
Recommendations

Building knowledge systems

Promoting national data systems on the NFP sector

RECOMMENDATION 5.1

The Australian Government should initiate an Information Development Plan for the not-for-profit sector. Given its central role in providing data on the sector, and its legislated responsibility for statistical coordination, the Australian Bureau of Statistics should be given responsibility for formulating the Information Development Plan.

Among the issues the Information Development Plan should address are:

- *the appropriate frequency for publication of the satellite account on the sector*
- *the scope to develop administrative and other longitudinal data sets to support the analysis of net impacts of sector activities*
- *the collation of the information from these and other data sources to provide a more detailed assessment of the contribution of the not-for-profit sector over time*
- *the feasibility of obtaining accurate estimates of the number of unincorporated not-for-profit organisations in a cost-effective manner.*

Building a better evidence base for social policy

RECOMMENDATION 5.2

Australian governments should adopt a common framework for measuring the contribution of the not-for-profit sector. Having regard to the diversity of the sector's activities and structures, measurement using this framework should embody the principles of proportionality, transparency, robustness, flexibility, and relevance.

RECOMMENDATION 5.3

To minimise compliance costs and maximise the value of data collected, Australian governments should agree to implement a reform agenda for reporting and evaluation requirements for organisations involved in the delivery of government funded services. This should:

- *commit to basing reporting and evaluation requirements in service delivery contracts on a common measurement framework (appropriately adapted to the specific circumstances of service delivery)*
- *require expenditure (input) measures to be based on the Standard Chart of Accounts*
- *develop data standards for the relevant non-expenditure items*
- *ensure that information generated through performance evaluations are returned to service providers to enable appropriate learning to take place and allow organisations to benchmark their performance*
- *employ, where practicable, the principle of ‘report once, use often’.*

RECOMMENDATION 5.4

The Australian Government should provide funding for the establishment of a Centre for Community Service Effectiveness to promote ‘best practice’ approaches to evaluation, with an initial focus on the evaluation of government funded community services. Over time, funding should also be sought from state/territory governments, business and from within the sector. Among its roles, the Centre should provide:

- *a publicly available portal for lodging and accessing evaluations and related information provided by not-for-profit organisations and government agencies*
- *guidance for undertaking impact evaluations*
- *support for ‘meta’ analyses of evaluation results to be undertaken and made publicly available.*

Smarter regulation of the not-for-profit sector

Enhancing the legal options for NFPs

RECOMMENDATION 6.1

The Australian Government should amend the Corporations Act to establish a separate chapter relating to not-for-profit companies limited by guarantee. This should:

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- *embody the principles of proportionality in relation to reporting, fees and charges*
 - *provide clear rules on the disposal of assets in the event of the company being dissolved or restructured, in addition to the proposed prohibition on the payment of dividends*
 - *include a plain English guide (as currently exists for small and medium scale enterprises)*

As part of this process, the Australian Government should, in consultation with stakeholders, examine whether there are additional requirements that are inappropriate or unduly restrictive for not-for-profit organisations that should also be addressed.

A national one-stop-shop for regulation and tax endorsement of NFPs

RECOMMENDATION 6.5

The Australian Government should establish a one-stop-shop for Commonwealth regulation by consolidating various regulatory functions into a new national Registrar for Community and Charitable Purpose Organisations. While ultimately the Registrar could be an independent statutory body, initially it should be established as a statutory body corporate or organ in the Australian Securities and Investment Commission.

The Registrar will undertake the following key functions:

- *register and regulate not-for-profit companies limited by guarantee and Indigenous corporations, with a stakeholder team dedicated to Indigenous corporations*
- *assess the eligibility of not-for-profit organisations for Commonwealth tax concession status endorsement and maintain a register of endorsed organisations*
- *register cross-jurisdictional fundraising organisations and/or activities by not-for-profit organisations*
- *provide a single reporting portal for public record corporate and financial information.*
- *provide appropriate guidance in relation to governance matters*
- *investigate compliance with regulatory requirements*
- *provide complaints handling in respect of the above functions.*

Responsibility for endorsement for Commonwealth tax concessional status for not-for-profit organisations and maintaining a register of endorsed organisations should sit with the Registrar for Community and Charitable Purpose Organisations. To retain endorsement for Commonwealth tax concessions, endorsed organisations should be required to submit an annual community-purpose statement to the Registrar which would be accessible to the public.

