



Government of South Australia

Department for Families
and Communities

Service Agreement Information Kit

for DFC Funded Organisations

2011 – 2013

This kit is a web-based document available to view at www.dfc.sa.gov.au under the banner **Service Agreement Information Kit for DFC Funded Organisations** or it can be downloaded and printed in PDF format.



To ensure that the information here is relevant, user-friendly and assists organisations to better understand the contractual process, ongoing feedback is sought from organisations and departmental staff. Feedback, comments and suggestions about this information kit can be sent direct to the Department for Families and Communities (DFC):

By email to Procurement and Grants at:

dfcgrantsmanagement@dfc.sa.gov.au

Via the DFC Website at:

www.dfc.sa.gov.au (click on Contacts/Email: enquiries@dfc.sa.gov.au)

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FOREWORD

DFC is committed to working with funded organisations to deliver high quality services to the South Australian community.

The Department's *Strategic Plan 2009 -13* requires an outcome of *developing a state of the art contract management for NGOs*. To achieve this, a commitment to the principals of collaboration, innovation and professionalism are required.

This information kit seeks to enhance communication and to build stronger working relationships with DFC funded community organisations. It supports the partnership agreement *Stronger Together* that focuses on building stronger partner relationships by ensuring we are more responsive to each other's needs.

In addition to this kit, DFC continues to review its contractual processes to reduce administrative burdens on both partner organisations and the Department. Continuous improvements will be informed by feedback from DFC funded organisations including comments and suggestions about this kit

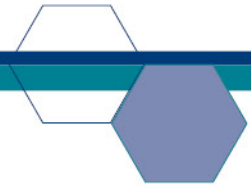
Joslene Mazel

Chief Executive



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DFC Information Sheets

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- 5 - Termination of a Service Agreement
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1. INTRODUCTION

This kit seeks to provide DFC funded organisations with information on contractual processes, reporting and accountability.

The kit explains:

- DFC roles and responsibilities
- Service Provider roles and responsibilities
- Service Agreement requirements
- Performance management
- Financial accountability reporting
- Templates of key documents

Funded Service Providers should comply with the specific departmental policies and legislative requirements outlined in the Master and Service Agreements. Where references are made to State or departmental policies, the kit provides appropriate contact details and/ or references. More detailed information is always available through the relevant DFC contract manager.

1.1 Relevant Documentation

In January 2006 DFC gained exemption for community services funding agreements administered by the department from the *State Procurement Act 2004*, where such agreements are for the provision of welfare services by not for profit community sector organisations.

Since 2006, DFC has developed the following policy documents to support efficient operations and effective working relationships:

- Delivering Community Value: A good practice guide for distributing community services funding;
- DFC Grants Management Policy and Procedure;
- DFC Funding and Grants Management System Policy and Procedure;
- DFC Performance Management Framework;
- DFC Grants Performance Management Policy and Procedure;
- DFC Service Agreement Template and Guidelines; and
- DFC Information Sheets



1.2 Department for Families and Communities Responsibilities

DFC comprises a number of divisions which work together to connect individuals, families and communities to choices and opportunities. DFC is committed to ensuring that all South Australians have access to quality services which protect and enhance community wellbeing and provide support when needed. The DFC workforce is made up of approximately 6000 people located in more than 170 work sites across South Australia. In 2008/09 DFC provided \$359 million in grant funding to 528 non government community organisations.

DFC has a broad mandate to work with those in need, who through circumstance may be poor, at risk of harm or isolated and disconnected. Key services supported by DFC for all South Australians include:

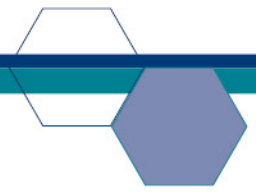
- Housing and Homelessness
- Disability
- Families
- Children and Young People
- Ageing
- Foster Care
- Carer
- Volunteering
- Gambling

Further information regarding available services can be accessed via the DFC website at www.dfc.sa.gov.au

Successful operation of the community service system depends ultimately on DFC staff and Service Providers working together in a collaborative manner. Good professional relationships between DFC and Service Providers are critical to the viability of the community service sector.

A strong cooperative relationship with emphasis on effective communication and support encourages self regulation and helps to ensure public funds are spent properly. Meaningful relationships also support the transparency of reporting processes, compliance costs are minimised and any issues that may arise are resolved more quickly.

Mutual understanding and respect assists the identification of good practices and approaches and enables timely and appropriate responses to emerging problems. Shared knowledge ultimately leads to more accurate risk assessment and improved administration.



1.3 DFC Procurement and Grants Role

The DFC Procurement and Grants team is responsible for managing the grants management cycle including the distribution of agreements for grant funding across DFC.

Grants Management Cycle





2 DFC AGREEMENTS WITH THE COMMUNITY SERVICES SECTOR

Grants funding enables the South Australian Government to achieve a number of critical public policy goals including strengthening communities by funding a range of programs, services, infrastructure and initiatives.

The Master Agreement and Service Agreement are the two essential components of entering into funding arrangements with DFC.

2.1 Master Agreement

The Master Agreement aims for consistency of generic terms and conditions across the Community Services Sector.

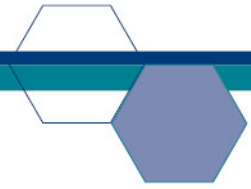
One Master Agreement is issued per organisation. The Master Agreement operates as a pre-agreement and acceptance of the general DFC terms and conditions of business which will apply if a service provider enters into a DFC Service Agreement. DFC can only allocate funding to a service provider who has a pre existing Master Agreement.

The Master Agreement also describes in detail the DFC management controls applicable if a service provider cannot adequately comply with the agreed reporting and accountability requirements.

The Master Agreement is ongoing unless terminated by either a service provider or DFC. Further information about the Master Agreement and Managing the Master Agreement is provided in the DFC Information Sheets.

2.2 Annexure B of Master Agreement for Panel Providers

An Annexure B to a Master Agreement is Program Specific. It stipulates both the requirements for providing a service and the requirements of Panel Membership for a specific Program Area, which may include the term of panel membership and the grounds for terminating panel membership. The agreement allows the Service Provider to participate in future grant allocation processes for a specific Program Area, but does not necessarily guarantee they will receive funding. The Annexure B is appended to a Service Provider's Master Agreement and a Service Provider may have more than one Program Specific Annexure B attached to their Master Agreement.



2.3 Organisation Legal Status

Before DFC can enter into a Master Agreement and subsequently into a Service Agreement to fund a service provider, it must be confirmed the service provider is an established legal entity. As a consequence the service provider must comply with the provisions of any relevant legislation, including the:

- Equal Opportunity Act, 1984, (SA);
- Occupational Health, Safety and Welfare Act, 1986 (SA);
- Workers Rehabilitation and Compensation Act, 1986 (SA);
- Associations Incorporation Act 1985;
- A New Tax System (Goods and Services Tax) Act 1999;
- Superannuation Guarantee (Administration) Act, 1992;
- (Commonwealth); Payroll Tax Act, 1971 (SA); and
- Income Tax Assessment Act, 1936 (Commonwealth).

2.4 Insurance

To receive DFC funding the Service Provider acknowledges and agrees that it is the Service Provider's responsibility to assess and consider the risks inherent in providing the Services and the scope of any insurance desirable or necessary to manage that risk. The Master and Service Agreements specify the minimum types and levels of insurance that a Service Provider must have before entering into a grant funding agreement with the Minister.

Further information about this matter is provided in the DFC Information Sheet "Insurance"

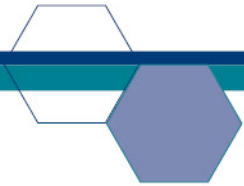
2.5 Service Agreement

The mechanism that allows DFC to distribute grant funding is a Service Agreement. Each Service Agreement describes in detail the services to be provided and the reporting and accountability requirements to ensure that public funds are properly accounted for.

It is possible that multiple Service Agreements may be implemented with a service provider once a signed Master Agreement is in place.

Each Service Agreement will describe in detail the service that is being funded, the expected outcomes and the key performance indicators that determine if the outcomes are being met. The Service Agreement will also clearly articulate the type and frequency of the





service, performance and financial reporting and accountability requirements.

Service providers who are funded to provide services involving carers have specific responsibilities which are outlined in the DFC Information Sheets “Carers and Carers Recognition Act “ and “ Carers and Community Organisations”

All Service Agreements for grant funded services will be subject to Performance Management processes on an ongoing basis which will incorporate regular risk reviews.

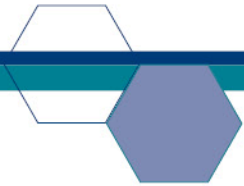
Further information about Service Agreements appears in the DFC Information Sheets these include “Service Agreements”, ‘Termination of a Service Agreement”, “Termination of a Disability Services Service Agreement “ and “ Termination of an Alternative Care of Emergency Care Service Agreement”.

Each Service Agreement has a DFC contract manager assigned as the primary day-to-day contact who is responsible for overseeing the management of the Service Agreement with the organisation. The DFC contract manager is responsible for:

- developing collaborative relationships with organisations;
- facilitating local service planning;
- negotiating and drafting a Service Agreement;
- monitoring service delivery performance;
- the receipt and assessment of service data and financial reports; as per the Service Agreement;
- adherence to departmental policy and program guidelines.

Once a Service Agreement is implemented the DFC contract manager manages the day to day functions of:

- receiving any notification regarding a service providers legal status;
- risk management relating to the delivery of the funded service;
- incident reporting;
- complaints management;
- capital assets through an asset register(Further information on Capital Items appears in the DFC Information Sheets)

- 
-
- undertaking a Performance Review which incorporates a risk review undertaken as a desktop review;
 - undertaking a Service Review conducted only when the Performance Review has indicated ongoing unresolved performance issues and/or when higher risk factors are identified.

Details about the DFC contract manager will generally be found in section (9) of the Service Agreement (Funding and Contact Details).

2.6 Variation and Extensions to Service Agreements

From time to time contracts will need to be varied from that originally agreed to by both Parties. If a Service Agreement needs to be varied during the period of agreement, unless otherwise provided, it can only be varied with the consent of both the Service Provider and the Minister. Variations will be negotiated with the Service Provider and once finalised the Service Provider will receive a formal Variation of Agreement for signature. The variation to the Service Agreement will become effective from the date specified in the variation.

2.7 Police Checks

All Service Providers who have a Service Agreement with DFC are required to ensure that police checks are undertaken for any of its staff (including volunteers) who work directly with, manage or provide services to children or young persons under the age of 18 years.

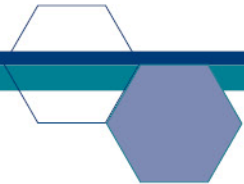
2.8 Quality Requirements

The Master Agreement requires the Service Provider to endorse and promote the principles and practices of quality improvement. The DFC Contract Manager may request the Service Provider to engage with a formal quality accreditation framework that best suits the size, type and stage of development of the service provider.

2.9 Performance Management of Service Agreement

A key component of any DFC Service Agreement involving grant funded services is the Performance Management process. The purpose of Performance Management is to monitor the progress against the agreed client and community outcomes and thereby manage risk. Reporting and accountability requirements are also monitored with management of any issues that might adversely effect achieving the outcomes.

The Service Agreement will describe the funded service objectives, the type and frequency of the service data and financial reports



required the expected outcomes from the service interventions and key performance indicators.

2.9.1 Core Monitoring

Core Monitoring is the collection of all relevant information relating to the operational and strategic capacity of both the funded service and the service provider. It includes the receipt and assessment of service data and financial reports and their compliance with the Service Agreement requirements as well as any other required information or increased risk factors. All this information is assessed and evaluated and forms the basis of an annual Performance Review of the funded service.

2.9.2 Performance Review

The combination of information gathered through the Core Monitoring process (i.e. receipt of required reports, the timeliness of reports and any new or increased risk factors) are included in a Performance Review of the service at least once in the term of the agreement.

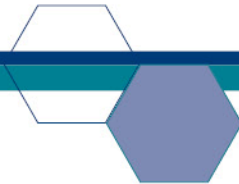
If any significant issues or concerns are identified it is likely a Performance Review will be conducted more often. In the majority of cases operational issues or concerns should be resolved at this stage with minimal DFC intervention.

If, however, the issues remain unresolved or they escalate DFC may elect to withhold grant funding until such time as the issues are appropriately addressed and/or initiate a Service Review to identify the underlying causes of the concerns.

2.9.3 Service Review

In a Service Review DFC may re-assess the Service Provider's capacity to deliver the service in compliance with their contractual obligations. DFC may also elect to review the Service Provider's ability to provide acceptable corporate governance in relation to the management of public funds. Areas of review may include the Service Provider's corporate roles and responsibilities, business or financial planning or other aspects of operational and strategic capability which might affect the delivery of quality community focussed services.

The outcomes of either a Performance Review or a Service Review will inform the decision making process relating to funding a particular service provider to deliver a specific service.



If significant flaws are detected in an organisation's governance or accountability processes and procedures, then DFC may elect to withhold or withdraw the grant funding pursuant to the relevant clauses in the Service and Master Agreements.

A Service Review is a formal process and culminates in both parties agreeing to the next steps, most commonly a Performance Improvement Plan.

3. FINANCIAL AND ACTIVITY ACCOUNTABILITY REPORTING


3.1 Funding Guidelines

DFC funding guidelines have been developed to meet a number of objectives in relation to the funding of community services, as follows:

- client focus and outcomes should be paramount considerations in any service funding exercise;
- consideration of the impact of any service funding exercise on the long-term development of the community services sector;
- selection processes aim to provide incentives for efficiency, achieve equitable distribution of resources according to need, and encapsulate monitoring of quality outcomes;
- expectations of organisations should be clearly articulated and agreed to ensure proper accountability for the expenditure of public funds;
- any service funding decision should be transparent and defensible; and
- DFC staff are expected to act ethically and in complete fairness to all parties, and to adequately document the decision-making process.

The guidelines define and describe the principal methods for selecting providers for the delivery of services to the community. The appropriate selection process should be used to deliver the best value outcome, demonstrate financial responsibility and incorporate partnership principles. The methods used to select service providers are:

- direct allocation;
- provider panel;
- invited submission process; and
- advertised submission/open process.



A range of criteria apply to the choice of each method, thereby ensuring consistency of application throughout the Department. The criteria are focused on factors including:

- the needs of clients, for example in terms of service continuity;
- the stage of development, size, complexity and geographical distribution of the service sector;
- the extent to which the encouragement of cooperation among service providers within the sector is appropriate; and
- the extent to which service outputs can be specified.

3.2 Funding and Activity Accountability

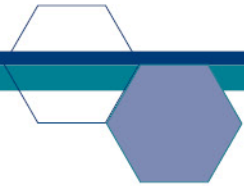
DFC manages funds on behalf of the Government and is required to account for the use of those funds. This responsibility requires the development, implementation and monitoring of appropriate approaches to funding and accountability in ways that reflect policy commitments and support effective relationships with the organisations delivering services in their communities

For example the DFC's aims in this area are for:

- performance measures in Service Agreements have been introduced and aim to improve each year, reducing the reporting burden on funded organisations;
- activities to be rationalised to improve flexibility in the allocation of funding;
- the review of funding for supporting such things as workforce and capital development, resulting in a clearer differentiation of activities to which performance measures and data reporting requirements are not attached; and
- Improved services and outcomes for South Australians who receive services from funded organisations.

