Department of Health

Review of headspace Melton commissioning process – supplementary report

5 March 2019
Private and confidential
5 March 2019

Dr Alison Morehead
First Assistant Secretary
Primary Care and Mental Health Division
Department of Health
MDP20, GPO Box 9848
Canberra ACT 2601
By email: alison.morehead@health.gov.au

cc Ms Caroline Edwards, Deputy Secretary, Health Systems Policy and Primary Care (caroline.edwards@health.gov.au)

Dear Dr Morehead

Review of NWMPHN’s headspace Melton commissioning process – supplementary report

We refer to the Official Order between the Department of Health (the Department) and Deloitte Access Economics Pty Ltd (DAE), signed on 7 May 2018, and the Commonwealth Contract – Consultancy Services between the Department and Deloitte Risk Advisory Pty Ltd (DRAPL), reference ID E18-459327 signed 8 November 2018, for the independent review of the headspace Melton tender process undertaken by the North Western Melbourne Primary Health Network (NWMPHN).

We also refer to your email dated 30 November 2018, whereby you instructed us to consider the concerns raised by the NWMPHN, Orygen The National Centre of Excellence in Youth Mental Health, Odyssey House Victoria and headspace National Office about our report dated 15 November 2018 (Deloitte Report) and, if new information has been provided by the four abovementioned entities that have an impact on our findings, to update the Deloitte Report findings.

We understand the Department provided a copy of the Deloitte Report in a redacted form to each of the four parties mentioned above on 27 November 2018. We received a copy of the redacted version of the Deloitte Report from the Department on 29 November 2018. We further understand the Department still intends to publically release the Deloitte Report (with any supplementary report). In this case, we would like to offer to assist the Department by providing redacted versions of the Deloitte Report and the supplementary report for the Department’s consideration.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity (and in Australia this is the partnership of Deloitte Touche Tohmatsu).

The entity named herein is a legally separate and independent entity. In providing this document, the author only acts in the named capacity and does not act in any other capacity. Nothing in this document, nor any related attachments or communications or services, have any capacity to bind any other entity under the ‘Deloitte’ network of member firms (including those operating in Australia).

Liability limited by a scheme approved under Professional Standards Legislation.

Member of Deloitte Touche Tohmatsu Limited
© 2019 Deloitte Risk Advisory Pty Ltd
We are pleased to provide you with our attached supplementary report, which is to be read in conjunction with the Deloitte Report. Please let us know if you would like us to prepare redacted versions of both reports for the Department’s consideration prior to release of the reports.

Please do not hesitate to contact me on (03) 9671 7679, if you have any questions.

Yours sincerely

Forde Nicolaides
Partner
Deloitte Risk Advisory Pty Ltd
Contents

Supplementary findings 5

Appendices

Appendix 1: Glossary 10

Conventions used in this report

• References to a year, e.g. “2018” or “FY2018” refers to the financial year ended 30 June of that year.

• Unless stated otherwise, all monetary amounts contained in this report are denominated in Australian Dollars ($) and rounded to the nearest whole dollar.

• Unless stated otherwise, all monetary amounts contained in the report are exclusive of GST.

• Interviewees’ comments have been paraphrased to capture the essence of the discussions held. Where comments or phrases have been taken directly from a person or a document, these are expressed in quotation marks.

• The terms “commissioning” and “tendering” are used interchangeably to mean the process of procuring services, including planning, design and implementation of services.

• A glossary of abbreviated terms supplementary to the Deloitte Report can be found at Appendix 1.
Supplementary findings

Background
1.1 On 8 November 2018, the Department informed us of its intention to publish the Deloitte report on the review of headspace Melton commissioning process on the Department’s website for public consumption.

1.2 We issued our report of factual findings on 15 November 2018 (the Deloitte Report).

1.3 The Department redacted certain information from the Deloitte Report, and provided the redacted copy to each of NWMPHN, Orygen, Odyssey House and headspace National on or around 27 November 2018.