The Australian Commissioner for Taxation should have the right to seek a review of decisions of the Registrar in relation to the endorsement of not-for-profit organisations for tax concessional status. The Commissioner should also have the power to issue a directive to the Registrar for the dis-endorsement of an organisation where there has been a breach of taxation compliance requirements.

Reduce compliance costs and improve effectiveness

RECOMMENDATION 6.2

Australian governments should, through the Council of Australian Governments Business Regulation and Competition Working Group, pursue harmonisation of state and territory based incorporated associations legislation, with an initial focus on:

- *aligning not-for-profit organisations' public corporate and financial reporting requirements*
- *rules on the distribution of assets on the dissolution or restructuring of a not-for-profit organisation*
- *allowing not-for-profit organisations to migrate from one legal form to another and to move to the Commonwealth jurisdiction without onerous transaction costs.*

RECOMMENDATION 6.3

To promote confidence in and reduce the compliance costs associated with fundraising regulation, Australian governments, through the Council of Australian Governments Business Regulation and Competition Working Group, should:

- *agree to and implement mutual recognition and harmonised fundraising regulation across Australia, through the establishment of model fundraising legislation*

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- *support the development of a fundraising register for cross-jurisdictional fundraising organisations and/or activities, to be administered by the proposed national Registrar for Community and Charitable Purpose Organisations*
 - *clarify the responsibility for regulation of fundraising undertaken through electronic media such as the internet, and move to ensure appropriate regulation of such mediums including through Commonwealth legislation.*

RECOMMENDATION 6.6

The Registrar should implement the principle of ‘report once, use often’ by providing a single reporting portal and form for annual reporting on community-purpose, governance arrangements, financial accounts and fundraising activity. Australian governments, through the Council of Australian Governments, can support this principle and substantially reduce compliance costs for not-for-profit organisations by:

- *adopting and developing an implementation strategy for the Standard Chart of Accounts for reporting by not-for-profits in receipt of government grants or service contracts*
- *expanding the Standard Business Reporting initiative to include reporting requirements by not-for-profits*
- *encouraging their agencies to utilise the governance and financial account information (that will be lodged with the Registrar) to meet their organisation level ‘health check’ requirements for contracting purposes.*

Improving arrangements for effective sector development

Improving equity and effectiveness of tax concessions for philanthropy

RECOMMENDATION 7.1

The Australian Government should adopt a statutory definition of charitable purposes in accordance with the recommendations of the 2001 Inquiry into the Definition of Charities and Related Organisations.

RECOMMENDATION 7.2

State and territory governments should recognise the tax concession status endorsement of not-for-profit organisations at the Commonwealth level. Given the disparities between eligibility for tax concessions across jurisdictions, state and territory governments should utilise such Commonwealth endorsements in determining eligibility for their jurisdictional concessions, and seek to harmonise tax concessional status definitions or classifications with the Commonwealth over time.

RECOMMENDATION 7.3

The Australian Government should progressively widen the scope for gift deductibility to include all endorsed charitable institutions and charitable funds. Consistent with the Australian Taxation Office rulings on what constitutes a gift, payments for services should not qualify as a gift.

RECOMMENDATION 7.4

To encourage cost-effective giving, the Australian Government should explore options to promote and support planned giving, especially payroll giving. Specifically, the Australian Government should provide funding for a national campaign to promote payroll giving and the associated tax benefits. As part of the campaign, governments should encourage the establishment of payroll giving within all their agencies.

Developing a sustainable market for NFP debt

RECOMMENDATION 7.5

Australian governments should assist in the development of a sustainable market for not-for-profit organisations to access debt financing through:

- building business planning skills for not-for-profit organisations, notably social enterprises (recommendations 9.2 and 9.6)*
- improving funding certainty for those not-for-profit organisations involved in the delivery of government services to improve loan viability by improving clarity about funding (recommendation 11.1) and the appropriate length of contract (recommendation 12.5)*
- exploring options to encourage (for a limited period) community development financial institutions to develop appropriate financial products and services for the sector*

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- *exploring options to make better use of the corpus of philanthropic foundations and trusts to make loans to deductible gift recipients and endorsed charitable institutions.*

The Australian Government should establish an advisory panel, chaired by Treasury, to consider options and assess progress in developing a sustainable market for not-for-profit organisation debt products with the aim of establishing mainstream financial products for investors who are willing to accept a lower risk adjusted financial return for an accompanying social return.

