Child and Family Focus SA Submission:

Response to the Portable Long Service Leave for the Community Services Sector Discussion Paper

9 February 2024

Acknowledgement of Country

We acknowledge the traditional lands of the Kaurna people and acknowledge the Kaurna people as the custodians of the Adelaide region and the Greater Adelaide Plains. We pay our respects to Kaurna Elders past, present and emerging.

We acknowledge the traditional custodians of land beyond Adelaide and the Adelaide Plains, and pay our respects to all Aboriginal Elders past, present and emerging.

We acknowledge and pay our respects to the cultural authority of our Aboriginal and Torres Strait Islander colleagues and are grateful for the cultural expertise that they represent.

The role of Child and Family Focus – SA

CAFFSA is the South Australian peak body and industry association for child safety and child protection, representing the needs of South Australian children, young people, families, and the non-government, not-for-profit organizations who support them.

Background to this submission

CAFFSA is lodging this submission to provide comment on the Government of South Australia – Safe Work SA's *Portable Long Service Leave for the Community Services Sector Discussion Paper.*

CAFFSA also notes that we made a submission in relation to the Discussion Paper: A Common Goal – The South Australian Not for Profit Funding Policy Review on 14 December 2023. Many of the comments made in this submission are germane to those made regarding the policy review. That submission is appended at Attachment A for reference.

Strong overall support for the current intent of the proposed scheme

CAFFSA congratulates the SA Government for its intention to implement such an important scheme. We strongly support the intent of the scheme and the recognition in the Discussion Paper that:

- Many workers in the sector do not get access to long service leave because they experience short periods of service with different employers.
- The community services sector employs a high proportion of women (around 83% of employees), involves work that is emotionally and physically challenging, and which is subject to high staff turnover and short-term employment arrangements.
- Establishing a portable long service leave scheme will provide community services workers access to an entitlement that recognises their hard work in caring for our community and allow them to take a meaningful break from work, and

- This will also help employers by creating an incentive for workers to keep their skills within the sector, reducing staff turnover, improving employee satisfaction, and minimising costs associated with training replacement staff and funding staff shortages over time.[1]

CAFFSA notes that employment in our sector is expected to grow by 15.8 per cent over the next five years, yet labour shortages in the care workforce are already acute and expected to worsen.[2]

Among the findings of a national study undertaken in 2022 of the Australian child protection workforce , the following are particularly relevant to the subject of this submission:

Workforce turnover and retention has been a longstanding issue in child protection, particularly the statutory context. High proportions of staff working in the tertiary/statutory context leave these positions within the first few years. Many staff transition to find employment in related non-statutory child protection jobs in the secondary and primary tier services.

There is a high level of casualisation in some of the categories that make up the child welfare workforce, especially where staff engage in shift work.

The workforce across all three tiers is overrepresented by female workers.[3]

Consistent findings from recent South Australian consultations

CAFFSA Research

In 2023, CAFFSA completed a sector mapping exercise funded by the then Department of Industry and Skills. In a workforce survey of out-of-home care staff that received 73 responses, 23% of respondents were employed on a twelve-month contract.

CAFFSA Forum - May 2022

A priority-setting forum held be CAFFSA in May 20224 where sixty-eight participants attended from 28 of CAFFSA's member organisations focussed on how critical the workforce issue is understanding how to support, develop and retain the current good staff and carers we have, as well as attracting new staff and carers to the sector. It was noted that this is especially hard in the face of media coverage of tragedies and a national workforce shortage.

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[1] Portable-Long-Service-Leave-for-the-Community-Services-Sector-Discussion-Paper.pdf (safework.sa.gov.au) page 5

[2] The Treasury (2022) *Jobs + Skills Summit – Issues Paper.* Australian Government, Canberra.

