



**Submission by  
Youth Affairs Network of Queensland  
to the  
Department of Communities  
on the  
Draft Community Services Bill 2006**

**May 2006**

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Dear Sir/Madam,

I am writing on behalf of Youth Affairs Network of Queensland (YANQ) in response to the Draft Community Services Bill 2006. YANQ welcomes the opportunity to provide feedback on this important document to the Department of Communities.

As you are probably aware, YANQ is the peak community youth affairs organisation in Queensland. Representing approximately 350 individuals and organisations from Queensland's youth sector, we promote the interests and well being of young people across the state by:

- Disseminating information to members, the youth sector, and the broader community
- Undertaking campaigns and lobbying
- Making representations to government and other influential bodies
- Resourcing regional and issue based networks
- Consulting and liaising with members and the field
- Linking with key state and national bodies
- Initiating projects
- Hosting forums and conferences
- Inputting into policy development
- Enhancing the professional development of the youth sector

Overall YANQ commends Communities Department for updating the Family Services Act and hope that the proposed Community Services Act will enhance the partnership arrangements between Queensland Government and the community sector, strengthen community services and help build sustainable communities across Queensland.

However, YANQ found the two week consultation period very difficult as it allowed no room for proper research, consultation and representation of our members view from across the state. Many of our members have expressed their dissatisfaction about this lack of consultation. We hope that in the future advanced notice of dates for consultations could be provided to the community in order to enhance the participation of community members in various reviews.

YANQ looks forward to working with Communities Department to achieve the vision of having strong and sustainable communities.

If you require any further information or clarification, please do not hesitate to contact me on 3844 7713.

Yours truly,

Youth Affairs Network of Queensland  
Siyavash Doostkhah

## Section 1

### *Object and principles*

1. **Will the guiding principles help achieve the object of the legislation: ‘to help build sustainable communities by facilitating access by Queenslanders to community services’?**

The guiding principles have the potential to achieve the object of the legislation however this will rely on a change of culture and practices within the Department. It remains to be seen if the guiding principles could be operationalised and act as a concrete guide for the operations of the Department.

YANQ recommends the development of regulations which could facilitate this cultural change.

2. **Are the proposed object and guiding principles clear and readable?**

YANQ recommends that the legislation clearly stated that the Bill is only in relation to the Communities Department and not all community services supported by various Queensland Government Departments.

YANQ prefers the wording on page 9 of the Information Paper for Consultation which states that “the main object of this act is to strengthen community services and help build sustainable communities for Queensland.”. The focus here is on strengthening the community services resulting in enhanced access to services in building sustainable communities.

3. **Do you have any other comments on the object and principles of the proposed legislation?**

YANQ recommends the clarification of the terms Industry in Part 1 Division 2 Section 6 (c).

YANQ also recommends the addition of the following text immediately after Part 1 Division 2 Section 6 (d):

“the provision of community services by community based Non-Government organizations also delivers significant benefits for Government by providing an ongoing mechanism for real engagement, participation and decision making by community members”.

YANQ believes that Part 1 Division 2 Section 6 (h) must state Rights as well as Needs.

YANQ recommends that Part 1 Division 3 section 9 (2) is amended to remove local Government as a Non-Government service provider.

YANQ also endorses the following statement by Queensland Council of Social Services (QCOSS):

*“6(e) Add words to the effect that: “...This will be reflected in a compact or similar device which spells out how this collaboration is operationalised.”*

*6(f)Add: (iii) Recognizes the autonomy of the funded community service organisations to undertake activities that are allowed under the organisation's constitution and are not subject to any funding agreement with the Department.*

*6(f) Add:(iv) Gives financial and other assistance to non-government service providers providing community services that covers the full costs and the risks incurred by the provider in meeting the obligations contained in the funding agreements, in meeting the legal obligations contained in this Act and any accompanying regulations and Standards, and in fulfilling the obligations proposed in the principles under 6(g).*