In recognition that funding allocations need to reflect cost pressures the Department has developed guidelines to address the issue of indexation. Further information is included in the Information Sheet "Indexation".

Part of DFC's agenda involves streamlining and improving reporting and data collection processes. The work of funded organisations and other service providers is essential to the achievement of Government policy goals and Departmental objectives. DFC monitors organisational performance to ensure that funds and activity are directed to appropriate services, and delivered effectively. Data and reports submitted by organisations help DFC in this monitoring role, as well as contributing to planning and policy development. The DFC Information Sheet "The Code of Fair Information Practice" outlines



how data and other information provided by organisations is to be managed to safeguard confidentiality and privacy concerns.

3.3 DFC Reporting Requirements

Critical to the operation of the financial accountability framework for DFC is the DFC's Funding and Grants Management System (FGMS) database. Information obtained through the financial reporting process is entered on to FGMS, which departmental finance staff then use to periodically monitor and/or assess the financial position of individual organisations, and ensure timely payments.

3.3.1 Components of Financial Reporting

- Most organisations with a service agreement are required to provide a full annual financial statement.
- Some organisations with a service agreement may be required to provide interim financial reports additional to the full annual financial statement on a quarterly or six monthly basis. Any requests for an interim report will be based on a performance review assessment unless otherwise negotiated.
- Organisation's Annual Report

The annual due date can be extended at the request of the organisation. If the department agrees the extension, it will confirm this in writing and will include the rationale for the extension.

In those instances where allocated funds remain unexpended DFC has developed a process whereby these funds may be returned to the Department. Further information about this matter is provided in the Information sheet "Return of Unexpended Allocated Funds".

3.3.2 Interim Reports

The interim financial and activity reports provide information on the activity and related financial operations of an organisation to assist in monitoring project cash flows.

A decision to require interim activity and financial reports should be based on an assessment of risk, which will consider:

- the degree to which the services provided by the organisation are unique;
- the level of risk and likely consequences to the disruption of these essential services; and
- the organisations previous financial viability assessment.

3.4 Financial and Activity/Output Accountability

A community care system that is widely perceived as accountable attracts stronger support from taxpayers and gains community trust and confidence. DFC and Service Providers recognise that there is a shared responsibility between them for ensuring that public funds are spent effectively, efficiently and ethically. Clients need to receive services as intended by the policy objectives of the various programs.

Service Providers are required to comply with relevant financial and activity/output reporting requirements of the Service Agreement including maintenance of appropriate financial management controls and accounting procedures and records and related activity reports. Information is also provided to DFC for review and inspection when required.

3.4.1 Risk Management

Compliance and reporting requirements should be tailored to the level of risk identified. The underlying principle is the practice of imposing minimal information requirements for reporting purposes, together with self regulation for low risk providers, while shifting to intensive support or additional reporting requirements for high risk providers where required.

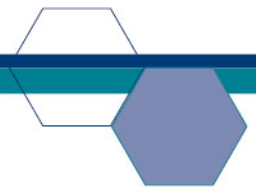
The balance should be proportional to the compliance and performance issues involved and the circumstances of each case.

Risk management enables DFC to tailor solutions or strategies in a manner that is appropriate for identified risks in each jurisdiction and program. It also provides a structured way for Service Providers to understand how DFC staff operates in terms of determining and managing financial reporting and accountability requirements.

3.5 Improving Processes

DFC is committed to supporting funded organisations deliver high quality services to the community, and continues to review its contractual processes to reduce administrative burdens on both partner organisations and the department. In order to improve processes, DFC will work in collaboration with the community services sector towards the following goals:

- **Better use of existing financial material** produced by service providers for internal management and external reporting purposes.
- **Streamlining acquittal processes** by rationalisation and simplification of acquittals. This will help service providers to streamline their processes and avoid duplication of effort at different points in the financial cycle. Provision of a single statement of compliance from each service provider for all program funds received by the organisation could be used as a means to simplify and stream line the acquittal process.



- **Standardisation and rationalisation of reporting** to reduce the overall reporting burden on service providers and make reporting to government a part of a consistent streamlined process. Consideration of the establishment and maintenance of:
 - standard report formats, terms and definitions, which are consistent with accounting standards and commercial accounting practices; and
 - development of risk profiles of service providers to tailor appropriate reporting requirements and other risk management strategies..

Document	DFC Service Agreement Information Kit
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Information Sheets



Government of South Australia

Department for Families
and Communities

For further information regarding information contained in the following fact sheets please contact:

Procurement and Grants

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Disclaimer

The following information sheets are subject to the disclaimer which can be found at the following address:

<http://www.familiesandcommunities.sa.gov.au/Default.aspx?tabid=1060>

1 Master Agreement



Government of South Australia

Department for Families
and Communities

Overview

Purpose

This information sheet provides basic information to community organisations who have a Master Agreement, or have been requested to sign a Master Agreement, with the Minister for Families and Communities, Minister for Disability, Minister for Housing and/or Minister for Ageing (collectively and separately “the Minister”) about the background and operation of the Master Agreement and its application.

The information sheet does not address the specific provisions of the Master Agreement in detail as information about the key clauses of the Master Agreement has been included in other information sheets listed on the Information Sheets webpage.

Background

The Master Agreement is the primary document used by the Department for Families and Communities (“DFC”) to secure grant funding arrangements with community organisations.

The Master Agreement was developed in response to feedback from the community services sector which indicated concern over inconsistent terms and conditions in agreements with different areas of DFC.

The Master Agreement was created to streamline funding processes; Service Providers would only need to sign the Master Agreement once, then it would apply to every Service Agreement. The Master Agreement does not guarantee funding or services, but exits as a platform for each Service Agreement.

DFC commenced using the Master Agreement in June 2006. In 2009 a review of the Master Agreement commenced to add, delete or amend the document. The review was completed in 2010.

In order to receive funding from DFC, an organisation must have signed a Master Agreement. The Master Agreement is not the same as the Service Agreement, which contains all of the provisions relevant to the provision of a specific service, but rather a document which allows the Minister and the Service Provider to pre-agree all of the key terms and conditions which will apply to any future Service Agreement.

- The clauses in the Master Agreement are reflective of Government Policy or Legislation (e.g. reporting requirements and allocated funds which are based on Treasurer’s Instructions).
- The Master Agreement also contains essential requirements for an organisation to have in place if they are to provide Government funded services. These include criminal history/police check, dispute resolution and treatment of staff).
- The Master Agreement also contains fundamental contractual requirements outlining what is expected from both parties. These include termination, financial accountability and the administration of the Master Agreement.

Important things to note

The Master Agreement is ongoing

The Master Agreement is ongoing and remains in effect until it is terminated by either party.

The Master Agreement does not guarantee that you will receive a Service Agreement from the Minister.

The Master Agreement is a pre-agreement of the key terms and conditions which will apply to any service agreement. However, having a Master Agreement with the Minister does not represent a commitment to enter into grants funding arrangements (such as a Service Agreement) at a future time or on an ongoing basis. These agreements will be separately negotiated in accordance with community funding needs and priorities.

The Master Agreement may include Annexures.

The Master Agreement may be accompanied by one or more Annexures dealing with specific funding areas or subjects, such as the provision of disability services. The Annexures will supplement and, in some cases, replace the terms of the Master Agreement as required. If there is a contradiction between the terms of the Annexure and the Master Agreement or both deal with the same subject, the terms of the Annexure will take priority. The Annexures are also ongoing, unless terminated by either party.

The Master Agreement (and any Annexures) will apply to all Service Agreements you receive from the Minister.

The Master Agreement will apply to most Service Agreements you receive from the Minister, even if the Service Agreements you receive are from different program areas within the Department. The application of the Master Agreement is clearly expressed

to apply in the terms of the relevant Service Agreement.

The Master Agreement (including any Annexures) and any Service Agreement must be read together.

If you receive a Service Agreement, you must read the terms of the Service Agreement in conjunction with the Master Agreement and any Annexures, as the terms of the Master Agreement apply to every Service Agreement. The terms of the Service Agreement will generally relate specifically to the services to be provided. However, some terms of the Service Agreement will supplement and, in some cases, replace the terms of the Master Agreement and any Annexures as required. If there is a contradiction between the terms of the Service Agreement and the Master

Agreement or any Annexure, or both deal with the same subject, the terms of the Service Agreement will take priority.

2 Indexation



Government of South Australia

Department for Families
and Communities

Overview

Purpose

This fact sheet provides basic information on the way indexation is applied by the Government of South Australia to Service Agreements for grant funding between the Minister for Families and Communities, Ageing, Disability and/or Housing (collectively and separately “the Minister”) and non-government community service organisations (“NGOs”).

Relevant Legislation

Treasurer’s Instruction 15 “Grant Funding”

Background

Indexation is a means of adjusting income payments in accordance with price increases over a given period of time.

For the purposes of grant funding to NGOs, it is additional funding provided in the second and any subsequent years of a Service Agreement to maintain the value of the Service Agreement in real terms by providing additional funding to cover external price increases (inflation) that occur while undertaking contracted services

How is the rate of indexation determined?

The rate of indexation is dependent on the program’s funding source. If the funding source is the State Government, the rate

of indexation will be determined by the South Australian Department of Treasury and Finance. If the grant is fully funded by the Commonwealth Government and administered by the State Government, then the rate of indexation will be determined by the Australian Government. If the program

has been funded by both State and Commonwealth Governments, then an indexation rate will be applied that is based on the Commonwealth, or the State, or a composite rate agreed to by both.

How is indexation calculated?

The amount of indexation provided is calculated as a percentage of the allocated funds, specified in the Service Agreement.

In most cases the indexation will be included in the quarterly payments for the financial year. Indexation will be paid for the first quarterly payment of the next 12 month period, subject to the indexation rate being known and approved in advance. For example, if the is due for 1 July, then each of the four quarterly payments for the year will be increased by the previous year’s allocated funds multiplied by the applicable indexation rate, divided by four. Otherwise, adjustments will be made.

Indexation only applies to Service Agreements that are longer than 1 year. Indexation is provided on a per annum basis so there is no need to provide indexation within the initial 12 months of an Agreement.

Why is the rate of indexation not specified in my Service Agreement?

The State Government indexation rate for NGOs is determined annually by the DTF. While the rate has been 3.0% in recent years, this can vary from year to year so a specific rate is not usually included in Service Agreements.

The 2006/07 indexation rates for DFC grants programmes are provided in Appendix A. This table will be updated on a yearly basis.

When will the indexation be provided?

DFC will update the allocated funds, inclusive of indexation, after the amount of indexation payable to the organisation has been approved by DTF.

For programmes funded only by the State Government (refer to Appendix A), indexation will generally be applied in the first quarter payment for the financial year, that is from 1 July. However, this may vary from year to year depending on the time of delivery of the South Australian budget. In this situation, the allocated funds inclusive of indexation will be paid as part of the normal payment process, usually quarterly in advance (refer to “How does indexation get paid?” for further information).

For programmes funded partially or totally by the Australian Government (refer to table 3), indexation will generally be applied in the second or third quarter payment for the financial year, that is from 1 October or 1 January of the relevant year. This is due to the time required for negotiations to occur between the State and Australian Governments over the rate and conditions of indexation. In this situation, the proportion of indexation owing will be provided in the next payment to the NGO for the relevant project and the remainder paid as part of the normal payment process, usually quarterly in advance (refer to “How does indexation get paid?” for further information).

Indexation payments may be withheld if an organisation is in breach of its obligations under the Master/Service Agreement and all payments for the project are being withheld.

How does indexation get paid?

The indexation payment will be included in the quarterly payments for the financial year. That is, if it is applied in 1 July, the four quarter payments for the year will be adjusted by the previous year’s allocated funds plus indexation

divided by four. If, however, the indexation provision is made later in the financial year, the indexation amount for that period of time will be backdated to the indexation application date and the indexation owing will be paid at the time of the next quarterly payment. An example of this is demonstrated in Table 1.

Table 1: Indexation payments

Service Agreement Period: 1 July 2007 to 30 June 2009		
Allocated Funds	Indexation	Quarterly Payments
\$100,000 2007/08		\$25,000: July 2007, October 2007, January 2008, & April 2008
\$103,000 2008/09 inclusive of indexation	3% 2008/09 applied July 2008 ¹	\$25,750: July 2008, October 2008, January 2009, & April 2009

Example:

What if the term of the Service Agreement does not align with financial years?

Most DFC service agreements begin on 1 July, so in most cases the payment of indexation by the South Australian Government aligns with financial years. However, in instances where the term of a service agreement does not align with the financial year, but indexation is still paid after 12 months, the indexation payments may be adjusted to bring it into line with the financial year.

A Service Agreement starts on 1 May 2006 and ends on 30 June 2009. As payments are made on a quarterly basis the first payment will be made in May for two months, then in a quarterly cycle from 1 July 2006. Indexation first becomes due on 1 May 2007. However, while indexation becomes due on 1 May 2007, an adjustment may be made so that indexation is paid on 1 July 2007 to bring the adjustments into line with the financial year. That is, the first quarter payment in July 2007 will be adjusted to include the additional two months indexation outstanding from May/June 2007, plus the upfront payment of first quarter at the new allocated amount. This may occur for administrative reasons, but will result in no net loss to the Service Provider. The final Indexation adjustment for the Service Agreement will then be made in July 2008.

Which agreements will not have indexation applied?

Indexation is applied to ensure that funds allocated to a project are maintained in real terms. Accordingly, indexation will only be provided on multi-year agreements that span longer than 12 months. Service agreements which are for 12 months or less, or which have been expressly stated to exclude indexation on the basis that a fixed amount of funding has already been negotiated for the duration of the agreement, will not have indexation applied.

In some instances, service agreements which are a continuation of a service (eg rollover) may have indexation provided in their 12 months providing indexation was not included in the Allocated Funds for that period.

The following table sets out some of the possible times when indexation will and will not be applied:

Table 2: Indexation eligibility

Service Agreement Period	Indexation eligibility
1 July 2006 to 30 June 2009	July 2007 and July 2008
1 January 2007 to 30 June 2008	January 2008
1 May 2006 to 30 June 2009	May 2007, May 2008 and May 2009
1 July 2006 to 30 June 2007	Indexation would not be applied
1 July 2007 to 31 December 2008	July 2008
1 July 2007 to 31 December 2008, but the Agreement states in the Allocated Funds section that no indexation will be provided.	Indexation would not be applied

Why are there differences between the rates of indexation received for different programmes?

The same rate of indexation should be applied to all Service Agreements that are wholly funded by the State Government. However, programs that are partially or totally funded by the Australian Government may receive different rates of indexation. If a program is fully funded by the Australian Government, indexation equal to that provided by the Australian Government will be passed on. If a program is partially funded by the Australian Government, a composite rate of indexation may be applied based on the funding split for the program and the rate of indexation applied by each government.



Example: Different rates of indexation

A \$100m programme, (60% funded by the Australian Government and 40% by the State Government) with Australian Government indexation of 2.5% and State Government indexation of 3.0%, a composite indexation rate of 2.7% would apply. It may also be the case that the State and Australian Governments negotiate a common rate of indexation for a particular programme (e.g. HACC).

The table in Appendix A summarises the major funding programmes currently administered by DFC, the sources of funding for each programme, and the rate of indexation applicable in 2006/07.