[3] Russ, E., Morley, L., Driver, M., Lonne, B., Harries, M., & Higgins, D. (2022). *Trends and needs in the Australian child welfare workforce: An exploratory study.* Canberra: ACU Institute of Child Protection Studies. https://doi.org/10.24268/acu.8x396

[4] CAFFSA. (May, 2022). *Improving Family Wellbeing and Child Protection: What are our priorities for the next four years in SA*. https://childandfamily-sa.org.au/wp-content/uploads/2022/10/CAFFSA-May-Forum-Report.pdf

> Adequate support, professional development, training and remuneration for workers, carers and organisations working in this space. Particularly for workers who are expected to work outside of 9 to 5 in order to be effective in regards to relationship building with clients and families.
>
> CAFFSA 2022 Priority Setting Forum Participant.

Clearly, international, national and local trends provide strong support for the introduction of a scheme that will significantly contribute to recruitment and retention in a vital field that is predicted to experience deeply concerning staff shortages and indeed, already is.

Issues about the proposal that require resolution.

Despite CAFFSA's strong support for the proposed scheme, we note funding for the scheme via employer contribution must be incorporated into all NFP funding programs, and the cost of those contributions that may fall due mid-contract during initial implementation must also be provided for by the government.

As noted earlier, the SA Government is in the process of reviewing the NFPP Funding Policy and it received overwhelming feedback during consultation that the sector is already significantly underfunded for the work they undertake on behalf of government.

CAFFSA staff and member agencies engaged in each of the consultation opportunities offered by the Department of Treasury and Finance and found that a number of themes arising from the workshops were particularly resonant with consultation from member agencies. These were:

- Indexation rates do not match inflation or other rising costs faced by the not-for-profit sector.
- The not-for-profit sector's economic contribution to South Australia and more widely is poorly understood and undervalued.
- The not-for-profit sector is underfunded for overheads and administrative costs.
- The requirements for insurances in order to supply to government do not match risk and are not accounted for in the costs of tenders or subsequent funding.
- Indexation is not evenly applied across the not-for-profit sector.
- Not-for-profits are often asked to operate in pre-defined funding brackets to deliver services, while for-profit organisations are more able to quote a cost for delivery.

CAFFSA also highlighted the threats to financial sustainability such as the inability to consider major cost-drivers that are outside of agencies' control mid-contract, such as recent Award changes, and the need for fairer application of indexation.

Whilst these themes were consistent across a range of NFP sectors in SA, CAFFSA's member agencies identified a number of unique challenges for the family support, child protection and reunification sector, including 24/7 rostering, property damage and maintenance costs and insurance issues for the sector.

The urgency of these concerns are explored in a more detailed manner in attachment A. CAFFSA argues that, unless the proposed levy is automatically incorporated into all affected funding programs, with an accompanying assistance package that would allow agencies to prepare for administration of the new scheme, a worthy and highly desirable scheme will be undermined by the financial burden for the NFP sector.

In closing, CAFFSA again congratulates the South Australian Government on the proposed introduction of such a commendable scheme. With a commitment to ensure the Government assumes it's responsibility to fund the entitlements that apply to workers employed through its own funding schemes, the government will have made a lasting and significant contribution to fairness, equity and sustainability of those that provide care and support to some of SA's most vulnerable children, young people and families.

Appendix A overleaf.

Appendix A

Child and Family Focus SA Submission:

A Common Goal – The South Australian Not for Profit Funding Policy Review

14 December 2023

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The role of Child and Family Focus – SA

CAFFSA is the South Australian peak body and industry association for child safety and child protection, representing the needs of South Australian children, young people, families, and the non-government, not-for-profit organizations who support them.

Background to this submission

CAFFSA is lodging this submission to provide comment on A Common Goal – The South Australian Not for Profit Funding Policy Review

Strong overall support for the current intent of the policy

CAFFSA strongly supports the recognition in the policy that:

- Communities are best supported when the government and not for profits work together to plan and do things for them.
- Important services, like care for vulnerable people, cannot be delivered by government alone. Not for profits, who supply staff, knowledge, and other resources, help government to deliver them.

