state's capacity to provide the services the community deserves and rightly expects.

[199] Public Services International, 'Remunicipalisation for a fairer post Covid-19 world order, May 2020 https://publicservices.international/resources/news/stronger-public-services-through-remunicipalisation-building-a-resilient-post-covid-19-world?id=10788&lang=en
[200] CPSU, 'ACT Workers Save Services From Privatisation', Media Release. 6 September 2020 https://www.cpsu.org.au/content/act-workers-save-services-privatisation

RECOMMENDATIONS

RECOMMENDATIONS

The PSA endorses and adopts the recommendations of submissions to this Inquiry from Public Services International (PSI) – Oceania, which also includes updated recommendations from the People's Inquiry into Privatisation, and Dexter Whitfield (Director of the European Services Strategy Unit and Adjunct Associate Professor, Australian Industrial Transformation Institute, Flinders University).

Relevant elements of those submissions are reproduced below with some minor modifications for clarity in the South Australian context and for the purpose of this PSA submission.

Recommendations to the Select Committee on the Privatisation of Public Services in SA from the submission 'False Promises and the Ugly Face of Privatisation' by PSI – Oceania

In light of the overwhelming evidence of failure to deliver promised outcomes and to enhance the overall welfare of the community, the paper makes the following recommendations:

1. A pause in privatisation programs to impartially review the public welfare outcomes of past privatisations, and to identify causes that might have contributed to the failure to live up to expectations.
2. Abandon uncritical faith in the superiority of private or market solutions to the challenge of providing quality public services efficiently; there cannot be a dogmatic approach to the question of public versus private provisions of public goods or services.
3. Undertake independent assessments of possible causes of underperformance of public providers; such investigations should be transparent and participatory involving management, workers and rightsholders.
4. Undertake objective and transparent comparative social, gender and environmental cost-benefit analyses of private versus public options in providing public services by engaging the wider community; financial profitability should not be the only criteria in determining "value for money"; privatisation's social and environmental consequences must also be considered.
5. Privatisation must not be driven by the motive to maximise sales value or by the desire to lighten the debt or fiscal burden of the government, and hence must not involve the State's most profitable businesses.
6. All Public-Private Partnerships must be accounted for in the public budget for transparency and accountability in order to avoid the risk of contingent liabilities.
7. Undertake case-by-case analyses for each service or provision of public goods that the government plans to privatise, outsource or have private partners, keeping in mind that private solutions are not inherently superior for all sectors.

8. Put in place appropriate regulatory and democratic oversight mechanisms involving wider community and rightsholders where privatisation is deemed preferable.

9. Procurement guidelines, including any form of privatisation, to require disclosure of the use of tax havens; and governments must exclude any companies found to have previous labour, human rights, environmental violations or findings of fraud and corruption, including tax evasions.

10. Where past privatisation programs have failed, or not met stated expectations, the government should consider reversing them while instituting and enhancing democratic accountability and management discipline in such activities.

11. Develop and institute a participatory and transparent monitoring and evaluation framework for provision of public services regardless of the ownership of provider organisations/agencies; this would also require setting specific public welfare goals for both private and public providers, and indicators for monitoring.

12. Understand the proper role of the State; privatisation does not absolve the state's obligations to protect human rights, including labour rights, and ensure social justice and equity. States are also obliged to protect the environment. States also have to fulfil obligations under internationally agreed goals, such as Sustainable Development Goals of the United Nations.

Peoples Inquiry Into Privatisation: Updated Recommendations

1. We call for a moratorium on privatisation until greater regulatory mechanisms and proper policy frameworks are implemented around the delivery of public services.

2. Prior to any new privatisation, governments should:
   - provide details of all the proposed benefits, sources of savings and evaluation of costs.
   - assess the benefit to the public, including a comparison of service provision and access to prove why delivery of services cannot be maintained by the government.
   - define minimum qualifications for new employees prior to privatising.
   - require disclosure of the use of tax havens and the exclusion of any companies with holdings in known tax havens.
   - exclude companies found to have previous labour, human rights, environmental violations or findings of fraud and/or corruption.