How are indexation funds accounted for?

The Master Agreement with the Minister includes the provision of any indexation in the definition of Allocated Funds in Section 1.1 of the Master Agreement. Funds allocated as indexation should be included as part of all financial reports related to the expenditure of project funds.

3 Capital Items



Government of South Australia

Department for Families
and Communities

Overview

Purpose

This information sheet provides basic information to community organisations who have a Master and Service Agreement with the Minister for Families and Communities, Ageing, Housing and/or Disability (collectively or separately “the Minister”) about the capital items provisions contained in section 13 of the Master Agreement and their application. Please note that this information sheet applies only to capital items wholly or partly funded by the Government of South Australia.

Frequently

Asked Questions

What are “capital items”?

Capital items are any items of equipment, furniture or other assets, including motor vehicles, which you have purchased partly or wholly using funding provided by the Government of South Australia.

What are my organisation’s obligations if it receives funding to purchase capital items?

If your organisation receives funding to purchase capital items, you must maintain a register which contains a record of all capital items your organisation receives funding for with a purchase price of over \$10,000 excluding GST (“Asset Register”). The Asset Register is required to contain a record of all relevant information, including:

- A description of the item;
- Any identifying numbers;
- Purchase price;

- Date of purchase; and
- Depreciation.

These requirements should be documented in accordance with appropriate management practices and Australian Accounting Standards. Your organisation is also responsible for keeping all capital items in good condition, and ensuring that they are appropriately maintained and not neglected.

Is there a prescribed format for the Asset Register?

There is no prescribed format for the Asset Register, but your organisation must ensure it contains, at a minimum, an accurate record of the information above.

When can my organisation remove items from the Asset Register?

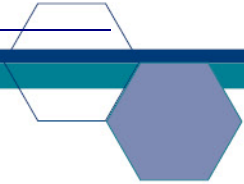
Your organisation is able to remove items from the Asset Register when they have been written down to a value of below \$10,000.

Can the Minister inspect the Asset Register?

The Minister may authorise a representative to inspect the Asset Register after providing a written request to your organisation. After receiving the request, the Asset Register must be made available for inspection by the Minister’s representative within ten business days.

What happens if your organisation wants to sell or otherwise dispose of capital items during the term of my Service Agreement?

Unless a capital item has been fully depreciated, if you want to sell or otherwise dispose of capital items during the term of your service agreement, you



must obtain the Minister's written consent to do so. This includes giving or transferring items to other non-profit organisations. If the item has been fully depreciated, the Minister's written consent is not required. To obtain the Minister's consent, you should forward a request in writing addressed to the Minister care of the contract manager specified in your Service Agreement.

What happens to capital items if my organisation stops providing services or if the Service Agreement terminates or expires?

If your organisation stops providing services for any reason, your organisation must retain the capital items on behalf of the Minister and either:

- Return the capital items to the Minister if the Minister requests it; or
- Sell them as directed by the Minister.

If the items are sold, the proceeds from the sale will be divided between your organisation and the Minister in the same proportion as the funds were provided from both parties for the purchase of the capital items. Your organisation may also be able to give the capital items to another non-profit organisation with the Minister's consent.

Who should I contact if I have questions in relation to capital items?

If you have any questions in relation to the maintenance of your organisation's asset register, or your organisation is thinking of selling, transferring or disposing of a capital item partly or wholly funded by the Government you should contact the DFC Contract Manager nominated in your Service Agreement.

4 Return of Unexpended Allocated Funds



Government of South Australia

Department for Families
and Communities

Overview

This information sheet provides basic information to community organisations who have a Master and Service Agreement with the Minister for Families and Communities, Ageing, Housing and/or Disability (collectively or separately “the Minister”) on the requirements put in place by the South Australian Government for the return of unexpended allocated funds.

Frequently

Asked Questions

What are unexpended allocated funds?

The Master Agreement defines unexpended allocated funds as those allocated funds, plus any derived income, received by a community organisation and not expended in accordance with the terms of the Master and Service Agreement at a given point in time. In practice, this means that any funds which have not been expended for the purposes of carrying out services under a Service Agreement, within the term of that agreement, will be considered to be “unexpended allocated funds”.

When are allocated funds considered to have been expended?

Allocated funds are considered to have been expended if, consistent with good management and with Australian Accounting Standards, they have been expended or set aside to meet any legitimate expenditure that is required for the provision and administration of services under a Service Agreement. This includes provision for long service

leave entitlements accrued by staff.

When will my organisation be required to return the unexpended allocated funds?

Your organisation will be required to return the unexpended allocated funds upon:

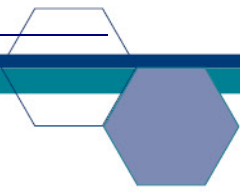
- The termination or expiration of a Service Agreement;
- Your organisation ceasing to provide services for any reason; or
- A breach by your organisation of the terms and conditions of the Master and Service Agreement.

How should unexpended allocated funds be reported?

If your organisation has unexpended allocated funds, your organisation will need to provide the Minister with a report setting out the level of the unexpended allocated funds. In practice, this may form part of the final expenditure report required by the Service Agreement, however the unexpended allocated funds must be clearly identified in the report.

How should the unexpended allocated funds be returned?

Once the report has been supplied, in most circumstances the Minister’s representative will issue a written request asking that the unexpended allocated funds be repaid to the Department for Families and Communities within 30 business days of the request, unless alternative arrangements are made for all or part of the funds to be carried over for another purpose. It may also be possible for the return of the unexpended allocated funds to occur by way of a reduction in



scheduled payments made to your organisation pursuant to any other Service Agreement.

Are there any circumstances in which my organisation can retain unexpended allocated funds?

Your organisation can seek approval to retain unexpended funds. In such instances, you should contact the Department for Families and Communities Contract Manager named in the Service Agreement as soon as it becomes clear that the unexpended funds will remain at the end of the grant period to discuss options. If the carry over of unexpended allocated funds is approved, a separate Service Agreement or variation to the existing Service Agreement will be negotiated setting out how the funds will be used.

Contacts

If you have any questions in relation to the unexpended allocated funds, please contact:

Reporting and Financial Services

Department for Families and Communities

GPO Box 292

Adelaide SA 5001

Telephone: (08) 8463 6717

Facsimile: (08) 8463 6708

5 Termination of a Service Agreement



Government of South Australia
Department for Families
and Communities

Overview

Purpose

There are a number of circumstances in which it may be necessary to terminate a Service Agreement early. Accordingly, this information sheet provides basic information to community organisations (**excluding** those who provide Alternative Care, Emergency Care or Disability Services) who have a Master and Service Agreement with the Minister for Families and Communities, Ageing or Housing (collectively and separately “the Minister”) about the provisions of the Master Agreement governing the early termination of Service Agreements and the relevant obligations.

Additional Termination Provisions

This Information Sheet discusses the termination provisions of the Master Agreement, which apply to a majority of community organisations. However, from time to time, and in addition to the terms of the Master Agreement, further termination provisions may be negotiated with your organisation as part of a specific Service Agreement. These termination provisions may vary or supplement those contained in the Master Agreement. Consequently, community organisations should also check the terms of their Service Agreement to ensure that no additional conditions apply.

Frequently

Asked Questions

Early Termination by Community Organisations

Note: The provisions for termination by community organisations are contained in clause 24 of the Master Agreement.

Can my organisation terminate a Service Agreement before the end of the period of an agreement?

If your organisation’s circumstances change and you are no longer able to provide services for any reason, your organisation is able to terminate a Service Agreement by providing three months written notice to the Minister. This means that your organisation is legally able to stop providing the services three months after the date you provide written notice to the Minister. Your organisation will need to ensure that the notice is dated so that the three months can easily be determined.

What if circumstances surrounding the need to terminate my organisation’s Service Agreement are urgent?

If the circumstances surrounding termination are urgent and your organisation is no longer able to provide the service, you should contact the Minister’s Contract Manager nominated in your Service Agreement as soon as possible and advise them of your situation. If the situation is urgent and unavoidable, the Minister may agree to terminate the agreement sooner than the three month period required by the Master Agreement.

Can my organisation terminate my Service Agreement if there is a breach of contract by the Minister?

If your organisation believes there has been a breach of contract by the Minister that warrants termination, you must first write to the Minister requiring the Minister to remedy the breach and specifying a reasonable time for the Minister to do so. If the Minister fails to remedy the breach in the specified time, your organisation is able to terminate a Service Agreement either immediately or on a later nominated date. In cases where any breach of contract by the Minister is alleged, the Minister's Contract Manager will most likely contact your organisation at the earliest possible time to arrange a meeting to resolve any concerns.

What other obligations does my organisation have if a Service Agreement is terminated early?

Even though your organisation is able to terminate a Service Agreement early, to ensure continuity of services to the community your organisation is still required to continue to provide all of the agreed services for the three month period, unless an alternative period of time is agreed with the Minister. Additionally, if your organisation terminates a Service Agreement early, you may also be required to assist in the implementation of any transitional arrangements for either the conclusion of the service or its transfer to another service provider to ensure that existing clients are not disadvantaged in any way.

What happens to any unexpended allocated funds?

Any unexpended funds will be required to be returned to the Minister. Please see the information sheet on unexpended allocated funds for further details.

What happens to capital items?

The requirements in relation to the management of capital items partly or wholly funded by the Minister on termination are explained in the Capital Items Information Sheet.

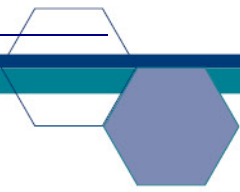
Early Termination by the Minister

Note: The provisions for early termination are governed by clause 23 of the Master Agreement.

When can the Minister terminate a Service Agreement?

In order to ensure that community organisations are able to appropriately plan their staffing and operations, the Minister is unable to terminate a Service Agreement before its conclusion date, other than under the following circumstances:

- Your organisation becomes subject to or in jeopardy of becoming subject to any form of insolvency administration;
- A director, secretary, officer or senior employee of your organisation is convicted of a type of criminal offence that the Minister has a reasonable basis for considering will materially impact on the service being provided, and you do not remove the person from the provision of the Services (if you are able to do so);
- Your organisation fails to remedy a breach of the Master Agreement or Service Agreement after having been given adequate time to resolve it ; or
- There is a change in your organisation's management, structure or operations that has or could reasonably be expected to have an adverse effect on your ability to comply with the Master Agreement or Service Agreement or both.



If any of these events occur, the Minister's Contract Manager will contact your organisation to discuss all reasonable alternatives to termination with the priority to ensure ongoing service provision to the community

If my Service Agreement is terminated, what are the requirements in relation to the return of allocated funds?

If your Service Agreement is terminated, your organisation will be required to return any unexpended allocated funds and, where required by the Minister's Contract Manager, all or part of the allocated funds whether expended or not.

6 Termination of a Disability Services Service Agreement (including Day Options)



Government of South Australia

Department for Families and Communities

Overview

Purpose

There are a number of circumstances in which it may be necessary to terminate a Service Agreement early. Accordingly, this information sheet provides basic information to community organisations who provide disability services and who have a Master and Service Agreement (inclusive of a Master Agreement Annexure B) with the Minister for Disability (“the Minister”) about the provisions of the Master Agreement and Annexure B governing the early termination of Service Agreements. This information sheet also provides information about the terms of the Service Agreement concerning the termination of day options (moving on) services to individual clients.

Additional Termination Provisions

This Information Sheet discusses the termination provisions of the Master Agreement, Annexure B and Service Agreement which apply to a majority of community organisations. However, from time to time, and in addition to the terms of the Master Agreement, further termination provisions may be negotiated with your organisation as part of a specific Service Agreement. These termination provisions may vary or supplement those contained in the Master Agreement. Consequently, community organisations should also check the terms of their Service Agreement to ensure that no additional conditions apply.

Frequently

Asked Questions

Early Termination by Community Organisations

Note: The provisions for termination by community organisations are contained in clause 24 of the Master Agreement.

Can my organisation terminate a Service Agreement before the end of the period of an agreement?

If your organisation’s circumstances change and you are no longer able to provide services for any reason, your organisation is able to terminate a Service Agreement by providing three months written notice to the Minister. This means that your organisation is legally able to stop providing the services three months after the date you provide written notice to the Minister. Your organisation will need to ensure that the notice is dated so that the three months can be easily determined.

What if circumstances surrounding the need to terminate my service agreement are urgent?

If the circumstances surrounding termination are urgent and your organisation is no longer able to provide the service, you should contact the Minister’s Contract Manager nominated in your Service Agreement as soon as possible and advise them of your situation. If the situation is urgent and unavoidable, the Minister may agree to terminate the agreement sooner than the three month period required by the Master Agreement.

Can my organisation terminate a Service Agreement if there is a breach of contract by the Minister?

If your organisation believes there has been a breach of contract by the Minister that warrants termination, you must first write to the Minister requiring the Minister to remedy the breach and specifying a reasonable time for the Minister to do so. If the Minister fails to remedy the breach in the specified time, your organisation is able to terminate your Service Agreement either immediately or on a later nominated date. In cases where any breach of contract by the Minister is alleged, the Minister's Contract Manager will most likely contact your organisation at the earliest possible time to arrange a meeting to resolve any concerns.

What other obligations does my organisation have if a Service Agreement is terminated early?

Even though your organisation is able to terminate your Service Agreement early, to ensure continuity of services to the community your organisation is still required to continue to provide all of the agreed services for the three month period unless an alternative period of time is agreed with the Minister. Additionally, if your organisation terminates a Service Agreement early, you may also be required to assist in the implementation of any transitional arrangements for either the conclusion of the service or its transfer to another service provider to ensure that existing clients are not disadvantaged in any way.

What happens to any unexpended allocated funds?

Any unexpended funds will be required to be returned to the Minister. Please see the information sheet on unexpended allocated funds for further details.

What happens to capital items?

The requirements in relation to the management of capital items partly or wholly funded by the Minister on termination are explained in the Capital Items Information Sheet

Early Termination by the Minister

Note: The provisions for early termination are governed by clause 23 of the Master Agreement and clause 2.5 of Annexure B.

When can the Minister terminate a Service Agreement?

In order to ensure that community organisations are able to appropriately plan their staffing and operations, the Minister is unable to terminate a Service Agreement before its conclusion date other than under the following circumstances:

- Your organisation become subject to or in jeopardy of becoming subject to any form of insolvency administration;
- A director, secretary, officer or senior employee of your organisation is convicted of a type of criminal offence that the Minister has a reasonable basis for considering will materially impact on the service being provided, and you do not remove the person from the provision of the Services (if you are able to do so);
- Your organisation fails to remedy a breach of the Master Agreement or Service Agreement;
- There is a change in your organisation's management, structure or operations that has or could reasonably be expected to have an adverse effect on your ability to comply with the Master Agreement or Service Agreement or both;
- If your organisation is a corporation, it assigns rights under the Master or Service Agreement by changing

either 51% of the legal or beneficial shareholdings or effective control of the ownership or management of the organisation without the Minister's consent; or

- Any representation or warranty made by your organisation in relation to your inclusion on the Disability Services Provider Panel or its continued eligibility as Panel Member is proved to be false, misleading, incomplete or inaccurate.

If any of these events occur, the Minister's Contract Manager will contact your organisation to discuss all reasonable alternatives to termination with the priority to ensure ongoing service provision to the community.