CAFFSA also notes at the outset the strong recognition from its member agencies for the departmental staff they liaise with and work with on a daily basis. The majority of the issues identified during our consultation are systemic ones, and we recognise the hard work and the partnership approach taken by almost of all our departmental colleagues.

Having said this, ministerial and departmental leadership in the area of child protection are committing to make quite radical shifts quickly, including increased collaboration with NGOs, increased transfer of child protection business to NGOs, and increased numbers of children and young people leaving residential care to go home or into kinship care. Without significant changes in the funding and contractual space, NGOs will face increased pressure to facilitate more child protection responses without the commensurate renumeration and requisite flexibility. This could result in increased risk for the sector.

Aims in the current Funding Policy that need renewed focus

Consultations with our member agencies indicated that there are a number of principles or aims in the current policy that are falling short. In PC 044 – South Australian Funding Policy for the Not For Profit Sector, on page 4 in the *Proportionality* section, we note the aims to ensure:

- Balance is maintained between managing the complexity of a funding activity and the risk for the NFP sector, recipients and the South Australian Government, and
- The volume, detail and frequency of reporting requirements are proportional to the risks involved and policy outcomes being sought.

Similarly, we note under the section *Achieving value with relevant money* on p 4-5, the following aims:

- Value is achieved by establishing ongoing, joint monitoring arrangements throughout the life of the funding arrangement.
- Value considers both cost and non-cost factors and promotes proper use and management of public resources, and
- Value demands standardised, efficient and effective funding processes across government that do not impose burdensome requirements on the NFP sector.

Views from the Sector

CAFFSA undertook consultations with its members during October/November and December 2023 to consider the current policy and funding environment in relation to contracts it holds or has held with South Australian government agencies. These are primarily the Department for Child Protection and the Department for Human Services.

Support for a number of themes arising from the consultations

CAFFSA staff and member agencies engaged in each of the consultation opportunities offered by the Department of Treasury and Finance and applauds those involved for a such a well-organised, engaged and inclusive consultation process. A number of themes arising from the workshops were shared with participants prior to the close of the review and, whilst CAFFSA supports all of them, several are particularly resonant with consultation from member agencies. These are:

- Indexation rates do not match inflation or other rising costs faced by the not-for-profit sector.
- The not-for-profit sector's economic contribution to South Australia and more widely is poorly understood and undervalued.
- The not-for-profit sector is underfunded for overheads and administrative costs.

- The requirements for insurances in order to supply to government do not match risk and are not accounted for in the costs of tenders or subsequent funding.
- Indexation is not evenly applied across the not-for-profit sector.
- Not-for-profits are often asked to operate in pre-defined funding brackets to deliver services, while for-profit organisations are more able to quote a cost for delivery.

Specific feedback from agencies

Preamble

CAFFSA's member agencies deal with some of the most vulnerable and complex children, young people and families in South Australia. They are often families that have been subject to multiple notifications to the Department of Child Protection and, in some cases, SA Police. They often suffer from a complex interplay of issues arising from poverty, intergenerational trauma, disability, poor educational and vocational outcomes, racism and isolation.

The fact that these families are deemed 'high-risk' needs to be kept front of mind when considering the aim of the current Funding Policy that 'balance is maintained between managing the complexity of a funding activity and the risk for the NFP sector, recipients and the South Australian Government.

It is the view of CAFFSA that several of the concerns outlined in this submission increase the risk to agencies that serve vulnerable families and, as a result, increase risk to the vulnerable families themselves. As successive governments continue to transfer responsibility for managing families with increasingly high risk, it is imperative that funding structures account for the complexity. Instead, however, there are a growing number of issues eroding the sector's confidence that they can provide effective services to the state's most vulnerable and remain viable.

Key issues

The inability to consider major cost-drivers that are outside of agencies' control mid-contract, such as recent Award changes, and the need for fairer application of indexation.

