

Submission on Policy on Financial Awards to Service Providers

Endorsements received as at midday 19 August 2011:

Centre for Early Childhood Development
Childline South Africa
Community Law Centre, University of the Western Cape
Homestead Projects for Street Children
Kids Haven
Molo Songololo
National Early Childhood Development Alliance
Resources Aimed at Protecting Children from Abuse and Neglect
Southern African Catholic Bishops' Conference, Parliamentary Liaison Office
Umtata Child Abuse Resource Centre
Sandra Morreira, Chairperson, Western Cape Street Children's Forum
Ons Plek

Introduction

As children's sector non-profit organisations (NPOs), we welcome the fact that the national Department of Social Development has at last released its "final draft" of the Policy on Financial Awards to Service Providers. The new policy is much-needed and has been a long time in coming, as implied on page 4 of the document. However, we have a number of concerns about the policy. Overall, we feel that while many of the problems with the current situation are well identified – for example on page 12 of the document – the new policy will not solve most of these problems. More generally, we feel that the document does not adequately recognise that the funds provided to NPOs are an essential element of government delivering on its own mandate and obligations.

Our submission explains some of the general concerns. It does not raise a range of concerns that we have about specific provisions because correcting these would be of little benefit if the more general concerns were not addressed.

Non-consultative process

Our first concern relates to the process of drawing up the document. The document is dated March 2011, but only became publicly available in June 2011 and is only now – in August 2011 – being discussed in Parliament. At a conference on funding of Children's Act-related services hosted by the National Treasury in May 2011, senior officials of the national Department of Social Development reported that the document would soon be available for

consultation purposes. Later in the workshop they acknowledged that the process would not, in fact, involve consultation, but rather a briefing about an already final document.

The officials said that they had taken into account the submissions by the National Welfare Forum when drawing up the document. However, the final draft does not reflect the substance of those submissions. Further, consideration of written inputs does not constitute consultation. We understand that it is standard government policy to have a proper consultation process around key policy documents, involving at the least publication of the draft for comment in the Government Gazette and parliamentary debate prior to finalisation. Lack of proper consultation is particularly inappropriate when the policy concerned focuses on what it refers to as “partnerships” between government and service delivery NPOs. As the document itself says on page 25: “Partnership allows for levels of consultation and negotiations...”

The lack of consultation and serious consideration of NPO needs and situation carries forward into the document, in that it foresees NPOs’ responding to a call for proposals rather than NPOs’ submitting their plans as part of the government budgeting process. Yet it is only the second route that would enable the provincial departments to plan in a way that takes into account all available human and organisational resources that will allow it to deliver on its mandate and meet the needs of those in need of services.

Name of the policy

We recommend that the name of the policy be changed to “Funding of Social Service Providers” rather than “Financial Awards for Service Providers”. The word “awards” implies that the funding is a gift from government, whereas in fact the funding should be viewed as payment for services rendered. For example, NPOs running children’s homes or homes for the elderly are providing these services on government’s behalf in terms of government’s statutory mandate under the Children’s Act and Older Person’s Act. The NPOs should be properly contracted to provide these services and paid full cost for delivering quality services. The transfer of funding from government to such service providers cannot be seen as a gift from government. Instead it needs to be viewed in the same way as government’s contracting and funding of private companies running prisons, building roads or houses.

Numbers to be funded

The background sections of the policy (see, for example, page 11) provide estimates of the number of NPOs in the country. A naïve reading of the document will leave the reader with the impression that the Department faces an impossible task if it is expected to fund such a large number. However, a more careful reading corrects this impression. The numbers are high, they much lower than some of the large numbers presented in the document.

The document states that there are more than 100 000 organisations in the country, of which 72 000 are registered. Within that number, 23 500 work in the area of social services broadly defined. Among the 23 500 there will be many that are not delivering the types of services listed elsewhere in the document as meriting funding by DSD. Further, among those that could merit funding, a substantial number are small early childhood development centres, each of which receives relatively little funding.

Nevertheless, even this more sober reading of the numbers leaves a large number of NPOs that might apply for funding for service delivery. We acknowledge that government is unlikely to have the means to fund all of them in the short term. We therefore argue for prioritisation on two lines, both of which are in line with the statement on page 32 in the chapter on Financing: “The Department is responsible for its constitutional and statutory obligations for the provision of social services, to ensure that the best possible services are delivered.”