Special Provisions for Day Options (Moving On) Services

As day options (moving on) services are provided to individual clients, any Service Agreement that includes funding for the provision of day options (moving on) services contains additional provisions for the termination of services in relation to specific clients. In such cases, although services to a particular client can be terminated by either party, the Service Agreement itself remains in force for all other day options (moving on) clients, and any other services that may be funded as part of the agreement.

Termination by a Community Organisation

If your organisation is no longer able to provide the service to a particular client, your organisation can terminate a day options (moving on) agreement in relation to a particular client at a time agreed with the Minister or by giving three months notice.

Termination by the Minister

The Minister may cease funding day options (moving on) services for a

particular client at any time in the event of any of the following:

The service is no longer appropriate for the client;

The client no longer wishes to continue with the service;

Your organisation is no longer able to provide the service; or

Your organisation fails to remedy a breach of the Master or Service Agreement in respect of that client.

Allocated Funds

If my Service Agreement is terminated, what are the requirements in relation to the return of allocated funds?

If your Service Agreement is terminated, your organisation will be required to return any unexpended allocated funds and, where required by the Minister's Contract Manager, all or part of the allocated funds whether expended or not.

7 Termination of an Alternative Care Service Agreement



Government of South Australia

Department for Families and Communities

Overview

Purpose

There are a number of circumstances in which it may be necessary to terminate a Service Agreement early. Accordingly, this information sheet provides basic information to community organisations who provide Alternative Care or Emergency Care Services and who have a Master and Service Agreement with the Minister for Families and Communities (“the Minister”) about the provisions of the Master Agreement governing the early termination of Service Agreements and certain additional termination provisions contained within specific Service Agreements. These additional termination provisions are described under the section of this information sheet entitled “Additional Termination Clauses”. Community organisations should check the terms of their Service Agreement to determine whether any of these additional conditions apply.

Frequently Asked Questions

Early Termination by Community Organisations

Note: The provisions for termination by community organisations are contained in clause 24 of the Master Agreement.

Can my organisation terminate a Service Agreement before the end of the period of an agreement?

If your organisation’s circumstances change and your organisation is no longer able to provide services for any reason, you are able to terminate your Service Agreement by providing three months written notice to the Minister. This means that your organisation is legally able to stop providing the

services three months after the date you provide written notice to the Minister. Your organisation will need to ensure that the notice is dated so that the three months can easily be determined.

What if circumstances surrounding the need to terminate my organisation’s Service Agreement are urgent?

If the circumstances surrounding termination are urgent and your organisation is no longer able to provide the service, you should contact the Minister’s Contract Manager nominated in your Service Agreement as soon as possible and advise them of your situation. If the situation is urgent and unavoidable, the Minister may agree to terminate the agreement sooner than the three month period required by the Master Agreement.

Can my organisation terminate a Service Agreement if there is a breach of contract by the Minister?

If you believe there has been a breach of contract by the Minister that warrants termination, your organisation must first write to the Minister requiring the Minister to remedy the breach and specifying a reasonable time for the Minister to do so. If the Minister fails to remedy the breach in the specified time, your organisation is able to terminate a Service Agreement either immediately or on a later nominated date. In cases where any breach of contract by the Minister is alleged, the Minister’s Contract Manager will most likely contact you at the earliest possible time to arrange a meeting to resolve any concerns.

What other obligations does my organisation have if a Service Agreement is terminated early?

Even though your organisation is able to terminate a Service Agreement early, to ensure continuity of services to the community your organisation is still required to continue to provide all of the agreed services for the three month period, unless an alternative period of time is agreed with the Minister. Additionally, if your organisation terminates a Service Agreement early, you may also be required to assist in the implementation of any transitional arrangements for either the conclusion of the service or its transfer to another community organisation to ensure that existing clients are not disadvantaged in any way.

What happens to any unexpended allocated funds?

Any unexpended funds will be required to be returned to the Minister. Please see the information sheet on unexpended allocated funds for further details.

Early Termination by the Minister

Note: The provisions for early termination are governed by clause 23 of the Master Agreement and clause 13 of the Service Agreement.

When can the Minister terminate a Service Agreement?

The Minister is able to terminate a Service Agreement in the following circumstances:

- Your organisation becomes subject to or in jeopardy of becoming subject to any form of insolvency administration;
- A director, secretary, officer or senior employee of your organisation is convicted of a type of criminal offence that the Minister has a reasonable basis for considering will materially impact on the service being provided, and you do not

remove the person from the provision of the Services (if are able to do so);

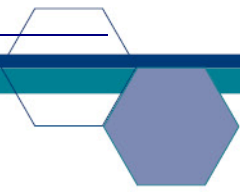
- Your organisation fails to remedy a breach of the Master/Service Agreement after having been given adequate time to resolve it;
- There is a change in your organisation's management, structure or operations that has or could reasonably be expected to have an adverse effect on your organisation's ability to comply with the Master/Service Agreement or both; and/or
- Your organisation breaches any of the terms related to the provision of services specified in clause 4 of the Service Agreement or a child or young person who is receiving services is put at risk.

If any of these events occur, the Minister's Contract Manager will contact you to discuss all reasonable alternatives to termination with the priority to ensure ongoing service provision to the community.

Additional Termination Clauses

Most Service Agreements executed after 1 August 2007, and all of the Provision of Emergency Care Worker agreements, contain additional clauses relating to termination. In these Service Agreements, the circumstances listed above all apply, but in addition, these agreements can be terminated immediately if your organisation breaches any of the special conditions set out in clause 12; or if a child, young person or client, the subject of *any* other services being provided by your organisation, pursuant to any Service Agreement with the Minister, is put at risk.

The Minister can also terminate the Service Agreement without cause at any time by giving three months written



notice to the organisation. If this occurs, the organisation will have no claim against the Minister except regarding the payment of any allocated funds (if any) due to the organisation, or any antecedent breaches of the Service Agreement by the Minister.

You should read your Service Agreement to see whether these additional termination clauses apply to your organisation.

Allocated Funds

If my Service Agreement is terminated, what are the requirements in relation to the return of allocated funds?

If your Service Agreement is terminated, your organisation will be required to return any unexpended allocated funds and, where required by the Minister's Contract Manager, all or part of the allocated funds whether expended or not.



8 Insurance

Overview

Purpose

This Information Sheet provides basic information to community organisations who have a Master Agreement and Service Agreement with the Minister for Families and Communities, Ageing, Disability and/or Housing (collectively and separately “the Minister”) about insurance and the insurance provisions of the Master and Service Agreements.

The information in this document is provided as a **guide only**. It is strongly recommended that community organisations seek professional advice regarding the types of insurance products available and the insurance required to meet their needs and mitigate the risks associated with their service activities and organisational operation.

Relevant Legislation

The relevant legislation includes:

Insurance Contracts Act 1984 (Cth) – (“the ICA”) regulates certain provisions of insurance contracts and the practices of insurers in relation to such contracts.

Insurance Act 1973 (Cth) – regulates the operation of insurance businesses in Australia.

Trade Practices Act 1974 (Cth) – (“the TPA”) prohibits misleading or deceptive behaviour, or behaviour that is likely to mislead or deceive. The TPA applies to all insurance companies.

Volunteers Protection Act 2001 (SA) - (“the VPA”) provides protection to volunteers against any personal civil liability for any act or omission carried out in ‘good faith’ during the performance of voluntary work arranged

by a community organisation. The VPA transfers personal civil liability for actions or omissions made in ‘good faith’ to the relevant community organisation.

Required Insurance

The Master and Service Agreements specify the minimum types and levels of insurance that a community organisation must have before entering into a grant funding agreement with the Minister. However, this is only a service minimum. The community organisation remains responsible for assessing and considering the risks involved in providing services and ensuring their organisation has the necessary insurance to mitigate the risks of providing the services: cl 17.1 Master Agreement.

In order to receive funding from DFC, a community organisation with a Master and Service Agreement will be required to have:

- A minimum of \$10 million in Public Liability insurance. The insurance policy must also note the interest of the Crown in right of the State of South Australia as an interested party in regard to the Master and Service Agreements: cl 17.2.5 Master Agreement;
- Professional Indemnity insurance if specified in the Service Agreement: cl 17.2.2 Master Agreement;
- Adequate insurance to protect physical assets against loss and/or damage, and to indemnify against legal liability for personal injury and/or property claims made by third parties: cl 17.2.3 Master Agreement;
- Directors and Officers insurance and insurance to indemnify the community organisation against civil liability for actions of volunteers if the

community organisation is an Incorporated Association under the *Associations Incorporation Act 1985* (SA) cl. 17.2.6 Master Agreement; and

- Personal Accident/Disability insurance for staff engaged for the provision of services who are not 'workers' within the meaning of the *Workers Rehabilitation and Compensation Act 1986* (SA) ("the WRC Act"). This includes volunteers and individuals undertaking work experience. Insurance must provide protection to at least the level provided by the WRC Act for those considered to be "workers" within the meaning of the WRC Act. The minimum level benefit is 104 weeks: cl 17.2.7 Master Agreement.

Community organisations also need to ensure insurance is obtained from a reputable insurer(s) who would meet the approval of the Minister: cl 17.3 Master Agreement.

Reporting

From time to time (usually annually), DFC's Grants Management Unit will conduct compliance checks to confirm that funded organisations have appropriate insurance, as set out in the Master Agreement and Service Agreements.

At such times, community organisations will be requested to provide copies of all insurance policies, certificates of currency, and/or evidence of compliance with relevant legislation for insurance policies related to their obligations under the Master Agreement and Service Agreement provisions.

As this information is used across DFC, a community organisation should not be requested to provide this information more than once a year.

Types of insurance

NOTE: Names of insurance products will differ slightly between insurance companies.

Public Liability Insurance

A public liability insurance policy should insure against legal liability to compensate third parties for bodily injury and/or property damage arising out of negligent acts or omissions in connection with activities of the organisation, and against legal costs associated with defending such claims.

Professional Indemnity Insurance

A professional indemnity insurance policy should insure against legal liability for any financial loss sustained from a negligent act, error or omission committed by a 'professional', in the course of providing advice or services to a third party. Insurance should also assist to cover legal expenses associated with defending such claims.

Directors and Officers ("D&O") Insurance

A directors and officers insurance policy should insure against the legal liability of Directors and Officers of an incorporated body for personal liability for failing to comply with the legislative duties of those roles.

Buildings and Contents Insurance (Fire or Perils Insurance)

A buildings and contents insurance policy should insure against loss or damage to buildings and contents caused by events such as fire, storm, malicious damage, earthquake and cyclone. 'Perils' will generally be named specifically in the policy, and for a claim to be activated the loss/damage needs to have been unexpected and caused by a named 'peril' in the policy.

Note: 'Flood' is often not included in Buildings and Contents Insurance. It is

important to discuss this issue with the insurer/broker, to discover if the policy covers flood damage/loss claims, or if there is a need to obtain extra flood damage/loss cover.

Personal Accident Insurance

A personal accident insurance policy should insure against legal liability for accidental injury, disability or death sustained by an individual whilst that individual is involved in authorised work or voluntary activities for the community organisation. All organisations must provide personal accident insurance of some kind. Workers Compensation insurance requirements are covered by the WRC Act. Unless your organisation is an exempt employer, it must be registered as an employer with the WorkCover Corporation. However, if your organisation is an exempt employer there is a requirement to provide personal accident insurance for your organisations' workers that provides the same protection to employees as that provided by the WRC Act. Organisations that engage volunteers and allow individuals to undertake work experience must provide personal accident insurance for those individuals as they are not covered by the WRC Act provisions.

For further information regarding Workers Compensation, please see the Information Sheet on [WorkCover Corporation](#). For further information regarding Volunteers, please see the Information Sheet on [Volunteers](#)

Who to consult to obtain an insurance policy

Insurance Companies

An insurance company is a company that is authorised to carry out 'insurance business'. Under the *Insurance Act 1973* (Cth), 'insurance business' is defined as the "business of undertaking liability, by way of insurance (including

reinsurance), in respect of any loss or damage, including liability to pay damages or compensation, contingent upon the happening of a specified event, and includes any business incidental to insurance business": s 3(1).

Insurance Brokers

According to the ICA, an Insurance Broker is "a person who carries on the business of arranging contracts of insurance...as agent for intending insureds": s 11(1). Insurance brokers are generally able to provide a range of policies from different insurance companies, and can assist community organisations to find an appropriate insurance policy.

Group Insurance Schemes

Group Insurance schemes bring together organisations that carry out similar activities so that they can apply for insurance as a group. The benefits of a group scheme are that they may be able to assist smaller organisations to obtain more comprehensive insurance where they may otherwise have difficulties and may also have lower premiums.

Duties when taking out an insurance policy

When taking out an insurance policy, the party seeking insurance (the 'insured') has a statutory duty of disclosure to the party providing the insurance (the 'insurer') which must be fulfilled, and both parties have a legal obligation to act in "good faith".

The "duty of disclosure"

The "duty of disclosure" is created under the ICA. It is placed upon the insured to disclose to the insurer, prior to entering into the insurance contract, "every matter that is known to the insured, being a matter that:

- (a) the insured knows to be a matter relevant to the decision of the insurer

whether to accept the risk and, if so, on what terms; or

- (b) a reasonable person in the circumstances could be expected to know to be a matter so relevant”: s 21(1).

This duty does not require the insured to disclose matters that diminish the risk, that are of common knowledge, matters that the insurer knows, or in the ordinary course of the insurer’s business as an insurer ought to know, or as to which compliance with the duty of disclosure is waived by the insurer: s 21(2).

It is important to note that this duty applies to renewals, extensions, alterations or reinstatements of insurance cover as well. It does not only apply to the initial application for insurance.

The “duty of utmost good faith”

The “duty of utmost good faith” is created under the ICA. It creates an implied provision within any insurance contract that requires “each party to it to act towards the other party, in respect of any matter arising under or in relation to it, with the utmost good faith”: s 13.

This duty is imposed upon both parties to act fairly and honestly in their dealings with each other. Among other things, in order to fulfil the duty of utmost good faith, as the insured, a community organisation must fulfil the duty of disclosure, and thus disclose all relevant information to the respective insurer/broker; community organisations should provide honest and comprehensive information to the insurer, cooperate when making a claim, and should not initiate false claims.

What to disclose when applying for insurance

When applying for insurance, the duty of disclosure obligates a community organisation to tell the insurance company anything that would be

relevant to the decision made by the insurance company whether or not to insure the organisation. It is also essential to allow them to assess the scope of the organisation’s risks, and provide proper advice on the types and amount of insurance the community organisation is likely to require. A community organisation’s failure to disclose could result in the discovery they are actually uninsured when lodging a claim against the insurance policy.

Fraudulently failing to disclose information to the insurer/broker occurs when it is known that the information is relevant and there was still failure to reveal it to the insurer/broker has serious consequences. If this is the case, the insurer can cancel the policy and refund the premium: s 28 ICA.

However, an **innocent** failure to disclose information occurs when the failure to disclose information resulted from an honest belief the information was either irrelevant or it had not been considered. If an organisation innocently fails to disclose the information and the insurer would have provided the organisation with insurance had the information been disclosed, then they cannot reject the claim. However, if the insurance company would have set a higher premium, they are able to reduce the amount of the organisation’s claim. If they wouldn’t have provided the organisation with insurance had they had the extra information, they can reject the claim.

Frequently Asked Questions

How can a community organisation terminate/cancel their insurance?