*(For example in relation to 6(g)(ii)"appropriate regard to local and regional differences, cultural diversity and Aboriginal tradition and Island custom", this would imply sufficient funding to ensure fair and equitable access to language services, resources for on-going staff training in providing culturally competent services, and the general ability of services to fulfil multi-cultural policy principles agreed to to in the Department's Action Plan).”*

YANQ also endorses the following statement by the Queensland Youth Housing Coalition (QYHC):

*“Part 1 Division 2 Section 6 (g)*

*Amend this section to make a broader social justice statement that incorporates a rights framework and is not limited.”*

### ***Deciding which organisations are eligible for assistance***

#### **4. Will the proposed process for becoming an approved non-government service provider contribute to increased clarity and transparency about determining eligibility for assistance?**

It seems that this section is more geared towards larger organizations with big infrastructure. Part 2 Division 2 Section 15 (3) could limit and potentially disadvantage small organizations. Provision of clear Regulation could remedy this issue.

#### **5. Is this process clear?**

In Part 2 Division 1 Section 12 the word ‘Corporation’ needs to be defined. YANQ supports the following statement by QCOSS:

*“Clarity is clouded by the use of “corporations”. While this phrase may have a legal meaning, in the interests of “plain English” legislation, a widely recognize descriptor which is in common useage is “incorporated organisation”. This should be used throughout the Bill.”*

Further, it is difficult for YANQ to comment on the process as the process relies on the ‘Approved Forms’ and we have not yet seen the ‘Approved Forms’.

**6. Do you have any other comments about the implementation of this process?**

YANQ endorses the following statement by QCOSS:

*“QCOSS and other commentators have agreed that the process that is being established under this section is an ad hoc way of State Government trying to plug the gaps in State legislation that exist through the unsatisfactory nature of the Associations Incorporations Act. This legislation should cover the major issues which Part 2 seeks to address (eg the matters in 15(3)). There has been a long standing commitment of Government to update and amend this legislation and consultation on this had commenced in early 2005. A year later there has been no progress and it is reported that it will now be delayed until after the next State election.*

*It is recommended that the Minister for Communities conveys his dissatisfaction about this matter to his colleague the Minister for Fair Trading.*

*The inclusion of these sections in various Acts for which different Ministers have responsibility is leading to overlap, duplication and wasted effort between departments and unnecessary and costly red tape for organisations.*

*In relation to 15(3)(a), in the interests of plain English and commonly suggested usage by the majority of community service providers, it is recommended that the current wording be replaced by: “the incorporated organisations strategic and operational plans”*

*In relation to 15(3)(e), the necessity of this clause is questioned. Why would this have any relevance as to whether the organisation would or would not be approved?”*

YANQ also endorses the following statement by QYHC:

*“The term business plan is very corporate language and has associated with it a number of processes that are not necessarily applicable to community based services. This wording needs to be removed and replaced with strategic plan.”*

***Providing assistance to community organisations***

**7. Will the proposed arrangements for providing assistance to community contribute to flexibility, innovation and certainty?**

In relation to Division 4 part 3 Section 23 (a), YANQ believes that further clarification is necessary. If the word ‘recurrent’ has its original meaning of recurring as supposed to time limited funding, this indeed could provide much needed certainty for the community organizations and the community in general.

**8. Are these arrangements clear?**

yes

## 9. Do you have any other comments about the implementation of these arrangements?

YANQ supports the following statement by QCOSS:

*“QCOSS is concerned at the prescriptive nature of what **must** be in service agreements. From our reading of the proposed arrangements a service agreement must be entered into as a condition of the funding. The level of detail contained in s.27(1) would be overly bureaucratic and demanding, for example in relation to a small grant that is less than \$10,000 and would be a serious deterrent for a small not-for-profit organisation that, for example, just wanted to organise a function in relation to Seniors Week.”*

As such, YANQ recommend changing the word **must** with **may** in Division 4 Part 3 Section 27 (1).

### *Setting service standards*

## 10. Will the setting of standards in a Regulation clarify the department’s expectations of community organisations?

YANQ is concern that without the Department meeting its obligation to properly introduce and train the community sector, the compliance could potentially disadvantage community organizations which have not received information and a proper level of training.