2023 saw a range of cost drivers that could not have been predicted at the time of contract signing in 2020. The impact of these **for one agency only** are clearly summarised below:

- 4.8% DCP indexation versus 5.75% FairWork ruling, plus 0.5% superannuation increase has led to approximately $250k cost pressure.
- Insurances: Property damage was originally quoted at general Repairs and Maintenance levels and excluded compliance or client behaviour related costs. This has been further impacted by the increased cost of goods since 2020, leading to a $100k cost pressure.
- Rent exceeding indexation rates since 2020, leading to an approximate $150k cost pressure.
- Utilities exceeding budgets by approximately $18K, particularly electricity charges increasing over 30%.
- Food expenses exceeding original budgets by approximately $90K due to a rise in cost of living.

In percentage terms, the

- FairWork increase from 1 July – 5.75%
- Superannuation Guarantee increase from 10.5% to 11.0% from 1 July
- Workcover rate increase from 4.3% to 4.525% from 1 July

meant the employee cost increase is more than 6.46% versus indexation of 4.8%.

Agencies forecast the net annual impact of unfunded wages as a result of recent Award changes ranging from $ 300k to $ 500k. The differential between indexation applied by the funder and the adjustment of wages leaves the services unviable in the longer term if not addressed. Issues that should be included in the new policy are:

- The ability to recontract non-viable contracting arrangements for unforeseeable circumstances.
- The importance of Treasury keeping pace with impacts of changes to Awards
- Clarity around fairer application of indexation.

There is no requirement on government departments to pass on indexation in full to suppliers, and it does not appear that audits are conducted of the levels passed on. CAFFSA recommends both of these issues are addressed.

The need for absolute clarity about what funds can be recouped.

Despite the Treasury instruction that indexation cannot be recouped, CAFFSA has been made aware of numerous instances where its member agencies were asked to include indexation amounts in the end of contract reconciliation.

Growth funding being recouped has also been raised as an issue. The philosophy of a growth payment rests on the notion that agencies need to achieve a number of quarters of growth before they can be confident to reinvest. It was designed for reinvesting back into the program via staffing and facilities etc, as a growth payment, in order to grow foster care. If agencies achieve a growth payment, a business case still needs to be submitted to carry forward any unspent funds, and a financial business partnering element is crucial to being able to do this. Not all agencies have this capacity, and it is also arguable that the business case should not apply to growth funding, given it is a ‘fee-for-service’ model.

CAFFSA recommends that governing rules, guiding principles and/or procedures, including the way growth payments are calculated on an annual basis are co-designed with the sector.

Recognising the unique aspects of the family support, child protection and reunification sector.

Unique needs include:

- 24/7 rostering.
- Property damage and maintenance.
- Insurance issues for the sector.

The Remote Working Allowance is one example of how changes to an Award can have significant financial consequences for agencies mid-contract. The requirement to pay every call answered at an overtime rate yields a cost that was unforeseen when the tender was prepared. Costs are now moving to $4 – 5K per pay cycle across one organization. As most calls are escalated to a more senior person, agencies are then paying two people at overtime rates. As agencies do not know how many calls they will receive, they have to work on average data, with the cost of having one person on call moving from $300 to $1,000. One agency has created new positions that are just on call, with seven-hour shifts.

Ensuring grant management practices help, rather than hinder, agencies' financial and administrative management of services.

Government's ability to recoup funds at the end of each year in a three-year agreement impedes the sensible management of a business. The introduction of new contracting rules prohibiting the recouping annual funds needs to be considered.

There are concerns that, in the residential care contract, government departments are assessing what will be withheld in first year of a new contract, when there are bound to be large surpluses from the implementation phase.

Indexation is generally received late in the financial year, affecting cash flow and often becoming the subject of 'unspent funds' discussion, where agencies have to argue to keep the indexation. In some cases, indexation has not been passed on at all. For example, the P374 contract in residential care was also considered flawed because indexation was not passed on in the first year. With DCP declining to address this, a number of agencies are already running at a (minimum) 2.5% deficit from the contracted budget.