Community organisations should read the insurance policy carefully when first taking out insurance, and should ask about the termination requirements. The

insurance policy should state the termination or cancellation procedures. While most insurance policies can be cancelled during the 'cooling-off period' or by providing the insurer with written notice of the intention to terminate the policy, it is important to check all these details with the insurer.

What is a cooling-off period?

A 'cooling-off period' is normally 14 days after receiving the insurance policy documents, but your organisation should check with the insurance company as to the duration of the 'cooling-off period'. Should your organisation opt to cancel during this time, the insurer is generally required to refund the entire premium paid.

How can the insurer terminate/cancel insurance?

Under section 60 of the ICA, an insurer may only terminate an insurance policy under the following circumstances:

- if the insured failed to comply with the "duty of utmost good faith";
- if the insured failed to comply with the "duty of disclosure";
- if the insured made a misrepresentation to the insurer at the time of negotiating the insurance contract;
- if the insured failed to comply with a condition of the contract; or
- if the insured made a fraudulent claim.

As the insured, your organisation is entitled to be given at least three (3) business days notice before the insurer cancels a general insurance policy, and notice must be given in writing: s 59.

However, your organisation should check with the insurance company/broker about their particular policy regarding refunds and terminations.

Questions to ask when buying insurance

What is and what is not covered by this insurance policy?

It is important to be clear on exactly what events are covered by the insurance policy, as it is a community organisation's responsibility under the Master Agreement to obtain adequate insurance cover to mitigate any risks associated with providing the contracted service.

What is the 'excess' to be paid on various claims?

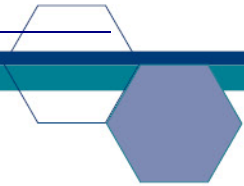
It is important to understand how the policy works, and how a claim under the policy will (most likely) attract an 'excess'. An 'excess' is the amount of money the insured is required to contribute to the repair or replacement of an item to which the insurance applies. The insurance company will determine the amount of excess that the insured will be required to pay.

Who does this policy cover, ie volunteers, visitors, clients, employees, contractors etc?

Organisations should check carefully with the insurer exactly who is covered by the insurance policy, and who is not, to help ensure it is sufficient to protect all the relevant personnel.

For Buildings and Contents, what events are and are not covered, e.g. flood, earthquake, fire, malicious damage, explosion, cyclone etc?

Your organisation should be very clear on what damage in particular is and is not covered by your organisation's policy. It is the community organisation's responsibility under the Master Agreement to obtain adequate insurance cover to mitigate any risks associated with providing the contracted



service, so the organisation must ensure there is protection against all likely events. For example, if your organisation is in a high fire risk area, it must ensure it has adequate fire insurance to provide the necessary protection.

Is your organisation's insurance broker registered?

If your organisation uses an insurance broker to arrange insurance, the organisation should check that the broker is registered with the Australian Securities and Investments Commission ("ASIC").

Their website address is www.asic.gov.au.

Is the quote for insurance within your organisation's budget?

It is important to calculate the cost of insurance over a period of time, to ensure affordability and to make the necessary payments and on-time. Non-payment can, in some instances, result in a lack of insurance protection for the period of time to which the payment relates.

What is the process for upgrading or downsizing insurance cover, as required?

This process can be important if your organisation is growing, or if the organisation undergoes relevant changes. Your organisation should check the insurance to ensure it still has the necessary cover to mitigate all possible risks associated with service provision. If your organisation considers there is a need to increase or decrease the level of cover, contact the insurer for information on how to go about making the necessary changes.

Tips on obtaining insurance

Seek Advice

If possible, it is a good idea to discuss the insurance policy with a legal representative, or someone who is well-informed regarding insurance. They can assist your organisation to ensure they have the cover that best suits their needs.

Value for money

Your organisation should obtain at least three quotes for various insurance products. This will help to compare and ensure the cost of the insurance is reasonable. When obtaining and assessing quotes, it is important to read the Product Disclosure Statement ("PDS") of each product carefully, the cheapest insurance is not always sufficient to cover the needs of the organisation.

It is also important to weigh up the benefits of value for money. An organisation may find that one policy provides adequate cover, while another is only slightly more expensive but provides much greater cover. In this situation, if your organisation is able to afford to pay a little more, it may be getting better value for money.

Be Informed

It is important to read the insurance policy and the PDS thoroughly, taking note of the finer detail of the product. This will ensure an awareness of what the product does cover and does not cover. To clarify any points that were not adequately explained in the PDS, ask the insurance company/broker. This is important to make sure your organisation is adequately insured to mitigate the risks of delivering services and operating the organisation.

Fully assess your organisation's risks

and communicate them to the advisor, or fully explain all the activities undertaken and ensure the advisor understands all the details.

Keep on file copies of the original contract, the insurance policy PDS, correspondence with the insurance company and any other documents relating to the policy.

In the case of **Buildings and Contents Insurance**, make sure the policy provides protection for everything, including particularly expensive items, e.g. photocopiers, computers and cars, as these more expensive items may need to be individually detailed in the policy in order to be insured.

Ask Questions

Ask as many questions as possible, even if they do not seem very important. It is crucial not to be confused about the product details before contracting into an insurance policy.

Refusal

It is possible that insurers may refuse to insure your organisation. If this occurs, your organisation should request reasons from the insurer as to why they have refused insurance. If these reasons are not satisfactory, your organisation could ask the insurer to review their decision through their internal dispute resolution process.¹

If the reasons for refusal to insure your organisation are related to the size of the organisation (eg, a small organisation), it may be worth investigating the possibility of obtaining insurance through a group scheme, for example one that involves cover for a group of organisations that undertake similar activities (see **Group Insurance Schemes** above).

1

<http://www.insuranceombudsman.com.au/pages/ui/container/shared/FAQ.aspx?id=1&pageid=37>

Additional Useful Contacts

Australian Prudential Regulation Authority (APRA)

Information Hotline: 1300 13 1060

Adelaide Address

Level 5 Allianz Centre

100 Pirie Street

ADELAIDE SA 5000

Postal Address

GPO Box 9836

ADELAIDE SA 5001

www.apra.gov.au/

Australian Securities and Investments Commission (ASIC)

General Contact Telephone:

1300 300 630

Adelaide Address

Level 8, 100 Pirie Street

ADELAIDE SA 5000

Postal Address

GPO Box 9854

ADELAIDE SA 5001

www.asic.gov.au

Insurance Ombudsman Service (IOS)

National Toll Free: 1300 78 08 08

Postal Address

PO Box 561

Collins St West,

MELBOURNE VIC 8007

www.insuranceombudsman.com.au



9 Work Cover

Overview

Purpose

This Information Sheet provides information to community organisations who have a Master Agreement and Service Agreement with the Minister for Families and Communities, Ageing, Disability and/or Housing (collectively and separately “the Minister”) about the responsibilities and rights of both workers and employers with regards to the Workers Rehabilitation and Compensation Scheme, and the *Workers Rehabilitation and Compensation Act 1986 (SA)*.

Please note that this information sheet is provided for general information only. You should contact *WorkCover* directly for more detailed information, or if you have any specific questions.

Contact details for the relevant administrative bodies are provided on page 8.

Relevant Legislation

- ***WorkCover Corporation Act 1994 (SA)*** - (“the **WorkCover Act**”) establishes the “*WorkCover Corporation*”, also known as “*WorkCover*”.
- ***Workers Rehabilitation and Compensation Act 1986 (SA)*** - (“the **WRC Act**”) establishes the Workers Rehabilitation and Compensation Scheme and sets out how it is to be administered.
- **Related regulations** - there are a number of regulations created under both the *WorkCover Act* and the *WRC Act*².

Frequently Asked Questions

Who is “WorkCover”?

“*WorkCover*” is the shortened name for the “*WorkCover Corporation*”. It is a statutory authority constituted under the *WorkCover Act*. *WorkCover*’s objectives include helping reduce the incidence and severity of work-related injuries, providing for the rehabilitation of workers experiencing work-related injuries and providing compensation for work-related injuries (see s12 *Work Cover Act*).

What does WorkCover do?

WorkCover is responsible for the general administration of the WRC Act, and any other relevant legislation.

As part of their administration of the WRC Act, *WorkCover* manages the SA Workers Rehabilitation and Compensation Scheme (“the **Scheme**”). It supervises revenue collection and has responsibility to efficiently and economically manage the overall financial liabilities of the Scheme.

WorkCover also has the power to carry out additional functions, such as the promotion of rehabilitation for injured workers and support for the formulation of standards, policies and strategies that promote occupational health, safety or welfare (See s 13 *WorkCover Act*).

What is the Scheme and how does it work?

The Scheme is a compensation system that coordinates rehabilitation services for, and compensation to, individuals who are injured or made ill in the course of or as a result of their work, and where possible, return them to work.

The Scheme was created in 1986 by the WRC Act. It is funded by the levies paid by South Australian registered

employers. Additional capital is generated through the investment of the levy funds. All registered employers are required to pay a levy, and registration is a legislative requirement of all relevant employers. Levies are reviewed annually by *WorkCover*.

The Scheme entitles any “worker” within the meaning of the WRC Act to make a compensation claim if they are injured or made ill through their work activities or associated activities. This entitlement extends to all workers, regardless of their employment status, e.g. full-time, part-time or casual workers. Compensation claims are handled through Employers Mutual Limited (“**EML**”), as the sole claims agent for *WorkCover*.

Rights and Obligations – Frequently Asked Questions

Who does the WRC Act apply to?

The WRC Act applies to all employers in South Australia, thus community organisations who are “employers” within the meaning of the WRC Act are legally required to fulfil its obligations.

Which are the relevant clauses in the Master Agreement?

Community organisations who have a Master Agreement and a Service Agreement with the Minister, have a contractual obligation to maintain workers compensation insurance during the term of those Agreements in respect of all of their staff who are workers for the purpose of any applicable legislation (i.e. the WRC Act) (See clause 17.2.4 Master Agreement).

The obligation to maintain workers compensation insurance under clause 17.2.4 of the Master Agreement does not extend to community organisations who are “self-insured employers”.

The Master Agreement also imposes an obligation on the community

organisation to take out certain insurances in relation to its staff who are not workers within in the meaning of the WRC Act (see s 3 WRC Act and clause 17.2.7 of the Master Agreement).

For further information regarding legislative and Master Agreement insurance requirements for community organisations, please see the **Insurance Information Sheet**.

For further information regarding the obligations of community organisations regarding staff who are not workers within the meaning of the WRC Act, please see the **Volunteers and Community Organisations Information Sheet**.

Employers

Who is an “employer” according to WorkCover?

For the purposes of *WorkCover* and the Scheme, the general definition of “employer” is “a person by whom a worker is employed under a contract of service, or for whom work is done by a worker under a contract of service” (See s 3 WRC Act).

I am an employer. Do I have to register with WorkCover?

Under section 59 of the WRC Act, “employers” are required to apply to be registered with *WorkCover* within 14 days of becoming an “employer”, e.g. purchasing a business, hiring staff or contractors etc.

If you are an “employer”, you must register regardless of the tenure of your worker/s. It doesn’t matter if your staff are employed on a full-time, part-time, permanent, temporary or casual basis.

For more information contact *WorkCover* directly regarding your specific circumstances.

How do I register as an employer with WorkCover?

Contact *WorkCover* by phone or email and ask them for a copy of the registration form. Alternatively, you can visit their website at

www.workcover.sa.gov.au and complete the registration form online.

What can happen if I don't register with WorkCover?

A penalty of \$10,000 will apply for each worker employed while an employer is not registered with *WorkCover* (See s 59(1) WRC Act).

What is a "self-insured employer"?

It refers to an employer who is registered with *WorkCover* in accordance with Part 5, Division 1 of the WRC Act as a self-insured employer.

Under section 60 of the WRC Act an employer or group of employers can apply to *WorkCover* for registration as a self-insured employer.

Self-insured employers must provide, manage and fund their own workers compensation claims, but remain subject to the operation of the WRC Act. They must provide the same benefits to their workers that would be provided by the Scheme. Self-insured employers pay a reduced levy to *WorkCover*, as they manage and fund any workers compensation claims that arise.

The "Crown and any agency or instrumentality of the Crown shall be deemed to be registered as self-insured employers": s 61(1) WRC Act.

Please contact *WorkCover* directly for further information in relation to registering as a self-insured employer.

Am I eligible to be a self-insured employer?

In order to be eligible, the employer, or group of employers, must be a body corporate, and must employ (singularly for one employer, or aggregately for a group) at least 200 workers (See s60(2) WRC Act).

When a group of employers are registered as a group of self-insured employers, one employer (as nominated in the application form) shall, for the purpose of the WRC Act be "treated as the employer of all workers employed by the various members of the group": (See s60(7) WRC Act).

It should be noted that all members of the self-insured employer group are "jointly and severally liable to satisfy the liabilities under [the WRC Act] of the member" nominated under s60(7) of the WRC Act.: (See s60(8) WRC Act).

For more information on this issue contact *WorkCover* directly regarding your specific circumstances.

How can I become a self-insured employer?

In order to become a self-insured employer, agencies must apply to *WorkCover*. Both individual employers and groups of employers can apply to *WorkCover* for self-insured employer status.

Section 60(6) of the WRC Act provides that when considering an application for self-insured employer status, *WorkCover* may have regard to matters as it considers relevant, and will have regard to the following

- "whether the employer or group is, and is likely to continue to be, able to meet its liabilities;
- the resources that the employer or group has for the purpose of administering claims for compensation;
- the incidence and severity of compensable disabilities arising from employment by the employer or employers;
- the effect, or likely effect, of the working conditions under which workers are employed by the employer, or any of the employers, on the health and safety of those workers;
- the record of the employer or employers in relation to the rehabilitation of disabled workers;
- the record of the employer or employers in providing suitable employment to workers who suffer compensable disabilities;
- the views of any industrial association that has, in the opinion of *WorkCover*, a proper interest in the matter".

Once I am a registered employer, what do I need to do?

If you are an employer registered with *WorkCover*, you have a legal obligation to provide protection to both your business and your workers against financial risks and other risks associated with workplace injury. Your obligations include:

- prevention of injuries in the workplace before they occur through the implementation of policies and procedures to provide a safe and healthy workplace for workers;
- promptly reporting any work-related injuries that occur in the workplace to the appropriate claims agent;
- paying your employer levy within 7 days of the end of each month, and including with the levy any prescribed information relating to compensation claims lodged during that month, and any other information required by *WorkCover*. (see s69(1) WRC Act); and
- keeping accurate accounts and records of all the remuneration you pay your workers, and any such other information that may be required by *WorkCover*. Failure to do this can attract a penalty of \$10,000: (See s 74(1) WRC Act)

For more information regarding this issue contact *WorkCover* directly to discuss your specific circumstances.

How do I change or amend my WorkCover registration details?

You must inform *WorkCover* of any changes in your registration details. Changes in details include a change in your business activity, a change in your business/trading name, a change in your contact person or mailing address. If any such changes occur, you will need to inform *WorkCover* of the changes within 14 days. They will provide you with the relevant forms to submit to confirm the changes.

What do I do if I stop being an employer in South Australia, such as

if I sell my business or cease to employ workers?

You must inform *WorkCover*, in writing, within 14 days of ceasing to be an employer: s 75(1) WRC Act.

I am an employer. Do I have to pay the levy?