1.4 On 29 November 2018, the Department invited the four organisations above to raise their concerns about the redacted Deloitte Report directly with us by 7 December 2018.

1.5 On 30 November 2018, the Department instructed us to address the further concerns raised by Orygen, Odyssey House, NWMPHN and headspace National regarding the redacted Deloitte Report, and consider these in relation to the Deloitte Report findings. The Department also informed us that it intends to publicly release our supplementary report.

Purpose of this report
1.6 This is a supplementary report to the Deloitte Report on the review of headspace Melton commissioning process to address, as instructed by the Department, the further concerns raised by Orygen, Odyssey House, NWMPHN and headspace National. It should be read in conjunction with the Deloitte Report (including all appendices, the methodology and limitations noted in the Deloitte Report).

1.7 The purpose of this report is to provide further information to the Department regarding the headspace Melton commissioning process and to update our findings having regard to new information provided by the abovementioned four organisations since 15 November 2018 that has an impact on our findings.

Procedures performed
1.8 Since issuing the Deloitte Report, we performed the following procedures:

a. Considered the following information, and updated the Deloitte Report findings in this supplementary report where new information has been provided that has an impact on the findings or was additional factual information:

   i. headspace National responses, which were provided via its legal advisor Maddocks on:

      • 29 November 2018;
      • 3 December 2018;
      • 5 December 2018, containing 11 attachments; and
      • 20 December 2018;

---

1 By email from Ms Edwards to the representatives of each of the four organisations
2 By email from Dr Morehead to the Deloitte team
3 By email to the Deloitte team
4 Updated on 6 December 2018
ii. Odyssey House response, which was provided by Dr Gruenert on 29 November 2018;

iii. Orygen response, which was provided by Mr Moran on 4 December 2018; and

iv. NWMPHN response, which was provided by Dr Rio on 7 December 2018.

**Engagement limitations**

1.9 The limitations set out at paragraph 2.10 and in Section 5 of the Deloitte Report apply to this supplementary report.

1.10 With reference to paragraphs 1.16(a) and 2.10(c) of the Deloitte Report, written consent from Odyssey House and Orygen for the provision of their full tender submissions was obtained on 13 June 2018 and 14 June 2018, respectively.

**Updated findings**

**headspace National’s response**

1.11 With reference to paragraphs 1.28, 3.46 and 3.52, and Appendix 4 items 1.17, 3.16 to 3.18 of the Deloitte Report, headspace National provided the following response:

“Mr Trethowan vigorously asserts that he did not state this [that no reason was provided to him for the exclusion of headspace National from the commissioning process].”

“Mr Trethowan cannot recall the precise words used in the phone discussion with the Deputy CEO of NWMPHN on this issue. This is because the decision was unremarkable, obvious and expected. That is:

a. In the selection of any headspace centre lead agency, it is essential that there be no conflict of interest and no perception of conflict of interest.

b. In the case of headspace Melton, the executive director of one of the agencies that was expected to submit a tender is also a director of headspace [National].

c. It is the standard practice for headspace [National] to manage conflicts of interest by excluding any person who may be subject to a conflict from participation in information / deliberations on the relevant issue. This applies at both management and board level. Despite this practice, headspace [National] participation in the headspace Melton lead agency selection process could give rise to a perception of a conflict of interest.

d. Therefore, it was appropriate for headspace [National] not to participate in the selection process.”

1.12 With reference to paragraphs 1.28, 1.29, 3.44, 3.47 and 3.57, and Appendix 4 items 1.17, 3.16 and 3.18 of the Deloitte Report, headspace National provided the following response:

“Mr Trethowan vigorously asserts that he did not have a phone conversation in which he was informed that the reason for the decision was based on his leaking of embargoed information to Professor McGorry and an unnamed person.

This allegation has never before been put to Mr Trethowan or headspace [National]. Neither Mr Trethowan nor headspace [National] has any knowledge of the ‘market / sector’ having a view that Mr Trethowan has leaked ‘embargoed information’.