Building sector capabilities to improve governance and enhance productivity

RECOMMENDATION 9.1

Information and communication technology has the potential to enable more cost-effective and higher quality human services. With due considerations to protocols for protecting privacy, in specific service areas, Australian governments should explore the potential for selective sharing of client information between agencies and not-for-profit organisations and other providers, through the utilisation of enhanced information and communication technology.

RECOMMENDATION 9.2

State and territory governments should review their full range of support for sector development to reduce duplication, improve the effectiveness of such measures, and strengthen strategic focus, including on:

- *developing the sustainable use of intermediaries providing support services to the sector, including in information technology*
- *improving knowledge of, and the capacity to meet, the governance requirements for not-for-profit organisations' boards and management*
- *building skills in evaluation and risk management, with a priority for those not-for-profit organisations engaged in delivery of government funded services.*

RECOMMENDATION 9.3

Australian government agencies providing extensive grants to, or using external agencies for, service delivery should establish evaluation programs to assess the effectiveness and actual cost of their programs. Where related to community services, these evaluations should be posted with the Centre for Community Service Effectiveness.

Addressing workforce issues

RECOMMENDATION 10.1

Australian governments should introduce a system of ‘Working with Vulnerable People Checks’ that provides for checks to be portable between organisations for a designated time period.

Further, Australian governments should explore the feasibility of developing a consistent national system allowing portability across states and territories of police checks and the exchange of information on people deemed unsuitable for working with vulnerable people, especially children.

RECOMMENDATION 10.2

In order to ensure that not-for-profits can sustain their workforces, and as wages are a major factor in the successful recruitment and retention of staff, Australian governments purchasing community services need to base funding on relevant market wages for equivalent positions. Costings need to take into account the skill sets required to perform the purchased services and be indexed appropriately to market wage growth within that industry sector.

RECOMMENDATION 10.3

The Australian Government, in consultation with Skills Australia, should commission the Community Services and Health Industry Skills Council to undertake workforce planning for the community services sector having regard to the current and future workforce challenges arising from growing demand and increasing supply constraints.

Stimulating social innovation

RECOMMENDATION 9.5

Australian governments should require all programs (of over \$10 million) delivering community services through not-for-profit organisations to set aside a small proportion of the program budget (for example, one per cent) to a program related social innovation fund. The fund should support trials of new approaches to service delivery, including evaluation of their cost-effectiveness.

Building sector capabilities to support innovation

RECOMMENDATION 9.4

The Cooperative Research Centre program should facilitate applications by collaborations of not-for-profit organisations (including universities), government agencies and businesses in the areas of social innovation by:

- *actively promoting the opportunities that are now available*
- *providing specialised advice and facilitation support to organisations expressing interest but lacking the knowledge and resources to develop the partnerships required.*

RECOMMENDATION 9.6

The Australian Government should fund the Enterprise Connect program to expand its specialist services to a new Centre that provides business advisory services to organisations involved in social enterprise activity.

Improving the effectiveness of direct government funding

Providing clarity over funding obligations

RECOMMENDATION 11.1

Australian governments should, in the contracting of services or other funding of external organisations, determine and transparently articulate whether they are fully funding particular services or activities undertaken by not-for-profit organisations, or only making a contribution towards the associated costs and the extent of that contribution.

Australian governments should fully fund those services that they would otherwise provide directly (allowing for co-contributions from clients and any agreed contributions by service providers). In applying this criterion, governments should have regard to whether the funded activity is considered essential, as part of the social safety net or an entitlement for eligible Australians.

RECOMMENDATION 11.2

Australian governments should ensure that service agreements and contracts include provision for reasonable compensation for providers for the costs imposed by changes in government policy that affect the delivery of the contracted service, for example, changes to eligibility rules, the scope of the service being provided, or reporting requirements.

RECOMMENDATION 8.1

The Departments of the Treasury and Finance and Deregulation should jointly conduct a review into the feasibility, the costs and the benefits of requiring value for money assessments for government procurement to consider significant input tax concessions. Such a review should be wide-ranging, including the not-for-profit and for-profit sectors.

Ensuring appropriate independence

RECOMMENDATION 11.3

Australian governments funding service provision or making grants should respect the independence of funded organisations and not impose conditions associated with the general operations of the funded organisation, beyond those essential to ensure the delivery of agreed funding outcomes.