Under section 66(1) of the WRC Act, an employer (not being a self-insured employer) is liable to pay a levy to *WorkCover*.

How is the levy calculated?

Section 66(2) of the WRC Act sets out that levy will be a percentage of the aggregate remuneration paid to the *employer's workers in each class of industry in which the employer employs workers*. Different levy rates may be applied to different classes of industry (See s 66(3) WRC Act). The rates are calculated by *WorkCover*, taking into consideration both extent to which an industry is likely to generate compensable disabilities and the need for *WorkCover* to generate and maintain sufficient funds in the Scheme: s 66(8) WRC Act.

WorkCover will send all registered employers a Reconciliation Statement towards the end of June each year. You must complete this Statement by declaring the total amount of remuneration paid to all your employees for the financial year.

For more information on the calculation of levies contact *WorkCover* directly to discuss your specific circumstances.

What could happen if I don't pay the levy?

If your levy is not paid on time, or is not paid at all, *WorkCover* has the power to impose a fine (See s70 WRC Act). If that fine is not paid within the time allowed, then a penalty of \$10,000 can be imposed (See s 70(5) WRC Act).

Do I pay the levy? Do my workers contribute to the payments?

The levy is to be paid by the employer. Section 115 of the WRC Act provides

that an employer cannot deduct contributions towards the levy from workers' wages. Section 115(4) of the WRC Act provides that a person who contravenes this section is guilty of an offence, and is liable to compensate a worker for any monetary loss suffered by virtue of that contravention.

Can WorkCover increase or reduce my levy?

WorkCover can grant to, or impose on, a particular employer, either a remission of a levy or a supplementary levy. In order to do so, they may consider such things as:

- adequacy or inadequacy of measures taken to reduce the incidence of work related traumas;
- incidence or costs of claims for compensable disabilities suffered by the workers;
- rehabilitation facilities or services for disabled workers provided, or the absence or inadequacy of such facilities or services;
- employer's practices regarding the retention, employment or re-employment of disabled workers, (and in particular, any failure to provide, in accordance with the WRC Act, employment to a worker who has suffered a compensable disability while in the employer's employment); and
- such other matters (whether similar or dissimilar to those referred to above) as *WorkCover* considers relevant.

(See s67(1) WRC Act).

What happens to the money I contribute to WorkCover?

The levy paid is used to fund the Scheme. The levy you contribute may also be invested in order to generate more capital to fund the work of the Scheme. The funds are administered in order to meet the current and future cost of South Australian workers' compensation claims liabilities.

I am self-employed. Am I protected by the Scheme?

Self-employed individuals are not automatically protected by the Scheme. However, you can apply to *WorkCover* to have the protection of the Scheme extended to you: s. 103 WRC Act.

I employ staff who travel interstate, and are based interstate for periods of time. Are they considered to be South Australian 'workers'?

The issue of interstate employees can be a complicated situation. For more information, go to the *WorkCover* website at www.workcover.sa.gov.au and examine their "Territoriality Flowchart", and contact *WorkCover* directly for more information regarding your specific circumstances.

Workers

Who is a "worker" according to WorkCover?

Under the WRC Act a "worker" is generally "a person by whom work is done under a contract of service (whether or not as an employee)": For the complete definition of 'worker' see s 3 WRC Act.

What is a "contract of service"?

Under the WRC Act a "contract of service" is defined as a:

- "(a) contract under which one person (the worker) is employed by another (the employer);
- (b) contract, arrangement or understanding under which one person (the worker) works for another (the employer) in prescribed work or work of a prescribed class;
- (c) contract of apprenticeship;
- (d) contract, arrangement or understanding under which a person (the worker)—
 - (i) receives on-the-job training in a trade or vocation from another (the employer); and
 - (ii) is during the period of that

training remunerated by the employer". (See s 3 WRC Act).

Are volunteers covered by the WRC Act?

Volunteers in the workplace are generally not classed as workers and therefore are not covered by the WRC Act.

For more information on this issue or for questions regarding a specific situation, please contact *Office for Volunteers* or *WorkCover*.

Are work experience students from University, TAFE or Secondary School covered by the WRC Act?

Students from TAFE, University or Secondary School, and other such institutions, within the workplace undertaking work experience are generally not classed as workers and therefore are not covered by the WRC Act.

For more information on this issue or for questions regarding a specific situation, please contact *WorkCover*.

When can a worker make a claim?

A worker within the meaning of the WRC Act, who believes they have been harmed, injured or made ill as a result of their work or work related activities, is entitled to make a claim to *WorkCover*, regardless of their employment status, e.g. whether employed full-time, part-time or on a casual basis.

For further information, please contact *WorkCover*.

Is there an Appeal Process?

If a worker who has made a claim is unhappy with a decision made by *WorkCover*, they can lodge a notice of dispute with the Workers Compensation Tribunal. Decisions regarding the following matters are reviewable by the Tribunal:

- a compensation claim;
- the rehabilitation services provided, or to be provided;

- a variance, suspension or discontinuance of weekly payments;
 - an application by an employer to have weekly payments payable to a worker employed by, or formerly employed by them; and
 - a disallowance or reduction in a charge for a medical service.
- (See s 89A of the WRC Act).

For further information, please contact *WorkCover*.

Does the appeal process apply to decisions made by a self-insured employer, and therefore made in lieu of decisions by WorkCover?

Any decisions made by an employer who is registered as a self-insured employer pursuant to the delegation of powers or discretions under the WRC Act are subject to 'review and appeal in the same way as a decision of the Corporation' (See s 63 (4) WRC Act).

Disclaimer

This information sheet is subject to the disclaimer which can be found at the following address:

<http://www.familiesandcommunities.sa.gov.au/Default.aspx?tabid=1060>.

Relevant Links

WorkCover Corporation

Telephone: 13 18 55

Website: www.workcover.sa.gov.au

Safework SA

Telephone: 1300 365 255

Website: www.safework.sa.gov.au

Office for Volunteers

Telephone: (08)8463 4490

Website: www.ofv.sa.gov.au

10 Public Disclosure of Agreements



Government of South Australia

Department for Families
and Communities

Overview

This information sheet provides information to community organisations on the South Australian Government and Department for Families and Communities' ("DFC") requirements regarding the public disclosure of agreements. Public disclosure is generally required in the interests of openness and transparency in government contracting and grant funding arrangements. Accordingly, this information sheet aims to outline the requirements of both policies and the nature of the disclosure required.

Disclosure of Agreements

All community organisations with a Master Agreement and Service Agreement or other grant funding agreement have agreed to the disclosure of the Master Agreement and any Service Agreements or grant funding agreement in accordance with Department of the Premier and Cabinet Circular 27 ("DPC Circular 27"). Agreements that meet the criteria will be disclosed on the South Australian Government's tenders and contracts website at <http://www.tenders.sa.gov.au>.

In addition, from September 2007 all Service Agreements and other grant funding agreements with the Minister for Families and Communities, Minister for Disability, Minister for Housing and/or Minister for Ageing (collectively and separately "the Minister") will be disclosed in accordance with the Department for Families and Communities Contract Disclosure Policy. These Service Agreements will be disclosed on the Department for Families and Communities website at

<http://www.communities.sa.gov.au>. All Service Agreements and grant funding agreements contain a provision regarding consent to disclosure on the DFC website.

Disclosure in Accordance with DPC Circular 27

DPC Circular 27 requires two types of contracts (which include all Master and Service Agreements and grant funding agreements) to be disclosed on the tenders and contracts website. These are:

Eligible Contracts: Contracts between public authorities and the private sector of a value between \$500,000 (GST Inclusive) and \$4,000,000 (GST Inclusive) and contracts between public authorities and consultants of a value less than \$25,000 (GST Exclusive); and

Significant Contracts: Contracts between public authorities and the private sector of a value of over \$4,000,000 (GST Inclusive) or involving asset sale of \$1,000,000 (GST inclusive), or contracts between public authorities and a consultant of a value of over \$25,000 (GST Inclusive).

For both Eligible Contracts and Significant Contracts DPC Circular 27 requires that, unless an exemption applies, the following information be disclosed on the tenders and contracts website:

- Contract title;
- Full details of the contractor including name, address, phone number and contact officer;
- Name of public authority;
- Date of the contract's execution;

- Start date and completion date of the contract;
- Goods, services or subject matter of the contract;
- Total value of the contract;
- Process used to select the contractor;
- Contract identification number;
- Summary information relating to any variations over the term of the contract;
- Reasons for non-disclosure of part or all of the contract (if applicable); and
- Contact details of the public authority's Accredited Freedom of Information Officer.

For Significant Contracts, the entire contract must be disclosed on the website. The information will remain on the tenders and contracts website for the whole term of the contract or 12 months from the contract's execution date, whichever is longer.

Exceptions

DPC Circular 27 provides for exemptions from disclosure for both Eligible and Significant Contracts, on the condition that there are compelling reasons why the material should not be made public and one or more of the following cases applies:

- Commercial advantage or disadvantage to a party or other person by the disclosure of genuinely confidential business information;
- Prejudice to a party through the release of trade secrets or intellectual property;
- It involves defence or national security information and matters affecting public safety or the security of government facilities;
- It can be demonstrated that a person/persons could be seriously harmed either socially or economically from the release of such information, such that it would not be in the public interest to do so; and/or

- Where the disclosure would involve legal risk, for example the disclosure would be contrary to the provisions of the Act, give cause of action for breach of confidence, be in breach of contract or contrary to a court order.

Where a decision not to disclose a contract is made, those reasons must be published on the tenders and contracts website.

Relevant Links

Tenders and Contracts Website:

<http://www.tenders.sa.gov.au>.

Department of Premier and Cabinet:

Department of Premier and Cabinet
Circular 27

Department for Families and Communities:

Website:

<http://www.communities.sa.gov.au>.

11 Carers and the *Carers Recognition Act*



Government of South Australia

Department for Families
and Communities

Overview

Purpose

This Information Sheet provides information to carers on the application of the *Carers Recognition Act 2005* (SA), the Carers Charter and the Carers Policy. Carers play an extremely important role in the community and the South Australian Government has taken steps to try and ensure that Carers receive greater recognition and support. For more detailed information please contact the Office for Carers, Department for Families and Communities (“DFC”).

Relevant Legislation

Relevant legislation includes:

- *Carers Recognition Act 2005* (SA)
- *Volunteers Protection Act 2001* (SA)
- *Children’s Protection Act 1993* (SA)
- *Disability Services Act 1993* (SA)
- *Mental Health Act 1993* (SA)

The Carers Recognition Act

What does the Carers Recognition Act 2005 (SA) do?

The South Australian *Carers Recognition Act 2005* (“the Act”) was created to recognise the rights and needs of carers in South Australia and to acknowledge the needs of carers as individuals, separate from the person for whom they provide care. The Act incorporates the South Australian Carers Charter (“Carers Charter”), which sets out seven principles relating to the recognition of the role and rights of carers. A copy of the Carers Charter is attached to this Information Sheet as

Appendix 1.

At a practical level, the Act also requires the South Australian Government and community organisations receiving SA Government grant funding to understand the principles of the Carers Charter, and take action to reflect the principles in the services that they provide.

How will the Act benefit me as a carer?

In addition to requiring the principles of the

Carers Charter to be applied in the provision of services by all organisations, the Act also requires government agencies to prepare reports outlining the steps taken by the Government to reflect the principles of the Carers Charter within their agency and in the provision of services relevant to carers and the persons they care for. The South Australian Government has also taken steps to enable information to be obtained from community organisations on the way the Carers Charter principles have been implemented.

Accordingly, the Act ensures that carers and the issues they are faced with are included in the planning, delivery and assessment of both government and government funded services.

Who is responsible for the administration of the Act?

The Minister for Families and Communities is responsible for the Act and DFC is responsible for its implementation.

Carers

Who is a considered to be a “carer”?

A “carer” is defined under the Act as a person who provides ongoing care or assistance to a person who:

- Has a disability³; or
- Has a chronic illness, including a mental illness⁴; or
- Because of frailty, requires assistance with the carrying out of everyday tasks; or
- Is of a class prescribed by regulation.

Volunteers and paid staff of an organisation who, although they may undertake a caring role, are not considered to be carers for the purposes of this legislation.

Who is a not considered to be a “carer”?

Under the *Volunteers Protection Act 2001* (SA): s 5(2), a person is not considered to be a ‘carer’ if they provide care or assistance “under a contract for services or a contract of service” or “in the course of doing community work organised by a community organisation”. Accordingly, volunteers and paid staff of an organisation are not considered to be ‘carers’.

Individuals are not considered to be carers by virtue of their relationship to the person requiring care. For example, individuals are not automatically considered to be a carer within the meaning of the Act because they are

married to, live with, or are the parent or child of the person requiring care. Individuals are also not considered to be carers within the meaning of the Act because they have a child in their care under the *Children’s Protection Act 1993* (SA), or any other Act.

The individual must provide ongoing care for that person.

Does the Act apply to my community organisation?

The Act will apply to all community organisations that have a Service Agreement or contract to provide services relevant to carers or those they care for, with a relevant South Australian Government body.

As a community organisation, what are my obligations under the Act?

Your organisation must take all practicable measures to ensure that your organisation and its officers, employees or agents have an awareness and understanding of the Carers Charter and take action to reflect its principles in the provision of services.

As a community organisation, how can I fulfil my obligations relating to carers under the Act?

In order to fulfil your obligations under the Act to ensure your officers, employees or agents have an understanding of the Carers Charter and that those principles are reflected in your service activities, your organisation should undertake activities such as the following:

- Provide written information:
 - Posted on intranet/internet;
 - Staff newsletter;
 - Written materials emailed/supplied to staff;
 - Information posted on notice boards in staff areas; and/or
 - Make pamphlets available.

³ “Disability” within the *Disability Services Act 1993* (SA) means a disability—

(a) that is attributable to intellectual, psychiatric, cognitive, neurological, sensory or physical impairment, or a combination of any of those impairments; and
(b) that is, or is likely to be, permanent; and
(c) that results in the person having—
(i) a reduced capacity for social interaction, communication, learning, mobility, decision making or self care; and
(ii) a need for continuing support services, and includes such a disability notwithstanding that it is of an episodic nature: s 3.

⁴ “Mental illness” within the *Mental Health Act 1993* (SA) means “any illness or disorder of the mind”: s 3.

- Provide verbal information to staff:
 - Discussions at staff and team meetings;
 - Training for staff and managers;
 - Discuss and implement changes to policies and procedures with staff regarding incorporating the principles of the Carers Charter; and/or
 - Draft and implement policies and procedures that are in line with the Carers Charter.

Your organisation may also wish to implement a review process to ensure that the Carers Charter principles are being adequately reflected in the provision of services.

Complaints and Appeals

As a “carer”, can I contact someone if I am unhappy about a particular organisations’ compliance with the Act and/or the Principles of the Carers Charter?

In the first instance, you should contact the organisation directly and inform them of your dissatisfaction or complaint. This will give them an opportunity to improve the situation, and if necessary, you can use their internal complaints resolution processes.

If you feel the matter has not been resolved in a satisfactory way, you can then contact the relevant Government Department.

If you are still dissatisfied, or the issue is unresolved, you can make a complaint about a particular organisation to the Health and Community Services Complaints Commissioner (HCSCC). The HCSCC is an independent statutory officer, established under the *Health and Community Services Complaints Act 2004* (SA). The HCSCC has jurisdiction with regards to health and community services within the public, private and non-government sectors. There are however, a number of conditions within

which the HCSCC can assist you.

