

SUBMISSION TO THE SCRUTINY COMMITTEE

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14TH FEBRUARY 2024

The purpose of my submission is to share my external expert perspective of the recent decision to fund JCP Youth \$3.7 million to deliver its BEAST program across the State. I make comments on the process and the decision, and outline the source of my capacity to comment. I ask the Committee to note that this Submission outlines key points only, flagging where, in my view, further detailed information should be sought.

THE PROCESS

From the information publicly available, this appears to have been direct funding, rather than the outcome of a competitive tendering process. My experience as a senior manager in Government in NSW is that direct funding is used only for relatively small sums of money, and for non-ongoing services. This is the policy position adopted by the Australian Government: the Commonwealth Procurement Policy specifies that direct funding can be made to SMEs (Small & Medium Enterprises) for amounts up to \$500,000, after Indigenous Procurement processes have been applied.¹ The Tasmanian Government also adopts this approach:

What principles must government buyers follow when purchasing?

Government purchasing is based on the four principles of:

- Value for money;
- Open, impartial and effective competition;

¹ [Procurement | Department of Finance](#)

- Providing local suppliers that wish to do business with Government the opportunity to do so; and
- Observation of ethical procurement.

What are the objectives of government purchasing?

Tasmanian Government purchasing is conducted by encouraging fair and open competition between suppliers, with the objective of achieving best value for money. Government buyers must behave ethically and comply with a code of conduct. They must also enhance opportunities for local businesses to bid for government business.

Purchasing processes

Government purchases are generally classified as being "Goods and Services", "Building Construction" or "Roads and Bridges".

The purchasing process used depends on what goods or services required and the value of the purchase.

Goods and Services

When the purchase value is over \$250,000 the market approach method used is open tendering. The opportunity must be advertised on the [Tenders website](#).

At least two (2) responses must be sought from Tasmanian businesses where capability exists. ²

The tendering process is designed to ensure that the public receives value for money, and that there is transparency around public expenditure. Media reports suggest that this decision was a 2024 State election 'promise'. ³ I can find no information on the process for approval to by-pass Procurement Policy. I suggest that the Committee enquires as to how the decision was made to directly fund JCP Youth, and by whom. On its face, this decision does not meet the required standards for the expenditure of public money.

² [How Purchasing Works | purchasing.tas.gov.au](https://www.purchasing.tas.gov.au)

³ [JCP Youth empowerment program gains \\$3.7M boost | The Examiner | Launceston, TAS](#)

I suggest the Committee also enquires as to how the view was formed that JCP Youth was the sole Tasmanian business where capability exists to deliver this service. From my consultancy practice I am aware of two other Tasmanian agencies with a significant track record of work in this space. I suggest the Committee enquires as to the reasoning for excluding other Tasmanian businesses from this opportunity.

THE DECISION

As a private citizen, I am of course not privy to the contracting process undertaken with JCP Youth. Given the significance of this service, I suggest that the Committee seeks the following written information:

- documentation of approval to purchase outside of Government policy
- documentation of the agency and service specifications DECYP established as required to deliver this service
- how DECYP assessed value for money, on each of the criteria specified in the Tasmanian Government procurement guidelines:
 - fitness for purpose
 - quality assurance
 - advantages of buying locally
 - capacity of supplier
 - maintenance and running costs
 - energy conservation
 - disposal value
 - contribution to Government policy objectives
 - environmental considerations
 - creating strategic partnerships
 - warranty
 - risks

- the wider benefit to the State ⁴

From the information publicly available, I have concerns about quality assurance, capacity of supplier, risks, advantages of buying locally, contribution to Government policy objectives, creating strategic partnerships, and the wider benefit to the State. Given time restrictions, I will comment here on the first three issues.

Quality Assurance

The funding is intended to expand the existing *24-hour, seven-day-a-week* mentoring program for *vulnerable young men, particularly those at risk of entering, or who have already entered the youth justice system*. Announcing the decision, Minister Jaench said:

JCP isn't a formal part of those systems but we've seen that sometimes the program and their particular approach has worked when nothing else has.

Questions:

- What are the quality assurance policies and processes used in the program, and do they represent best practice?
- The conclusion that the program *has worked* is not based on independent external evaluation. Why was this deemed adequate?
- What documentation exists to support the contention that JCP Youth has a *track record* of success in this space? ⁵

Capacity of Supplier

⁴ [Purchasing Principles | purchasing.tas.gov.au](https://purchasing.tas.gov.au)

⁵ [Hansard March 2021](#)

From its last available public accounts, JCP Youth had a total income of less than \$500,000 in 2022-2023.

Question:

- How did DECYP satisfy itself that the agency has the capacity to appropriately manage a seven-fold expansion in its funding?