Removing impediments to better value government funded services

Getting the model right

RECOMMENDATION 12.1

Australian governments should ensure that they choose the model of engagement with not-for-profits that best suits the characteristics and circumstances of the service being delivered. In choosing between alternative models of engagement, governments should consider the nature of the outcomes sought, the characteristics of clients, and the nature of the market. In particular:

- there should be no presumption that purchase of service contracting will always be the most appropriate model*
- where governments are seeking the delivery of a clearly defined outcome and markets are genuinely contestable purchase of service contracting should remain the preferred approach*
- where truly competitive markets develop and clients face real choice in the services available to them, governments should consider moving to client-directed service delivery models. This transition should be conditional upon there being appropriate safeguards in place to protect and empower vulnerable clients (or their carers) in exercising choice and ensure an acceptable minimum level of service quality and provision.*

RECOMMENDATION 12.2

Where a market-based approach is not feasible or appropriate, governments should use other models of engagement. This may involve governments entering into either extended life or short-term joint ventures.

Extended life joint ventures should adopt an iterative process that will:

- *involve all parties in the design of the program*
- *embed and fund an agreed evaluation process, informing program design and modification*
- *regularly review and revise the service delivery approaches in light of findings from evaluation, changing demands or environmental conditions*
- *provide long-term or rolling funding with capacity to adjust funding in light of the modifications.*

RECOMMENDATION 12.3

Australian governments should ensure that whatever model of engagement is used to underpin the delivery of services it is consistent with the overarching principle of obtaining the best value for money for the community. In determining value for money, governments should explicitly recognise any indirect or wider benefits that providers may be able to generate. An evidence based approach should be used to assess the nature, extent and relevance of these types of benefits on a case-by-case basis.

RECOMMENDATION 12.4

Australian governments should assess the relative merits of the lead agency model on a case-by-case basis. This should include an assessment of the costs to not-for-profits of adopting this approach including any duplication of reporting and accountability requirements, the additional transaction costs associated with sub-contracting, and the potential for loss of diversity among providers.

Improving procurement and management processes

RECOMMENDATION 12.5

The length of service agreements and contracts should reflect the length of the period required to achieve agreed outcomes rather than having arbitrary or standard contract periods.

Extended life service agreements or contracts should set out clearly established:

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- *processes for periodically reviewing progress towards achieving a program's objectives*
 - *conditions under which a service may be opened up to new service providers or a provider's involvement is scaled back or terminated.*

RECOMMENDATION 12.6

When entering into service agreements and contracts for the delivery of services, government agencies should develop an explicit risk management framework in consultation with providers and through the use of appropriately trained staff. This should include:

- *allocating risk to the party best able to bear the risk*
- *establishing agreed protocols for managing risk over the life of the contract.*

RECOMMENDATION 12.7

Australian governments should urgently review and streamline their tendering, contracting, reporting and acquittal requirements in the provision of services to reduce compliance costs. This should seek to ensure that the compliance burden associated with these requirements is proportionate to the funding provided and risk involved.

Further, to reduce the current need to verify the provider's corporate or financial health on multiple occasions, even within the same agency, reviews should include consideration of:

- *development of Master Agreements that are fit-for-purpose, at least at a whole-of-agency level*
- *use of pre-qualifying panels of service providers.*

RECOMMENDATION 12.8

The Department of Finance and Deregulation should develop a common set of core principles to underpin all government service agreements and contracts in the human services area. This should be done in consultation with relevant government departments and agencies and service providers.

Implementation of the proposed package of reforms

RECOMMENDATION 14.1

The Australian Government should establish an Office for Not-For-Profit Sector Engagement, for an initial term of five years. The Office would support the Australian Government in its efforts to:

- *implement sector regulatory and other reforms and the implementation of the Government's proposed compact with the not-for-profit sector*
- *promote the development and implementation of the proposed Information Development Plan*
- *oversee the establishment of the proposed Centre for Community Service Effectiveness*
- *implement the proposed contracting reforms in government funded services*
- *act as a catalyst for the promotion and funding by government agencies of social innovation programs*
- *facilitate the establishment of the advisory panel on development of a not-for-profit capital market*
- *facilitate stronger community and business collaboration.*

The Office should, through the relevant Minister, report publicly on an annual basis on its achievements.

RECOMMENDATION 14.2

Compacts between Australian governments and the sector must be supported by well documented plans of action, including at agency level, if appropriate, and supported by practical measures including monitoring and evaluative processes that give concrete expression to the proposed relationship.

RECOMMENDATION 14.3

State and territory governments should develop a public strategy for implementing government-sector reforms arising from this report. Priority areas should include means to improve government-sector engagement, enhanced risk assessment and risk management strategies, contract design, effective reporting, and evaluation methods.