Mr Trethowan strenuously denies that he has ever leaked embargoed material to Professor McGorry or any other person.”

5 By email to Ms Edwards and the Deloitte team
6 By email to the Deloitte team. A copy of the response was provided to Ms Edwards in a separate email.
7 By email to the Deloitte team (cc Ms Edwards)
The above information – that is, the reason for the exclusion of headspace National – is new information provided by Mr Trethowan.

Paragraph 1.28 of the Deloitte Report is amended as follows:

The NWMPHN decided to exclude headspace National from the tendering process, "based on the past disclosure of headspace centre announcements prior to the sector being informed by the Commonwealth". However, the reason of the exclusion was not made clear to the headspace National CEO. Mr Trethowan told us in interview that no explanation was given to him as to why headspace National was excluded. However, Mr Trethowan has since said that he "cannot recall the precise words used in the phone discussion with the Deputy CEO of NWMPHN on this issue. This is because the decision was unremarkable, obvious and expected".

Paragraph 3.46 of the Deloitte Report is amended as follows:

Mr Trethowan told us during his interview that he was not given an explanation as to why headspace National was excluded, which suggested there was a lack of transparency in the tendering process. However, Mr Trethowan has since provided the following information relating to a discussion he had with the NWMPHN about the exclusion of headspace National:

"Mr Trethowan cannot recall the precise words used in the phone discussion with the Deputy CEO of NWMPHN on this issue. This is because the decision was unremarkable, obvious and expected. That is:

a. In the selection of any headspace centre lead agency, it is essential that there be no conflict of interest and no perception of conflict of interest.

b. In the case of headspace Melton, the executive director of one of the agencies that was expected to submit a tender is also a director of headspace National.

c. It is the standard practice for headspace National to manage conflicts of interest by excluding any person who may be subject to a conflict from participation in information / deliberations on the relevant issue. This applies at both management and board level. Despite this practice, headspace National participation in the headspace Melton lead agency selection process could give rise to a perception of a conflict of interest.

d. Therefore, it was appropriate for headspace National not to participate in the selection process."

Notwithstanding the new information provided by Mr Trethowan, the amendments as noted above to paragraphs 1.28 and 3.46 of the Deloitte Report and the additional information provided in paragraph 1.12 above regarding the alleged release of embargoed information, do not have an impact on the overall Deloitte Report finding that there was a lack of transparency. This is because there were multiple other findings set out in the Deloitte Report about the lack of transparency.

With reference to paragraphs 1.31 and 3.54, and Appendix 4 items 1.18, 3.19 and 3.23 of the Deloitte Report, headspace National provided the following response:

"Mr Trethowan wished to make the point that NWMPHN did not involve headspace National in the consideration of tenders, the proposed lead agency or the selection process.

---

8 See Briefing Note from Deputy CEO NWMPHN to Natasha Cole, Department of Health, dated 5 February 2018.
However, Mr Trethowan had assured NWMPHN of support from headspace [National] in other aspects of the commissioning of the new headspace centre and was aware that headspace [National] personnel were providing NWMPHN with supporting material such as tender templates.”

1.18 headspace National also provided seven attachments on 5 December 2018, which are copies of email correspondence between headspace National staff and NWMPHN during the period from 20 July 2017 to 20 November 2017. This information supports the new information provided by Mr Trethowan set out in the preceding paragraph.

1.19 With reference to paragraphs 1.37, 3.73 and 3.74, and Appendix 4 items 1.29, 3.63 and 3.64 of the Deloitte Report, headspace National provided the following response:

“Mr Trethowan did state that there was a difficult relationship between NWMPHN and Orygen and that NWMPHN may have hoped that any other agency but Orygen would win the tender. It was this very factor that highlighted the need for a demonstrably fair and robust tender process.

Mr Trethowan was of the view that the tender process for headspace Melton would be subject to a high level of scrutiny and could result in objections to the tender decision. As a result, it needed a careful, robust process with high level of probity.