For further information please contact the HCSCC.

Relevant Organisations

Office for Carers

Office for Carers is a part of DFC, and is responsible for the administration of the Act. Office for Carers has responsibility for the coordination and collation of reports gathered under the requirements of the Act, and has lead responsibility to provide policy advice across the South Australian Government on issues affecting carers.

Carers SA

Carers SA is a community based organisation representing the interests of Carers in South Australia. A similar association exists in each state and territory, and all are linked to the National Carers body, Carers Australia. Carers SA seeks to provide information and advocacy for carers in South Australia.

Carers Australia

Located in Canberra, Carers Australia is the national peak body for carers. The organisation represents carer’s interests at a national level. The eight Associations in each state and territory, such as Carers SA, comprise the membership of Carers Australia.

Additional Useful Contacts

Carers SA

FREECALL: 1800 052 222

Adelaide Address

58 King William Road

Goodwood SA 5034

Postal Address

PO Box 199

Rundle Mall, Adelaide 5001

www.carers-sa.asn.au



Office for Carers

Telephone: 08 8207 0424

Adelaide Address

Riverside Centre

Adelaide SA

Postal Address

GPO Box 70

Adelaide SA 5000

www.familiesandcommunities.sa.gov.au/sacarers

**Health and Community Services
Complaints Commissioner (HCSCC)**

FREECALL: 1800 232 00

www.hcsc.sa.gov.au

Office of the Public Advocate

FREECALL: 1800 066 363

www.opa.sa.gov.au

12 Carers & Community Organisations



Government of South Australia

Department for Families and Communities

Overview

Purpose

Carers play an extremely important role in the community and the South Australian Government has taken steps to try and ensure that Carers' receive greater recognition and support. This Information Sheet provides information to community organisations that have a Master and Service Agreement with the Minister for Families and Communities, Ageing, Disability and/or Housing (collectively and separately "the Minister") about their obligations relating to carers under the terms of the Master and Service Agreements. For further information, please contact the Office for Carers, Department for Families and Communities ("DFC").

Relevant Legislation

Relevant legislation includes:

- *Carers Recognition Act 2005 (SA)*-
- *Volunteers Protection Act 2001 (SA)*
- *Disability Services Act 1993 (SA)*
- *Mental Health Act 1993 (SA)*
- *Children's Protection Act 1993 (SA)*

Background

The South Australian *Carers Recognition Act 2005* ("the Act") was enacted in order to recognise the rights and needs of carers in South Australia. In particular, the Act emphasises the importance of recognising the needs of carers as individuals, separate from the person for whom they provide care. The Act also incorporates South Australian Carers Charter ("Carers Charter"), which sets out seven key principles relating to the recognition of the role and rights of carers that organisations should follow

when they have contact with carers.

Frequently Asked Questions

The Carers Charter

What is the "South Australian Carers Charter"?

The South Australian Carers Charter is contained in Schedule 1 of the Act, and contains seven principles regarding carers and their roles. A copy is attached to this information sheet. These principles are designed to provide a framework for the better recognition of carers. The Carers Charter also aims to provide guidance to SA Government funded organisations regarding their treatment and inclusion of South Australian carers in the provision, planning, and assessment of services to carers or those they provide care for.

SA Carers Policy

What is the "SA Carers Policy"?

The SA Carers Policy⁵ has been designed by the Office for Carers, in consultation with carers and carer representative groups to provide further direction to government agencies and government funded community organisations to meet their obligations under the Act. The SA Carers Policy provides further information and clarification regarding the seven principles of the Carers Charter. Community organisations are encouraged to consult the SA Carers Policy for further guidance on the implementation of the Charters' principles with regards to the

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http://www.familiesandcommunities.sa.gov.au/DesktopModules/SAHT_DNN2_Documents/Download/633253715974062500/Final%20Carers%20Policy.pdf

assessment, planning and delivery of services that impact carers.

The SA Carers Policy can be obtained via the SA Carers page on the DFC website.

Community Organisations

Community organisations that have a Service Agreement with the Minister have obligations in relation to Carers both under the Act and the terms of the Service Agreement.

As a community organisation, what are my obligations under the DFC Master and Service Agreement?

If your community organisation has a Service Agreement that includes the “Carers Clause” (usually clause 11.4), you must *‘consult carers, or those people or organisations that represent carers, in policy and program development and/or in strategic or operational planning that is relevant to carers and those they care for’*.

When requested to do so by the Minister’s Representative (such as the Director, Office for Carers) your organisation must demonstrate the way you are meeting the requirements of the Act in the course of providing your services. .

As a community organisation, how can I fulfil my obligations relating to carers under my Service Agreement?

In order to fulfil your obligations under the Service Agreement to *‘consult carers, or those people or organisations that represent carers, in policy and program development and/or in strategic or operational planning that is relevant to carers and those they care for’*, your organisation should undertake the following with regards to the Carers Charter:

- Refer to the SA Carers Policy, for guidance as to how to implement the principles of the Charter;

- Actively seek feedback and advice from carers, Carers SA, etc, as to how services can best be tailored to met the needs of carers;
- Discuss this feedback and advice with staff;
- Draft policies and procedures that are in line with the Carers Charter; and
- Establish review mechanisms for policies and procedures to ensure they remain relevant and continue to address the needs of carers, in accordance with the principles of the Charter.

Additional Useful Contacts

Carers SA

08 8271 6288

Freecall: 1800 052 222

Adelaide Address

58 King William Road

Goodwood SA 5034

Postal Address

PO Box 199

Rundle Mall, Adelaide 5001

www.carers-sa.asn.au

Office for Carers

08 8207 0424

Adelaide Address

Level 47, Riverside Centre

Adelaide SA 5000

Postal Address

GPO Box 70

Adelaide SA 5000

www.families

andcommunities.sa.gov.au/sacarers

Appendix 1 – South Australian Carers Charter⁶:

1—Carers have choices within their caring role

(1) Carers should have the same rights, choices and opportunities as other South Australians.

(2) Carers should be supported by individuals, families, business and community organisations, public institutions and all levels of government in the choices they make in their caring role.

2—Carers health and well-being is critical to the community

(1) Carers are entitled to enjoy optimum health, social, spiritual and economic well-being and to participate in family, social and community life, employment and education.

(2) Carers should be supported to balance their caring role with their own needs.

3—Carers play a critical role in maintaining the fabric of society

(1) Carers should be recognised and valued for their important contribution to the well-being of the Australian community.

(2) Carers should be recognised for their unique experience and knowledge in the caring role.

4—Service providers work in partnership with carers

(1) Caring is a social and public responsibility shared by individuals, families, business and community organisations, public institutions and all levels of government.

(2) Carers should be recognised as individuals with their own needs,

within and beyond the caring situations.

(3) The relationship between a carer and the person they care for needs to be respected and honoured.

(4) The role of carers must be recognised by including carers in the assessment, planning, delivery and review of services that impact on them and the role of carers.

(5) The views and needs of carers must be taken into account along with the views, needs and best interests of people receiving care when decisions are made that impact on carers and the role of carers.

5— Carers in Aboriginal and Torres Strait Islander communities need specific consideration

(1) Aboriginal and Torres Strait Islander carers should be specifically identified and supported within and outside their communities.

(2) Aboriginal and Torres Strait Islander carers should be supported by business and community organisations, public institutions and all levels of government.


(3) Aboriginal and Torres Strait Islander carers should be provided with culturally appropriate support services that take into account the history, health and well-being of their extended families.

6— All children and young people have the right to enjoy life and reach their potential

(1) Children and young people who are carers should be specifically identified and supported by individuals, business and community organisations, public institutions and all levels of government.

(2) The special needs of children and young people who are carers and the

⁶ Schedule 1, *Carers Recognition Act 2005* (SA)



unique barriers to their access to service provision should be recognised and acted on so that, as far as possible, they have the same opportunities as other children and young people in Australia.

(3) The caring responsibilities of children and young people who are carers should be minimised.

7— Resources are available to provide timely, appropriate and adequate assistance to carers

(1) Carers need access to a wide range of responsive, affordable services to ensure informed decision making and support for them in their caring situation.

(2) Carers from culturally and linguistically diverse backgrounds may have complex needs that require appropriate service delivery.

(3) Carers in rural and remote communities have barriers to service provision

13 Managing the Master Agreement



Government of South Australia

Department for Families
and Communities

Overview

This information sheet provides information to community organisations that have a Master Agreement with the Minister for Families and Communities, Minister for Disability, Minister for Ageing and/or Minister for Housing (collectively and separately “the Minister”) about their key responsibilities under the Master Agreement and how best to manage these. This information sheet should be read in conjunction with the Master Agreement Information Sheet, which provides information about the nature of the Master Agreement and its operation.

Important Note: This information sheet does not specify all of your organisations obligations under the Master Agreement and should only be used as an aid to understanding the Master Agreement. This information sheet should not be used as a substitute for reading the Master Agreement itself, or receiving appropriate advice on its terms.

Key Responsibilities:

- Service Provision
- Financial Accountability
- Police Checks
- Capital Items
- Confidential Information
- Insurance
- Sub-Contracting
- Publicity

Service Provision

These obligations are detailed in section 6 of the Master Agreement.

Standard of Service Provision

Your organisation must ensure that services you are funded for are provided:

- In a proper, competent and professional manner;
- With due care, skill and diligence;
- In a timely and expeditious way;
- In a way that will prevent injury, death or property damage; and
- At appropriate professional/legal standards.

The best way to do this is to ensure that your organisation has a good understanding of the standards that should be achieved in the provision of its services, including organisational policies and procedures aimed at achieving those standards. Your organisation is also responsible for implementing review and monitoring processes to ensure that the policies and procedures are current, followed and meeting required standards.

Change to Services

Your organisation must provide the services specified in your Service Agreement. There should be no change to the scope of services you have agreed to provide without obtaining the Minister’s consent. If you are unsure whether a change is being made, your organisation should contact the DFC contract manager specified in the relevant Service Agreement to clarify.

Change of Circumstances

Your organisation must advise the Minister as soon as possible if any of the following occur:

- You become unable to provide the services at any time;
- The legal structure, management or operations of your organisation change in a way that could affect your ability to comply with the Master Agreement or any Service Agreement;
- There is a change to the nature or scope of the activities your organisation provides that might affect your ability to comply with the terms of the Master Agreement or Service Agreement; and/or
- There is a change to the address of your principal office or the location where services are provided.

Your organisation should do this by way of a letter or an email to the contract manager specified in the relevant Service Agreement.

Service Agreement

Your organisation must ensure that you comply with the requirements of the Service Agreement, including meeting outputs and Key Performance Indicators and providing data and reports as requested. [Please see the Service Agreement Information Sheet and Managing Service Agreements Information Sheet for further information].

Staffing

Your organisation must ensure that adequate procedures are in place to guarantee that your staff are suitably and appropriately qualified and/or experienced to provide the services. In order to do this, your organisation should:

- Be aware of any professional standards documented in legislation or by professional bodies responsible for implementing standards for a particular position; and
- Make efforts to determine what reasonable standard of care and skill would be expected in relation to a particular position.

Once these standards have been determined, your organisation should clearly document them in a policy, procedure or other document. Your staff should be aware of these standards and provided training in requirements related to the position. If the training or information available is or has been inadequate, your organisation should remedy this as soon as possible before allowing staff to undertake work in that particular position. Once this has occurred, your organisation should implement procedures and monitoring processes to ensure the ongoing suitability of staff for their employment positions.

Financial Accountability

Requirements regarding the allocated funds are contained in section 7 of the Master Agreement, and are supplemented by financial reporting requirements in the relevant section of the Service Agreement. Your organisation should ensure that it is aware of the relevant provisions and takes steps to develop procedures to promote compliance with the relevant requirements.

Payment and Use of the Allocated Funds

Once the Service Agreement has been executed by both parties, the Minister is obliged to pay the allocated funds in accordance with the payment schedule. Your organisation can use the funds allocated under the Service Agreement only for the purposes specified in the Service Agreement.

Administration of the Allocated Funds

Your organisation must ensure that it:

- Appropriately sets monies aside to meet the obligations under the Service Agreement;
- Creates accruals and provisions consistent with sensible

- management and proper accounting practice;
- Can account for and distinguish all allocated funds under the service agreement from monies received from other sources; and
 - Uses all its derived income to provide and administer the services [Please refer to the Derived Income Information Sheet for further information on derived income].

Unexpended Allocated Funds

Your organisation must ensure that on the expiry or termination of a Service Agreement, or the cessation of service provision, your organisation reports on and repays unexpended funds to the Minister. [Please refer to the Return of Unexpended Allocated Funds Information Sheet for further information].

Police Checks

Your organisation must ensure that it complies with DFC's criminal history screening and police checks policy. Your Service Agreement outlines the requirements regarding police checks for those in contact with children under the age of 18 years as well as any other relevant legislation regarding criminal history screening. If your organisation does not have a copy of the policy, you should contact DFC's Grants Management Unit (below) to obtain an electronic or hard copy.

Information regarding criminal history screening for volunteers is available in the Volunteers Information Sheet. This requirement is contained with section 12 of the Master Agreement.

Your organisation should implement policies and procedures for ensuring that all new employees have a criminal history screening check, and that these checks are updated in accordance with the policy. The DFC Screening and Licensing Branch may be of assistance

in implementing measures and screening staff.

Capital Items

Your organisation must maintain an asset register recording specified information for all capital items funded or partially funded by DFC with a value of over \$5,000 (GST Exclusive). This obligation is contained in section 13 of the Master Agreement. The Master Agreement also contains information on how capital items must be dealt with (ie sale or transfer) in the course of the Service Agreement, and at the end of the Service Agreement. All information on this subject is described in detail in the Capital Items Information Sheet.

Confidential Information

Section 15 of the Master Agreement contains provisions concerning confidential information and handling personal information. Your organisation must ensure that confidential information is not disclosed to any person without the Minister's prior written consent, other than to your organisation's staff, to whom information can be disclosed on a "need to know" basis. Confidential information includes any information that:

- Is by its nature confidential, or which is disclosed in a way that indicates its confidentiality;
- Is designated by the Minister as confidential or identified in terms indicating its confidentiality; or
- Your organisation knows or ought to know is confidential.

If your organisation is uncertain about whether certain information should be considered to be confidential, you should contact the contract manager listed in your Service Agreement to clarify. Your organisation must also ensure that all staff are aware of their obligations regarding confidentiality of information.

Code of Fair Information Practice

Your organisation and its staff must comply with DFC's Code of Fair Information Practice regarding the handling of personal information (clause 15.8). [Please see the Code of Fair Information Practice Information Sheet for further information].

Insurance

Your organisation bears the ultimate responsibility for assessing the types and amount of insurance you require to provide services. However, under section 17 of the Master Agreement, before you receive funding from DFC, you must have in place appropriate insurance including public liability, professional indemnity, property, workers compensation, directors and officers or volunteers insurance, amongst other types. All community organisations are required to have a minimum of \$10,000,000 in public liability insurance. Certificates of currency for community organisations are routinely requested by DFC. For further information about the requirements of the Master Agreement and for general information regarding insurance and insurance legislation please see the Insurance Information Sheet.