## 11. Do you have any other comments about setting the standards in a Regulation?

YANQ supports the following statement by QCOSS:

*“The major concern of QCOSS members is the level of consultation that will occur around the content and their ability to respond in an, as yet, unknown timeframe.*

*The following issues have been raised with us:*

- *When the Minister first spoke in 2005 to forums around the State about the Standards, the overwhelming message was that the process would be one of engaging the sector, ensuring there would be capacity building to respond to the Standards, and the emphasis on the organisations voluntarily moving to accept these. The first concrete message that is now being given, via this legislation is that “Funded non-government service provided must not contravene standards” (s. 29) and that this will have legislative force. Naturally the response is extreme concern.*
- *A matter that it is said the Standards may include (s. 28(2) is “recruiting and selecting staff”. The sector believes this is the responsibility of the Board of an organisation and the implication is that the Department can interfere in these matters. QCOSS’s understanding that the Standards will include “appropriate systems for...”. This needs to be clarified throughout.*
- *There are a number of matters listed under s. 28(2) which have financial implications for organisations, and these matters are not covered in current funding arrangements eg:*
  - *Mention has already been made above of the need for translator services to ensure access by a diversity of users.*
  - *Current funding does not recognize the full costs of inducting, training and developing staff.*

- *Current funding does not take into account the full costs of managing and supporting staff*
- Organisations are concerned about the legislative force implied in this section for matters over which they have little or no control in terms of resources.”*

### ***Dealing with serious concerns about service delivery***

#### **12. Will the proposed processes enable the department to deal with serious concerns about service delivery effectively, in a flexible and timely manner?**

YANQ supports the following statement by QCOSS:

*“There were assurances given by department staff in consultations about the draft Bill and subsequent discussions that these processes will only be used in extreme events, and these are likely to be rare and certainly the exception. However the phrase remains ambiguous and open to interpretation by the readers of the legislation.*

*It is acknowledged that a definition of a “serious concern” may be difficult in legislation but if possible, examples should be spelt out, to allay the fears.*

*The concern is compounded by the fact these parts of the act (Parts 5 to 7) and the subsequent legal proceedings (Part 10) comprise 34 pages of the total 72 pages of the legislation. This conveys the impression that this is the overall purpose of the proposed legislation.*

*It is strongly recommended that greater attention is drawn to ss 30, 40(s), 69(2) and that s. 40(1) is deleted.*

*The QCOSS proposal for a Compact or Collaboration Protocol to be agreed between the sector and the government will be an important mechanism for spelling out in detail how the alternative “cooperative” processes for resolution of any matters will proceed.*

*It is strongly recommended that such a Protocol be developed and agreed prior to the Act coming into force.”*

#### **13. Are the options for dealing with serious concerns clearly stated?**

Yes.

#### **14. Do you have any other comments about implementing these options?**

In Part 6 Division 3 Subdivision 3 Section 57 (3), the authorized officer must be limited to accessing documents and things which are directly related to the service agreement with Communities Department and nothing else on the property.

YANQ is very concerned about the implementation in regards to who will train the community sector on compliance. YANQ is further concerned in relation to the time frame for implementation of the new compliance regime.

In relation to any entry to premises whether with or without a warrant, the department must take into account the community organizations obligations as outlined in Part 4 Section 28 (2).

YANQ also believes that the Interim Manager should be a suitably qualified public servant operating under direct supervision of the Chief Executive Officer.

YANQ also endorses the following statement by QYHC:

*“There is not enough process articulated in terms of when an interim manager is appointed.*

*There needs to be a section included here that is in essence an out-clause for the community based service.*

*There is a general lack of clarity in the responsibilities/delegated powers of the interim manager and the community based service in which the interim manager is based.*

*There is no clarity in terms of liability, line management, confidentiality of organizational files in relation to other funded programs and staff.*

*In (89) and (90) the payment of the interim manager may be beyond the ability of the organization to be able to pay. How does the appointment of the interim manager relate to the fiduciary duties of the Management Committee especially if the administration costs are beyond the means of the organization to pay.”*

### ***Review and appeal processes***

#### **15. Will the proposed processes for reviews and appeals protect the rights of parties to significant decisions?**

Yes. The external Tribunal is a welcomed addition which will hopefully protect the rights of the community sector.