The first line of prioritisation is government’s constitutional and legislated obligations. These include, in particular, the right of every child to “social services” and “protection from abuse and neglect” in Section 28(1) of the Bill of Rights and the fact that the Children’s Act 38 of 2005 specifies that the provincial MECs “must provide” for a range of services, namely child protection services, prevention and early intervention programmes, and child and youth care centres. The use of the term “must provide”, rather than the “may provide” used for some other services, states that the government is obliged either to provide these services itself, or to ensure that others (i.e. NPOs) provide the services. Government can only ensure this if it fully funds NPOs to provide these services.

The second suggested line of prioritisation is the stronger imperative of the Constitution in respect of children compared to other members of the population. This “First Call for Children” should dictate that where funds are insufficient, funding of services aimed at supporting families to care for their children (e.g. parenting education) and at children directly (e.g. early childhood development) should take priority. Child and family services that Parliament has emphasised as important by identifying them and providing for regulation of them in legislation should also be prioritised (e.g. drop-in centres for vulnerable children). Then from that point forward one would expect progressive realisation that each year expands the pot of money available for funding of NPOs delivering legislated services rather than expecting (as stated on page 30) that a “transformed” organisation is one that has become less dependent on government funding.

In addition to the question of what services should be prioritised, there is the amount of the funds provided. The document accepts unquestioningly the idea that NPO funding should occur through subsidisation, which it defines as “financial aid furnished by the government as supplementary income to the NPOs in order to purchase their services”. This definition is contradictory in that “supplementary” and partial funds cannot constitute a “sale” – or certainly not a fair sale. We argue that, at least for the “must provide” services, government should be covering the full cost, just as it does when procuring roads and buildings.

A further consideration on this issue concerns the amount of funding available. The policy suggests – and the argument is regularly advanced by provincial Departments of Social Development – that there simply is not enough money to afford full, or even increased, funding of NPOs. Yet examination of the provincial estimates of expenditure tabled in the provincial legislatures over the last months reveals that several provinces seriously under-spent their allocations for the child care and support sub-programme that is the main source of funding for the Children’s Act and NPOs that deliver related services. In North West the revised estimate for 2010/11 was only 82% of the original allocation. In Free State and KwaZulu-Natal it was only 94% of the original allocation. The question then arises as to why these amounts, which government itself was unable to spend, should not have been transferred to NPOs to enable them to deliver better services to more beneficiaries.

A positive aspect of the policy is the provision that in some cases multi-year contracts with NPOs can be entered into.

Transformation and equity

The document refers repeatedly to the need for “equitable redistribution to the historically disadvantaged” and “transformation”. We share the Department’s concern about the ongoing bias in services towards the more urban and historically better-resourced areas. As but one example, a 2009 audit of all registered child and youth care centres found that just over two-thirds of the children resident in these centres were African, below the 83% share of African children in the population as a whole.

However, we feel that the document conflates two different things – equitable redistribution towards the vulnerable groups, and redistribution to what are referred to as new emerging organisations. (See page 8, paragraphs 3 and 4, for a clear example of this conflation.) The two are not the same. The first issue concerns delivery to those who are most in need. This, we would argue, is the issue about which we should be most concerned. It is an area in which some progress has already been made. Indeed, the document acknowledges that “[s]ome NPOs have also made major transformation shifts in line with the current realities of the country”. As a result of such transformation, the fact that an organisation’s head office is situated in an urban area does not mean that its service delivery is restricted to the urban area, as the reports of many NPOs will attest. However, there is still a long way to go.

The second issue is somewhat similar to black economic empowerment, in arguing that contracts and funds should go to organisations that are – although this is not explicitly said – managed by the previously disenfranchised. The reason we say it is “similar” rather than the same is that being part of an NPO – even one that receives some government funding – is not a route to economic empowerment because of the inadequate sums of money provided. Nevertheless, we recognise that NPOs can create both management and other employment opportunities, even if these are lowly paid. Our concern is that in conflating the two aspects, the document seems to refer implicitly mostly to the latter, whereas the former – delivery to the most vulnerable – needs to receive the most emphasis in a policy concerned with government’s achieving its goals in respect of social welfare services.