3. Where there is a privatised service, governments must take back the regulatory space and set the rules. An independent regulatory body should oversee privatised assets and services to ensure accountability. The regulatory body must be adequately resourced to be effective.

4. All Public-Private Partnerships should be accounted for in the public budget rather than a contingent liability and contracts should be made public.

5. Governments must continue to employ sufficient, qualified staff to evaluate the quality and competence of service providers, and to provide a continued role in strategic advice. Departments of government should not be tendering policy decisions out to consulting or accountancy firms.

6. There must be NO commercial-in-confidence provisions when taking public money.

7. If a service is to be privatised, governments must set a fixed tender price which maintains pay and conditions of employment across the service, to ensure cost is removed from the decision process and tenderers are competing on the basis of quality only. This prevents it being a race to the bottom.

8. Where privatisation occurs, the new provider must, as a minimum, maintain the same employment conditions and standards as the government service it replaced in regards to:

   - wages and conditions of employment;
   - health and safety;
   - equal opportunity employment; and
   - codes of ethics and other codes of practice.

9. Governments should take back control of failed privatisations and, the PSA suggests, those which have not met expectations, rather than give contracts to new private providers.

10. All privatised services that receive government funding to provide a public service should be subject to an independent annual reporting process to ensure services and infrastructure that use public money are open, transparent and delivered to the highest quality. Such reports must contain:
    - a log of all complaints.
    - a comprehensive and detailed, up-to-date cost of services, detailing government funds received and where the money has been spent.
    - measurable key performance indicators (KPIs).
    - feedback from service users on quality.
    - changes to workloads and employment conditions over the short and long term.
    - evidence that minimum staffing numbers and standards, including conditions for staff, are met and that accredited qualifications are recognised.

11. Australian governments should rebuild public assets and public sector capability in new areas. These could include:

- clean energy;
- new energy generation, storage and distribution solutions;
- a publicly owned and run transactions bank;
- government-based shared equity funding for low-income earners, in areas such as affordable housing and solar power;
- digital government; and
- infrastructure and assets.

12. Governments must legislate to ensure funding for services is not linked to the ability of the provider to comment on government policy or dependent on its capacity to grow the organisation.

13. There is an urgent need to restore confidence in the provision of specific failed privatisations:

- Aged care – governments must immediately act to ensure the retention of existing, or the creation or recreation of government facilities, including mandated staff to patient ratios.
- TAFE – there is a strong case for re-building the public sector role by resourcing TAFE and removing public funding from private vocational colleges. This should involve stronger regulation of private providers and re-investment in public institutions.
- Disability services – governments must immediately act to ensure the retention of existing, or the creation or recreation of government facilities and staffing for those with complex needs.

14. Governments should not sign trade agreements that constrain their ability to reverse privatisation.

Recommendations to the Select Committee on the Privatisation of Public Services in SA from the submission 'Global, State and City Dimensions of Privatisation' by Dexter Whitfield

Recommendations: South Australia should take the initiative to:

1. Develop a wider understanding of the scope, global interests and impacts on services, jobs and equalities and social cohesion arising from privatisation.

2. Undertake an economic analysis of related functions and supply chain providers for each public service to determine their interdependency and the employment supported in both public and private sectors.

3. Establish a more comprehensive impact assessment process that takes account of short, medium and long-term risks and impacts including economic, social, local economy, financial, equality, quality of jobs, sustainability, decarbonisation and the effect on nature and biodiversity. Community organisation and trade union representatives should be fully engaged in the impact assessment process to draw on their experience.

4. Ensure future public policy decisions are based on published comprehensive and rigorous economic/social cost benefit analysis to identify the short, medium and long-term public costs, risks and the quality of jobs.