Mr Trethowan was aware that NWMPHN had appointed a well-regarded probity auditor and considered this a positive development. Mr Trethowan also considered the time taken in the selection process was indicative of a careful process. Finally, Mr Trethowan had encouraged the provision by headspace of such support as NWMPHN requested, by providing tender template documents.

As a result, Mr Trethowan considered the review would be unlikely to uncover any adverse findings against NWMPHN, because the process was designed to ensure that outcome. The relevant outcome referred to was a robust process able to withstand scrutiny, not the appointment of an entity other than Orygen.”

1.20 The comments provided at paragraph 1.19 represent new information to that provided by Mr Trethowan in his interview on 6 June 2018. However, the new information provided does not impact the Deloitte Report finding that no evidence was identified that suggested the outcome of the tendering was pre-determined.

Odyssey House’s response

1.21 Odyssey House did not provide any new information that has an impact on the Deloitte Report findings.

Orygen’s response

1.22 With reference to paragraphs 1.35(b), 3.69(c) and Appendix 4 item 1.19 of the Deloitte Report, Orygen provided the following response:

“The following statement by NWMPHN is factually incorrect:

‘hMIF assessment wasn’t planned for any sites in NWMPHN region until October 2017 to February 2018.’

Orygen operates four headspace centres in the NWMPHN region (Sunshine, Werribee, Craigieburn, Glenroy). All four centres were assessed against the hMIF, with final reports on all four provided to Orygen in July 2017 by headspace National. The four Orygen operated headspace centres achieved scores of between 96% and 98%, and the reports advised that each would be fully accredited. These reports were emailed to NWMPHN (including the Deputy CEO) on 11 August 2017.”

1.23 Orygen’s response above does not have an impact on the Deloitte Report findings.
NWMPHN’s response

1.24 With reference to paragraphs 1.21, 1.22(a)-(b), 3.23(c)-(e) and 3.81(a)(i)-(ii) of the Deloitte Report, the NWMPHN provided the following response:

"Minuted deliberations of the TEP show that the top two bidders had indistinguishable weighted scores after the submissions were initially assessed against the criteria, with the 2.5% difference regarded as immaterial by the TEP. Written clarifications provided by the tenderers of a number of issues did not change the indistinguishable scores. The TEP then decided to undertake a global assessment of each tenderer’s connection to the local community in order to identify the winning tenderer.

Connection to local community was the common and critical theme for several evaluation criteria. It was open to the TEP to make this decision and appropriate given that the two tenderers needed to be distinguished. The assessment is documented in both minuted deliberations and the TEP final report, which were provided to Deloitte. The TEP did not award the tender based on ‘extraneous criteria’ of a ‘diversity of providers’.”

1.25 Our analysis of the RFT documentation did not identify a ‘local connection’ emphasis in the selection criteria, or that a global assessment of a tenderer’s connection to the local community would be the determining factor in identifying the winning tender.

1.26 Further, in circumstances where no tenderer interviews were conducted, we did not identify the basis on which the TEP could have made a decision on a criterion that was not particularised in the RFT.

1.27 The new information provided by the NWMPHN does not change the Deloitte Report finding that the tender process may not have been conducted in an accountable and transparent manner.

Summary

1.28 Except as noted above, no other new information was provided in the four responses received by Deloitte that has an impact on the Deloitte Report findings or requires a revision to the Deloitte Report.
Appendix 1: Glossary

Please also refer to the glossary in the Deloitte Report

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deloitte Report</td>
<td>Deloitte report of factual findings on the review of headspace Melton commissioning process, dated 15 November 2018</td>
</tr>
<tr>
<td>Ms Edwards</td>
<td>Ms Caroline Edwards, Deputy Secretary, Health Systems Policy and Primary Care, Department of Health</td>
</tr>
<tr>
<td>Dr Morehead</td>
<td>Dr Alison Morehead, First Assistant Secretary, Primary Care and Mental Health Division, Department of Health</td>
</tr>
</tbody>
</table>