The document acknowledges that the emerging NPOs are weak in a range of respects, including those needed to register (and thus receive funding) and to provide services of a quality that would meet the Department’s norms and standards. We assume that the Department is not proposing that requirements and standards be lowered to allow these organisations to receive funding as that would have negative implications for the target beneficiaries, who must surely be our main concern. The only concrete solution that the document proposes to address these weaknesses is placing the onus on more established NPOs that receive funding to mentor and support the emerging NPOs. This approach has been used successfully by the Western Cape government in respect of unregistered early childhood development centres. It is a good approach, but only on condition that the more established NPOs are fully paid for this support work. Further, given that government itself also delivers services, would the onus not be primarily on government to ensure that its own services fill in service gaps for the most disadvantaged communities? The document itself states that one of the identified values is: “We will ensure equity in the services provided by our department.” However, this is not taken further.

What is also not discussed in the document is the consequences in terms of equity of a situation where services delivered by government are funded at a much higher rate than services delivered by NPOs. The example of child and youth care centres, where government-owned provision costs more than twice as much per child as the subsidy provided to NPO-run centres, is highlighted in the Free State High Court application referred to below (National Association of Welfare Organisations and Non-Governmental Organisations and Others vs the Member of the Executive Council for Social Development, Free State and Others. Case no: 1719/2010.) The NPOs in this court case highlighted that the differential in funding would likely result in unfair (inequitable) differences in the quality of services delivered to different beneficiaries. It also results in very different salary levels for those who deliver services in government and those who deliver the very same services in NPOs.

National uniformity

The document states that it (presumably both national and provinces) must “move towards developing a uniform funding model”. On page 41 it states that one of the roles and responsibilities of the national Department is to “develop a uniform framework for the financing of social services programmes.” An information sheet on the new policy issued by the national Department states: “No province to develop or continue with development or implementation of province specific financing policies.” However, we are currently far from that situation.

In the absence of a uniform national policy, provinces have developed their own policies and practices. This is contrary to what is stated in the document, which does not list policy development among the roles and responsibilities of provincial departments. Meanwhile, the shortcomings in the Free State approach resulted in a grouping of NPOs making an application to court in mid-2010 after several years of serious frustration about the way in which the Department dealt with subsidies to NPOs for delivering welfare services to vulnerable people on behalf of the Department. The frustration arose, among others, from delays in payment and failure of the Department to consult with and inform them as to how much it would pay them for the services they delivered, and the small size of the transfers. These frustrations are shared by NPOs in all other provinces.

The first judgment, delivered in August 2010, ruled against the Department. The subsequent revised policy submitted by the Department was also rejected by the court. The Department now plans to appeal against the judgment – an action that will result in further large sums of money being expended on litigation rather than in delivering services. A national policy that includes provisions that allow NPOs to deliver quality services on behalf of government is urgently needed to avoid such court challenges and associated waste of resources. We fully support the development of a national policy that can ensure uniformity for both service providers and beneficiaries. However, we feel that the current policy is not yet adequate for the purpose.

Incompleteness of the policy

The National Welfare Forum website (www.forum.org.za) reports that the new policy was approved by MINMEC on 31 March 2011 for implementation effective from April 2011. It is, however, unclear how this document can be implemented as it consists primarily of broad principles and has as yet not been made available for public comment.

On page 14 the policy states that one of the key purposes is to provide “guidance”. However, guidance in the form of general principles cannot be “implemented”. The document also refers to at least one other document that would be necessary before implementation could occur, namely the NPO funding guidelines. Further, it refers to a range of documents – such as determination of the unit costs of services and service packages – that have not to our knowledge yet not been developed.

Unfinished unedited document

Finally, we are concerned about the unfinished nature of the document, which is entitled “Final draft”. The long glossary at the end of the document illustrates the problem, but the problems are not confined to this section. In the glossary, there is a note next to the entry for Gross Domestic Product asking whether this term is used in the document. There seem to be several other terms (for example, “founding documents”, “institutional development” and “head of department”) that are not found elsewhere in the document. The glossary also uses the term “welfare organisation” and talks about “welfare services”, which suggests that the glossary may have been cut and paste from an earlier, perhaps apartheid-era document.

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