While Government has transferred high risk areas, it has not handed on full indexation for new contracts and at the start of each new year. Agencies need to negotiate with the department having built budgets in March, in the absence of the indexation announcement. This makes for an unworkable, unsustainable model unless indexation is automatically applied at the published amount. It leaves the sector assuming the risk with neither the right remuneration, nor options to recontract. By way of example, one outcome is the sector finds itself in a position where dual shifts are unsustainable, breaching the clear recommendation of the Royal Commission that there should not be one worker on shift.

The recommendations of the Royal Commission, such as the dual shift requirement, were specifically designed to address managing and minimising risk to the child or young person, but contract arrangements have never been structured to support this recommendation financially. It is recommended that the Funding Policy include the explicit need for a review of grant funding following formal government acceptance of recommendations from reviews or reports that have cost implications for its service provider partners.

Longer contracts.

There are commitments in the current policy regarding public authorities offering longer term contracts, such as three years by three years by three years, or five years by five years by five years. However, numerous agencies still have some annual contracts.

Longer contracts for individual residential care arrangements and packages for individual children can have substantive issues within the contract that cannot be effectively addressed. Typical issues include adjusted Award environments, modifications in the standards of care and expectations of care, or the experience and needs of the young person having changed. Despite this, renegotiating the contracts is almost impossible with the department because of the cost implications.

The sector calls for a clause that enables a renegotiation of the budget when the agency can demonstrate a significant change to cost drivers without having to re-prosecute the whole contract.

Annual business cases within three-year contracts are burdensome and unnecessary.

When still in the term of the contract, quarterly acquittals ensure that all the financial and performance information is visible. The requirement that foster care and family support services put in annual business cases at the end of the financial year within the term of the contract to carry over funds in the services is unnecessary.

CAFFSA has been advised of one instance where the business case was declined and the agency sought another meeting, demonstrating a portion of the funds was indexation. The agency quoted the Treasury instruction that indexation cannot be recouped, and they won that portion of the argument. Substantially fewer funds had to be paid back to the department, but this was achieved only through three rounds of debate. The agency demonstrated, through financial analysis, what constituted the indexation funds within the grant and how they would utilize the funds. Despite their success, the process involved substantial work with finance business partners and service directors, as well as executive time with the three negotiations, all occurring mid-contract. Smaller NGOs simply do not have the capacity to commit this time and effort in order to keep the funding.

While the sector appreciates the need to pay back funds at end of a contract, paying it back on a quarterly or annual basis makes it difficult to run a business. It is noted that standard lease agreements have clauses that allow for issues such as indexation and insurance increases to be considered but Not for Profit contracts do not. It is also understood that Government's contracts with commercial businesses have more generous levels of indexation. For example, SAHA's contract with Spotless (close to a billion-dollar contract for housing maintenance) received an 8% indexation uplift. It is further understood that contracts with building, commercial and IT providers all have very competitive indexation, but the community services and Not for Profit sector has been left behind.

It is important to remember that the Treasury website had indexation set at 2.5% until 2025 for the Not for Profit sector. While this was uplifted last year following sustained sector advocacy, for the prior three years the sector was required to survive with only the 2.5% indexation.

Getting the balance right on salary components of grants.

The sector can no longer afford to have contracts with a salary component of around 84% - a viable contact must have salaries around 70% of total funding. The component was historically 84 – 85%, however, the financial impact of compliance and indexation not keeping pace has meant staffing needs to be at 70%.

CAFFSA recommends that a guideline be co-designed by government with agency CEOs and CFOs. These partnerships are crucial to discussions anchored in business operations. The guideline needs to consider building a healthy sector that can respond to need with a balance of creativity and compliance. Setting a threshold of the percentage of wages from funding at 70% is a clear benchmark. The guidelines should further draw on what a viable funding arrangement for sustainability would look like. It is important to recognise that if sustainable arrangements cannot be created, young people will be left without a home and workers will be out of a job.