At the previous Scrutiny Hearing, Minister Jaench stated *JCP has gone and found them in the middle of the night and been able to give them a safe place to be*. This presumably is their <3 nights Emergency Respite Accommodation in Launceston. In his response to Questions on Notice, the Minister described this as *not Out-of-Home-Care*, and confirmed that *program participation is based on the informed consent of the young person*.⁶

This is the first time in my career that I have encountered children being taken from the streets to accommodation other than by Police or Child Safety.

Independent consent from children and young people to participate in programs is sought only when consent from their parent or guardian cannot be sought, and when assessment of their competence to consent, referred to as Gillick competence, has been established. The content of informed consent has been established in Australia as including enough knowledge of the service to make a clear decision, including awareness of its risks and benefits, and alternative options.

Questions:

- What is the basis in law for this part of JCP Youth's service?

⁶ [Minister Jaench QON](#)

- Is it true that the Emergency Respite Accommodation is at the house in South Launceston which is also the private home of the Director and two Board members of JCP Youth? If so, why is this deemed appropriate? What risks has DECYP identified?
- There are stringent requirements for foster carers providing respite in their own homes; are those adhered to? If not, why not?
- Does JCP Youth follow established processes for confirming Gillick competency and gaining informed consent?

In his Instagram in June 2024, Mr Smith posted a photograph of him hugging a young child, with the following text:

Micro moments with young people are a huge factor in building safe, trustworthy relationships. A hand on a shoulder, a smile, a genuine comment, even the mannerisms we use when we are around other people. These small gestures can leave a lasting impression and make a world of difference. I challenge you to provide a genuine affirmation to your young person today. Take the time to offer them a 'Micro Moment' that is outside the normal interaction you have.

This comment reveals an alarming lack of understanding about appropriate professional boundaries, particularly when working with highly vulnerable children. All guidance on boundaries includes physical boundaries, and advises workers to avoid physical touch. The Office of the Children's Guardian in NSW has developed a **which outlines** accepted and unacceptable physical contact with young people, including in sport.⁷ If it is the case that Mr Smith is accommodating children in his own home, my concern escalates.

⁷ https://ocg.nsw.gov.au/sites/default/files/2023-09/b_css_mybodymyrulesall.pdf

- What understanding, policy and procedure does JCP Youth have around professional boundaries?

There are a number of existing and long-standing youth crisis accommodation services in Launceston and across Tasmania, working within the Tasmanian Government's Housing Connect Program. A number of their programs have been externally evaluated, including by myself.

The questions which I would ask are:

- Why is DECYP contracting youth crisis accommodation outside of the Housing Connect program rather than working with existing providers?
- Will the requirements of JCP Youth align with those of Housing Connect Providers? If not, why not?
- Why were other, evaluated Tasmanian programs, excluded?

In Questions on Notice, Minister Jaench responded to the Committee's question about the evidence base of JCP Youth's program by stating a number of principles.⁸ Principles are not evidence. It is well accepted that service provision should be evidence-based, and this is included as a criteria in most contemporary tendering processes. Broadbent emphasises:

the importance of grounding youth work in solid theoretical frameworks that are supported by empirical research. This approach helps translate personal experiences into actionable policy and advocacy that can address broader social issues.⁹

Question: what is the evidence-base on which JCP Youth services are founded?

Risks

⁸ [Minister Jaench QON](#)

⁹ Broadbent, R. (2021) Living, Learning and Building Professional Youth Work Practice

There is extensive public commentary stating that examples of the most serious Reportable Conduct by Mr Smith are being raised by young people and parents, and that the Independent Regulator is involved. Alysha Rose has stated that similar concerns were shared with the Premier. Clearly allegations must be tested through established processes, but in my view Government should consider suspending funding to JCP Youth until processes are concluded. As I have noted above, there are significant existing risks in terms of capacity and probity to which concerns about Reportable Conduct add. There are of course serious concerns about the probity, transparency and fairness of the funding process used. In my view, DECYP should withdraw the funding and develop a clear open tender which specifies the requirements for delivering a high risk service to perhaps the most vulnerable group of children and young people in the State. In my view, the tender should require external accreditation as a child-safe organization and external evaluation of the service model each agency proposes to use. External evaluation should identify and test the evidence base for the program.

CAPACITY TO COMMENT

My capacity to comment is outlined in the short biography I have provided for a forthcoming chapter on youth justice in Tasmania in *The Public Child*:

Dr Morag MacSween studied and taught sociology in Scotland. She has worked in non-government homelessness, mental health, child sexual abuse and community services, as a counsellor and educator in Rape Crisis, and as a senior executive in public services research and statutory child protection. She is one of the authors of [Experts by Experience - what we can learn from Commission of Inquiry case studies](#) and is currently researching the experience of victim-survivors of child sexual abuse in the Federal Circuit and Family Court of Australia. Morag provides clinical supervision and practice development support for practitioners and agencies working with complex trauma.

In addition, I was commissioned by DPAC to conduct a Recommendations Mapping exercise for the Child Sexual Abuse Reform Strategy, and to identify key opportunities and risks. The Committee may find this document useful.