Sub-Contracting

Your organisation is able to subcontract services without the Minister's consent if your organisation has a Service Agreement with: the Minister for Families and Communities (excluding those providing alternative care services), the Minister for Ageing or the Minister for Housing. However, the Minister may request you to provide details regarding sub-contractors from time to time.

If your organisation has a Service Agreement with the Minister for

Disability or with the Minister for Families and Communities for the provision of alternative care services, you may only sub-contract to another member of the Disability Service Provider Panel without the Minister's consent. If you wish to sub-contract outside the Disability Service Provider Panel, including subcontracting to individual self-employed sub-contractors, you must obtain the Minister's consent.

Please note, however, that if you provide alternative care services you are able to sub-contract medical, allied health, domestic or like services to anyone who is suitably qualified to provide such services. This is provided that the services sought are incidental to the direct care of clients or are direct services provided to clients. Please see the Sub-contracting Disability Services Information Sheet for more detailed information.

If your organisation chooses to sub-contract services, you are entirely responsible for ensuring that:

- The sub-contractor is suitable to provide the services;
- The services performed by the sub-contractor meet the requirements contained in the Master Agreement and Service Agreements; and
- Any policy or requirement of the Minister applies to the sub-contractor.

Accordingly, it is important to note that even though you may sub-contract the performance of commitments under the Master Agreement or Service Agreement, your organisation is still responsible for the delivery of those services. As a result, you should ensure that all relevant terms and conditions contained within the Master Agreement and Service Agreement are contained within any agreement you have with a sub-contractor.

The requirements relating to sub-contracting are contained in clause 19 of the Master Agreement and clause 6 of the Disability Services Annexure B (if applicable).

Publicity

The requirements for any publicity related funding provided by the South Australian Government under the terms of a Master Agreement and a Service Agreement are contained within clause 20 of the Master Agreement. An organisation receiving funding is required to:

- Acknowledge the Minister in any advertising, publicity or promotional material relating to the funded services with the endorsement, “The Department for Families and Communities has contributed funds towards this program”;
- Participate in promotional activity in relation to the Master Agreement or Service Agreement if reasonably required;
- Advise the Minister, in writing or by copy, of any impending media release or public announcement that pertains to the Master Agreement or Service Agreement (unless due to urgency, the summary can not be provided beforehand, in which case it should be provided as soon as possible after the making of the announcement/media release); and
- Not use the Minister’s name or any other South Australian Government entity in its marketing or otherwise without the Minister’s prior consent.

Your organisation should take steps to ensure that it complies with these requirements and that employees responsible for publicity are aware of these provisions.

Screening & Licensing Branch

Department for Families and Communities

Screening Project Officer

Telephone: (08) 8413 9038



14 Service Agreements

Overview

This information sheet provides information to community organisations with a Service Agreement with the Minister for Families and Communities, Minister for Disability, Minister for Ageing and/or the Minister for Housing (collectively and separately “the Minister”) about the status, nature and contents of Service Agreements. This information sheet should be read in conjunction with the Master Agreement Information Sheet and the Management of Service Agreements Information Sheet.

Service Agreements

The Service Agreement is the individual funding agreement that describes the specific service required and outlines specific funding amounts and conditions relating to that particular service. The majority of Service Agreements contain standard sections and clauses, most of which are varied in accordance with the services to be provided. The sections are:

Services

These sections will contain a description of the services your organisation has agreed or nominated to provide, the hours in which the services will be provided, the principles to be applied in undertaking the services and any responsibility to comply with a quality improvement framework, such as Service Excellence. Your organisation should provide all the services specified in the service description. Funding should not be used to provide additional or alternative services not included in the Service Agreement.

Target Group

This section will nominate the target group to which you have agreed or nominated to provide the services to. For example, your organisation may provide services to those who are frail aged, those with disabilities, or to people from culturally and linguistically diverse backgrounds. The Department for Families and Communities (“DFC”) records information about target groups in its Funding and Grants Management System (FGMS), and uses this information to ensure a comprehensive coverage of services across South Australia, reaching priority and disadvantaged groups.

Geographic Coverage

This section will specify the State Government regions and local government areas in which you have agreed or nominated to provide services. If your organisation provides services across the state, the geographic coverage should be listed as “statewide”. Information relating to this is stored in FGMS, DFC’s record of grant funding agreements for Service Providers. It can be accessed to monitor the geographic distribution of services across South Australia.

Outcomes and Key Performance Indicators

These sections contain the outcomes and goals to be achieved through the provision of the service. Key Performance Indicators (KPIs) are specially chosen measures of how effective a particular service is. They are determined and agreed by DFC and the Service Provider.

Outputs and Data

This section contains the outputs and data agreed to be collected by your organisation in relation to the service. Outputs define what you provide to deliver your service, such as, the number of people receiving your service, or the hours your service is operating. This data is collated to give specific information on the service your organisation provides, and also indicates what services are being provided to the community.

Reporting

This section contains requirements relating to the qualitative and financial reports that you will be expected to provide in the course of your Service Agreement. It also contains information relating to the way in which the service will be monitored by DFC in the course of the Service Agreement. Further information on this subject is available in the Management of Service Agreements Information Sheet.

Funding and Contact Details

This section outlines the details of the funding and all relevant contact people. If those contact details change in the course of the contract, you must advise DFC in writing as soon as possible.

Other Insurance Requirements

This section outlines insurance requirements that are specific to the provision of the service. They are additional to those already contained in the Master Agreement. This is most likely to be a requirement to maintain professional indemnity insurance.

Negotiation of Service Agreements

The contents of all Service Agreements will be negotiated with your organisation within the framework described above. Certain clauses, however, are not able to be negotiated. The criminal history

screening clause and the financial reporting clauses are non-negotiable. In the course of developing a Service Agreement, a DFC representative will consult with you regarding the nature of the service to be provided and the terms of the agreement. If you receive a Service Agreement for execution that you have not had an opportunity to comment on, or you have unanswered questions, you should contact the DFC program area or project officer concerned to clarify the details and discuss the content.

Execution of a Service Agreement

Your Master and Service Agreement refer to the term 'execution'. Execution refers to the process of a negotiated Agreement being signed by all relevant parties. Once execution takes place, its terms and conditions are then legally binding.

Your organisation needs to take care to ensure that its Service Agreement is executed correctly. If the Service Agreement is not appropriately executed, it will be returned to you for resigning, which will result in a delay of payment. Your Service Agreement needs to be signed by the appropriate authority within your organisation and must be witnessed by an appropriate witness. Please ensure that all pages of the Service Agreement are returned to DFC. A copy of the final document will be forwarded to you once the Minister or the Minister's delegate has executed the Service Agreement.

Management of a Service Agreement

Please refer to the Management of Service Agreements Information Sheet for further information on this topic.

Variation of a Service Agreement

If a service type changes, there will need to be a variation made to the Service Agreement. It can only be varied with the consent of both your organisation and the Minister. Variations should be negotiated with a DFC Project Officer from the relevant program area. Once finalised, your organisation will receive a formal Deed of Variation or Variation of Agreement for signature. The variation to your Service Agreement will become effective from the date specified in the variation.

Frequently Asked Questions

When will my first payment be made?

No payments can be made until both your organisation and the Minister have validly executed the Service Agreement. Once the Service Agreement has been signed, your first payment will be made in accordance with the payment schedule in your organisations Service Agreement.

What about indexation?

Indexation will, in most cases, be paid on all Service Agreements that exceed 12 months in accordance with the DFC indexation policy. Please see the Indexation Information Sheet for further information.

How does the Service Agreement fit in with the Master Agreement?

The Master Agreement contains all of the core obligations your organisation must fulfil before it can receive a Service Agreement from DFC. Once you have signed a Master Agreement, all services you agree to provide under Service Agreements become subject to the conditions stated in the Master Agreement. Please see the Master Agreement Information Sheet for further

details.

What happens if the requirements of the Service Agreement are not met?

All funding provided by DFC must be spent on providing the services specified in the Service Agreement. Where operational difficulties occur in complying with your organisation's Service Agreement, DFC will work with your organisation to help you meet those requirements.

If you use the funds for purposes that are not part of your Service Agreement you will be in breach of the Master Agreement and Service Agreement. If funding expenditure conflicts with the terms of the Service Agreement, payments may be suspended. Also, if your organisation is not able to meet the delivery of service targets set out in the Service Agreement (for example, the collection of data) you must inform DFC as you may be in breach of the Master Agreement and the Service Agreement.

In some instances, the Service Agreement may be terminated for breach of contract (please see the relevant Termination of a Service Agreement Information Sheet for your organisation).

15 The Code of Fair Information Practice



Government of South Australia

Department for Families
and Communities

Overview

Purpose

This information sheet provides basic information to community service organisations who have a Master Agreement and Service Agreement with the Minister for Families and Communities, Minister for Housing, Minister for Ageing and/or Minister for Disability (collectively and separately “the Minister”); and are required to ensure that they adhere to the principles outlined in the Code of Fair Information Practice (“the Code”). This requirement is contained in section 15 of the Master Agreement. All staff including volunteers, consultants, sub-contractors, contractors and researchers are required to abide by the principles outlined in the Code.

The Code is based on the national privacy principles and has been developed to ensure the good management of personal information relating to those who receive assistance from both the Department for Families and Communities (“DFC”) and community service organisations. Fair information practices are important because they aim to ensure that organisations that hold information about individual people handle that information responsibly.

The purpose of the Code is to provide a framework for consistent and respectful information handling policies and practices across DFC and funded community service organisations.

Relevant Legislation

Legislation that indirectly relates to the Code includes:

- The *Privacy Act 1988* (Cth);
- The *Privacy Amendment (Private Sector) Act 2000* (Cth);
- The *Freedom of Information Act 1991* (SA); rationale behind this legislation is to make processes/information transparent and accountable;
- Related regulations⁷;
- *State Records Act 1997*;
- *Listening and Surveillance Devices Act 1972*;
- *Telecommunication (Interception) Act 1988*.

Responsibilities And Obligations

The Code of Fair Information Practice

The Code contains ten key principles relating to privacy and fair information practice, and provides guidelines for implementing these principles within your organisation. These principles cover the way your organisation collects, uses, stores, shares and disposes of information. The ten key principles relate to:

- Collection;
- Use and Disclosure;
- Data Quality;
- Data Security;
- Openness;

⁷ *Privacy (Private Sector) Regulations 2001* (Cth)

- Access and Correction;
- Unique Identifiers;
- Anonymity;
- Trans-border Data Flows; and
- Sensitive Information.

Your organisation is required to implement these principles in the day to day management of personal information obtained by your organisation. The guidelines contained within the code provide a useful framework for doing this and an extensive description of each of these areas is contained within the Code.

Privacy Obligations

It is advisable to read the Code in full to determine all of your organisation's privacy obligations. Key obligations contained within the Code include:

Collection

When collecting personal information your organisation needs to:

- Only collect what is necessary for the purpose of your business;
- Use fair and lawful ways when collecting information;
- Where reasonable and practicable, collect directly from an individual rather than from another source;
- Get consent to collect sensitive information;
- Advise an individual:
 - why your are collecting information about them;
 - who else might be given this information;
 - if you collect information about them from someone else;
 - that they have the option of remaining anonymous, providing this is lawful and practicable.

The Privacy Committee of South Australia (the Committee) was

established by Proclamation in 1989 to provide advice and recommendations to the Minister, Government and any person or body on matters relating to individual privacy. As well as providing advice, the Committee is able to refer written complaints concerning violations of individual privacy to the appropriate authority, and exempt a person or body from the Information Privacy Principles on such conditions as the Committee thinks fit. The Annual Report of the Privacy Committee which contains the complete Terms of Reference and the Information Privacy Principles, is published at www.archives.sa.gov.au.

Use and Disclosure

- Organisations should use and disclose personal information only for the purpose it was collected. If one of the exceptions under the Code applies, your organisation needs to seek the individual's consent for other uses.

Data Quality

- Ensure that the information you use or disclose is accurate.

Data Security

- Protect the information that is held from misuse and loss, unauthorised access, modification or disclosure. If allowed under the *State Records Act 1997*, destroy it if it is no longer needed.

Openness

- Be open with clients about your information handling practices (e.g. have a document that clearly and simply sets out policies).

Access and Correction

- Confirm a customer's right to have access to and seek correction of information held about them (in accordance with the *Freedom of Information Act 1991*).

Unique Identifiers

- Ensure that unique identifiers (such as Medicare or Drivers Licence numbers) are used only for their intended purpose.

Anonymity

- Wherever it is lawful and practicable, customers must have the option of not identifying themselves when entering transactions with your organisation.

Trans-border Data Flows

- Your organisation must not transfer personal information about an individual to someone other than the Department or the individual.

Please refer to p.50-51 of the *Code of Fair Information Practice* for further information.

Sensitive Information

- Organisations must not collect sensitive information about an individual unless:
 - The individual has consented; or
 - The collection is required or authorised by law; or
 - The collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual.

Please refer to p.52-54 of the *Code of Fair Information Practice* for further information.

Frequently Asked Questions

What sort of personal information does the Code Cover?

In the Code, personal information relates to that of customers of DFC and funded community service organisations. Personal information includes any information or an opinion, whether in

writing or not, from which an individual's identity could be determined. It includes information from which names and addresses have been removed, but contains sufficient information to allow the individual to be identified. Such information may be provided in different formats such as paper or electronic records, videos, x-rays, photographs, specimens or entries on a computer database.

What about information that has been de-identified?

De-identification ensures that all personal identifiers have been removed or altered so there is no possibility of identifying or linking it back to the customer's identity. This enables data to be shared without breaching privacy legislation. As a result, the principles in the Code do not apply to de-identified information.

Who needs to apply the principles of the Code?

The Code applies to all staff who, in the course of their work (whether paid or voluntary), have access to personal information collected, used or stored by or on behalf of your organisation. This includes anyone to whom your organisation sub-contracts work.

How do I ensure that my staff and sub-contractors abide by these principles?

To implement the privacy protection procedures successfully, staff and sub-contractors need to be aware of the underlying principles of information privacy as well as their responsibilities in complying with this Code. Accordingly, your organisation should endeavour to undertake appropriate training and distribute appropriate materials to ensure that your staff and sub-contractors are aware of the principles and are able to implement them. Where sub-contractors are employed, your organisation should ensure that a

requirement to comply with the Code is included as part of your contracting arrangements.

Does my organisation need to gain consent before collecting information and how should we go about this?

Yes. You should have a consent form that is completed to give you permission to collect your customers personal information. You need to notify your customer of the reason(s) you collect their information, other parties you might share their information with and if you will collect their information from someone else.

You also need to notify your customer that, providing it is lawful and practicable, that they have the option of remaining anonymous.

What are the National Privacy Principles?

The principles contained in the Code are based on the National Privacy Principles (“NPPs”) which form the key provisions of the Federal Government’s *Privacy (Private Sector) Amendment Act 2000*.

These principles provide an ideal basis for the Code because they are generally

applicable to community service organisations, particularly those organisations that collect, use, store or disclose the information of their customers.

Additional Useful Information

Code of Fair Information Practice can be accessed at:

<http://www.dfc.sa.gov.au/pub/tabid/238/it-emid/341/Freedom-of-information-and-privacy.aspx>

Additional Useful Contacts

Research and Analysis Unit

Strategy and Research Division

Department for Families and Communities

Email: research@dfc.sa.gov.au