5. Confirm that public sector quality, effectiveness, equality and efficiency of services and functions are interdependent on delivery values of inputs, working methods, outputs and outcomes which in turn are interdependent on the quality of employment, regulations and standards, public policy for provision and financial resources. Ultimately, all these criteria contribute to:
   - Democratic governance, accountability, participation and scrutiny.
   - Public ownership and provision.
   - Adaption to climate changes and protection of nature and biodiversity.
   - Economic policies and sustainable development.
   - Welfare state provision and early intervention.

6. Revise the options appraisal process to ensure that if a privatisation is deemed by the government to be necessary, the process must include an in-house bid that is a forward-looking based on service improvement and innovation. The evaluation criteria must be comprehensive. Business as usual or status quo options must be withdrawn and revised in order to ensure a comparable options appraisal.

8. Decommodify services by reversing the marketisation process by re-integrating client and contractor functions and abolishing commissioning arrangements.

9. Carry out a Scrutiny Review of the performance of existing contracts including an assessment of the impact and consequences for service users and public employees delivering related services.

10. Intensify monitoring of existing contracts and, if necessary, amend the financial reductions (through a contract change order) when performance that does not meet the required standards and/or the required facilities are not available for public use. If necessary, re-train and revise staffing of the monitoring function.

11. Strengthen service planning through Public Service Improvement and Innovation Plans that set out how services can be improved, adopt new working methods and adopt digitalisation and automation where they can be applied to particular services.

12. Reduce inequalities by requiring publication of an Equality Impact Assessment (EIA) at the planning and final proposal stages of new or significant changes in public policies that identify the full impact on employees and current and potential service users.

13. The State should focus on a capability and capacity building programme to increase its skills to undertake impact assessments, economic/social cost benefit analysis, options appraisals and evaluate innovation and improvement proposals. These skills will also be in demand for digitalisation and automation proposals in public services. It is vital to reinforce community needs, effective public services and the State's policies in an era of increasing commercial interests and corporatisation.

14. The State should avoid the public sector trend in several other countries of establishing arms-length companies to deliver public services. Many such companies have returned to in-house provision, others have had financial problems and some went bankrupt. Although they were publicly owned, some cut public sector terms and conditions.

15. Embark on a programme to enhance democratic accountability of public services which should include service user and public employee participation, improving the monitoring of public services and frequent scrutiny performance review.

16. Public participation will only be effective if public authorities disclose relevant information more fully and quickly. This includes publication of impact assessment and economic/social cost benefit analyses.

17. Maximise economic development strategies in retrofitting housing, public buildings and business premises; environmental works to conserve water supply; works to protect against rising sea levels and opportunities to support new enterprises in the just transition and decarbonisation process (Hordacre et al, 2017 and Spoehr, 2021).

18. A Code of Practice for Quality Employment should be adopted to include training and education, skills development, terms and conditions, pensions, health and safety, workplace participation, trade union organising and recognition rights for those having to seek alternative employment and the emergence of new employers (Whitfield, 2020c, p38)

19. Public ownership and provision of renewable energy is increasingly important given the growth of the global secondary market in renewable energy projects (18 transactions in Australia, 3,968 MW). Private equity funds were involved in a third of the 628 transactions between 1 January 2019 and 31 August 2020, often through offshore tax havens (Whitfield, 2020d).

20. Adopt a strategy for innovation and improvement of in-house provision, working with services users and public employees to ensure public goods and services are financed, organised and delivered on a more sustainable basis.

21. Establish a public management practice that focuses on innovation and improvement in service planning and engaging service user/community organisation representatives with public employee and trade union representatives.

22. Integrate public services and functions to maximise co ordination and planning, for example public health, primary, medical and social care.

23. The return of service in-house and re-municipalisation must be accompanied by eliminating the processes and values that facilitate the privatisation of assets and services. This must be accompanied by a new approach to public management which focuses on in-house improvement and innovation and increasing democratic accountability with service user and public employee participation in the planning, design and delivery of services.

Public Service Association of SA