#### **16. Are these processes clear?**

Yes.

#### **17. Do you have any other comments about the implementation of these processes?**

No.

### ***Screening of departmental staff***

#### **18. Are the proposed arrangements for criminal history screening clear?**



Yes.

**19. Do you have any other comments about the authorisation of criminal history screening?**

Inclusion of charges without conviction is against principles of natural justice. Also some of the serious offences require updating to be inline with a contemporary legislation.

YANQ also recommends that Part 9 Division 1 Section 102 be deleted.

*Achieving intended outcomes*

**20. Overall, will the proposed legislation provide greater transparency and certainty about the funding relationship between the department and the community services sector?**

Yes, pending regulations.

**21. Overall, will the proposed legislation help to ensure services meet the needs of Queenslanders and their families and communities?**

Yes, pending regulations.

**22. Do you have any other overall comments on the proposed legislation?**

YANQ endorses the following statement by QYHC:

*“In the Family Service Act 1987 Part 2 Division 2 section 7 related to the establishment of Advisory Committees which has not transferred over into the new Act. Considering that Advisory Committees are an important process for engagement by government with community QYHC would like to see this section transferred into the proposed new community services bill.*

*In the Family Service Act 1987 Part 2 Division 2 section 9 related to an Annual report. QYHC would like to have this section transferred into the proposed new community services bill.*

*Schedule 1 Reviewable decisions*

*A reviewable decision should be where the Minister has refused funding purely on the basis that an organization is not an approved non government service provider.”*

YANQ also supports the following statement by QCOSS:

*“Of importance will be the timelines for the implementation of various facets of the new legislation. There are many features of the Strengthening Non-Government Organisations agenda that will need to be in place before the new legislation is actually implemented.*

*QCOSS advocates for a strong and accountable community services sector. This legislation provides a basis for the sector and government to put in place, alongside this legislation, a number of measures:*

- The first is the development of a joint protocol for Collaboration in Action. This will ensure that the principles of collaboration between government and non-government can be actioned alongside the implementation of the regulatory framework which is outlined in the Bill.*
- The second is to initiate the work which investigates the full cost of delivering the various services funded through his portfolio. An important part of this should be funding for the unintended consequence of small agencies not being able to handle extra administrative tasks that will be necessary with the new legislation and new standards, without additional resources.*
- The third is to continue to develop and expand the initiatives already undertaken regarding workforce development.*
- And finally, we want to see the continuation of investment in sector capacity building at a regional level, managed by the sector itself.”*

## Section 2

Please provide us with your details for record purposes. Sections where responses are essential are indicated with an asterisk (\*).

Name (optional): SiyavashDoostkhah

Title and organisation name — if responding for an organisation (optional):  
Director of Youth Affairs Network of Queensland (YANQ)

Address (optional): 30 Thomas Street West End, Brisbane, Qld 4101

Email (optional): director@yanq.org.au

Age:\*  under 18  18–25  26–35  36–50  
 51–65  66–80  over 80

Gender:\*  male  female

Region:\*

- Darling Downs/South-West Queensland
- Far North Queensland
- Fitzroy/Central-West Queensland
- Gold Coast
- Greater Brisbane
- Mackay/Whitsunday
- Moreton
- North Queensland
- Sunshine Coast
- Wide Bay/Burnett
- outside Queensland
- outside Australia

Which group do you identify with? (optional)

- service provider funded by the Department of Communities
- other government-funded service provider
- unfunded service provider
- service user
- government
- academic/research
- other (please specify) Youth Sector Peak Body

Would you like to be kept informed about developments relating to the new community services laws? (optional)

yes  no

How would you like to be contacted? email