Eliminating a one-sided approach to the termination of contracts.

Although government can choose to end a contract based on performance at any time, the front-end of a standard agreement holds the NGO accountable to the end date. This makes it difficult for an Not for Profit agency to end a contract when it is no longer viable, for the range of reasons listed in this submission.

Corporate costs must be fully considered.

It is understood that the allocation of a corporate cost structure varies widely across agencies, from 7% to 18%. Corporate costs are not currently incorporated at the true rate in the family support/child protection sector and need to be reviewed in line with the risk the sector is carrying. Costs include, but are not limited to:

- accountancy
- client record management systems
- IT security
- data collection and increasing levels of compliance reporting
- mandatory training
- anticipated environmental reporting
- restrictive practice methodology for young people in receipt of NDIS packages
- the likely extension of this into child protection.

CAFFSA recommends that Government undertake a co-design exercise with the sector, using financial analytics to develop a viable corporate fee.

Research and evaluation must be valued and funded.

CAFFSA recommends that the need for NGOs to invest in their own research and evaluation be recognised. This avoids reliance on government data and the one data story that prevails from government. Fit for purpose research and evaluation should be funded but it is rare to see a tender that funds evaluation. The value of research and evaluation building an evidence-base for ongoing improvement should be recognised in the Funding Policy.

Some of the larger agencies fund their own evaluation, but with the rising CPI impacting on the cost across services, it is increasingly difficult to achieve.

Aboriginal-specific funding should be directed to ACCO's and ACCHO's.

In 2021, SNAICC, the national non-government peak body for Aboriginal and Torres Strait Islander children, conducted a series of national consultations to guide the co-design of the successor framework to the National Framework for Protecting Australia's Children. A key recommendation was to increase self-determination for Aboriginal and Torres Strait Islander people, including a transfer of control and power from non-Indigenous organisations and governments to Aboriginal and Torres Strait Islander peoples, communities and organisations. This includes increased funding for ACCOs and increased Aboriginal and Torres Strait Islander self-determination and leadership across all facets of child protection (including in government departments, and workforce development). This will both improve support and legitimacy of Aboriginal and Torres Strait Islander workers and improve cultural capabilities within the government and NGO non-Indigenous workforce.

CAFFSA endorses the recommendation and proposes that the Funding Policy should be clear that Aboriginal-specific funding be directed to ACCO's and ACCHO's. CAFFSA notes the leadership that the South Australian Department of Human Services has shown in this regard.

CAAFFSA further recommends that there should be Aboriginal people with local cultural knowledge on selection panels for all programs that have a significant element of service provision for Aboriginal communities – not only identified programs.

Consideration of the specific needs of the regions.

CAFFSA recommends that the Funding Policy acknowledge specific issues faced by regional and country providers, with a particular recognition of the need for a place-based approach. Working in partnership is the only solution when small grants are funded in areas with such a constricted pool of potential applicants. Given these conditions, CAFFSA recognises that regional business can and does only work by collaboration. However, government procurement processes drive competition and agencies are occasionally required to sign anti-collusion statements. CAFFSA recommends that government work with regional providers to co-design principles that will adequately account for the needs of the regions.

Cultural issues between the sector and the government funder.

During this consultation, some agencies identified concerns about their struggle to comply with the provision of the contract being positioned as a moral and ethical one when negotiating with the department. When an agency struggles to deliver on the contract because it is not funded adequately, there may be an insinuation that the agency is not meeting their ethical obligation to provide quality care for children. The tone of these discussions can stray into a moral context that serves to silence agencies in the sector. This must be addressed if we are to be able to truly work as partners and safeguard children adequately.

Despite the numerous above-mentioned challenges, the drive and commitment to work together is strong in both the government and the Not for Profit sector. This is acknowledged by the many recommendations in this submission that propose co-designing the solution. Together, we can.

SUBMISSION ENDS