

K Recommendations from previous reviews

Table K.1 Government response to recommendations from the Inquiry into Charitable Organisations in Australia ,1995

<i>Rec. No.</i>	<i>Recommendation</i>	<i>Status</i>
1	<p>The sector, in co-operation with Commonwealth and State/territory governments, and where appropriate with for-profit providers, should develop quality management systems in conjunction with standards for the sector. Such systems and standards should be designed with a view both to improving the outcomes of service delivery and reducing the level and costs of prescriptive regulation.</p> <p>To the extent that governments and the sector agree on the adoption of quality management systems and standards, Commonwealth and State/territory governments should:</p> <ul style="list-style-type: none"> • fund the development of these systems and standards; and • assist in resourcing service providers to obtain initial accreditation of their quality management systems. <p>Such systems and standards should be implemented with appropriate transitional arrangements.</p>	Progress has been made in some jurisdictions
2	<p>Where quality management systems and standards have been agreed, governments should normally seek expressions of interest for service delivery from potential providers which have these systems in place.</p>	Progress has been made in some jurisdictions
3	<p>Commonwealth and State/territory governments should develop a set of principles for the selection of service providers. These principles should include:</p> <ul style="list-style-type: none"> • applications normally be called by public advertisement; • information sought in applications be as simple and standardised as possible; • service and quality management standards be clearly specified; • selection criteria be prioritised; • timetables for the assessment and notification of applicants be specified; • unsuccessful applicants have access to the reasons for their non-selection; and • applications for provision of services be co-ordinated to encompass inter-related services. 	Progress has been made in some jurisdictions

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Table K.1 (continued)

<i>Rec. No.</i>	<i>Recommendation</i>	<i>Status</i>
4	<p>Procedures for the selection of service providers should be transparent and designed to encourage a range of providers to express interest in delivering services.</p> <p>Procedures should be in place to ensure that service providers are reviewed from time to time and new providers are given the opportunity to deliver existing services</p> <p>Any assessment of changing from the existing provider should consider costs not met by the new provider, including:</p> <ul style="list-style-type: none"> • discontinuity of services for clients; • redundancy of use-specific assets; and • other costs, for example extra transport of clients or dislocation of staff of the current provider. 	Progress has been made in some jurisdictions
5	<p>Commonwealth and State/territory governments should develop a consistent set of principles for funding agreements across all programs:</p> <ul style="list-style-type: none"> • agreements to be multi-year, typically three year; • agreements to be legally enforceable; • accountability provisions to be streamlined; • accountability provisions to be consistent with Australian Accounting Standards; and • dispute resolution procedures to be built into agreements, preferably by independent mediation. 	Progress has been made in some jurisdictions
6	<p>Where governments set the price at which they purchase a service, they should take into account all cost components required to deliver the service, including, in addition to human resource costs (see Recommendation 7):</p> <ul style="list-style-type: none"> • organisational support; • meeting wider objectives of governments such as consultation, access and equity objectives; and • program development and evaluation. 	Not implemented in practice
7	<p>Where governments set the price at which they purchase a service, they should take into account:</p> <ul style="list-style-type: none"> • training, co-ordination and indemnification of volunteers involved in service delivery; • training of staff involved in service delivery; • training of board members and administrative staff required for organisational support; and • any changes governments prescribe in award or other employment conditions. 	Not implemented in practice
8	<p>Payments under funding agreements should be for achieving defined outputs or outcomes wherever possible.</p> <p>In defining outputs or outcomes, the quality of service should be incorporated through appropriate service standards.</p>	Progress has been made in some jurisdictions

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Table K.1 (continued)

<i>Rec. No.</i>	<i>Recommendation</i>	<i>Status</i>
9	Funding agreements for Community Social Welfare Organisations should be of two kinds. Most funding agreements will be for service delivery programs which have defined outputs or outcomes which should be funded in accord with Recommendation 8. Funding agreements for programs where outputs or outcomes cannot be clearly defined, for example community development, should be based on achieving jointly-negotiated and agreed objectives, and payments should fund (or part fund) overheads and staff salaries.	Progress has been made in some jurisdictions
10	Commonwealth and State/territory governments should review the structures, skills and operational protocols of government agencies in the light of their changing relationships with Community Social Welfare Organisations.	Progress has been made in some jurisdictions
11	The Commonwealth government should retain the income tax free status of Community Social Welfare Organisations.	Implemented
12	The Commonwealth Treasury should conduct a review to determine the most cost effective way of removing any distortions faced by Community Social Welfare Organisations due to the dividend imputation system in Australia.	Implemented
13	The Commonwealth government should allow tax deductibility of donations made to all Community Social Welfare Organisations that: <ul style="list-style-type: none"> • relieve poverty or benefit the community through the advancement of social welfare; and • are incorporated under the form of incorporation outlined in Recommendation 27. 	Partly implemented
14	The \$2 lower limit for donations in order to gain tax deductibility should be removed. Individual organisations should decide which donations are to be treated as tax deductible — for which they would issue receipts and keep records in the prescribed way.	Not implemented
15	Assets bequeathed to charitable organisations that enjoy tax deductibility status should be free from any capital gains tax liability.	Implemented
16	The Council of Australian Governments should simplify and standardise the criteria for input tax exemptions for Community Social Welfare Organisations with a view to reducing inconsistencies between taxes and across jurisdictions.	Not implemented
17	The Commonwealth government should remove the exemption from fringe benefits tax of Community Social Welfare Organisations which are Public Benevolent Institutions in two years time. To the extent that income tax exempt organisations continue to receive a rebate on their fringe benefits tax, all Community Social Welfare Organisations should also receive this rebate.	Not implemented

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Table K.1 (continued)

<i>Rec. No.</i>	<i>Recommendation</i>	<i>Status</i>
18	<p>The Council of Australian Governments should consider approaches to achieving greater efficiency and effectiveness of fundraising regulation among States/territories. Two suggested approaches are:</p> <ul style="list-style-type: none"> • uniformity of legislation; or • mutual recognition of legislation. <p>Specific consideration should be given to addressing issues of:</p> <ul style="list-style-type: none"> • public disclosure of the role of contract fundraisers; • public nuisance and donor privacy; and • the types of organisations to which regulation applies. 	Not implemented
19	<p>When incorporation of Community Social Welfare Organisations under Corporations Law is achieved, financial information requirements currently found in State/territory fundraising legislation should be removed from State/territory legislation.</p>	Not implemented
20	<p>The Australian Taxation Office should not impose restrictions on the accumulation of income by charitable trusts. If necessary, section 23(j) of the <i>Income Tax Assessment Act 1936</i> should be amended to allow charitable trusts to accumulate funds, provided the whole of the funds and any income derived from them are used for charitable purposes. Any specific statement in the trust deed in relation to funds accumulation should, of course, continue to apply.</p>	Not implemented
21	<p>State/territory governments should amend legislation to allow their Attorneys General to consider applications to waive restrictions imposed on trusts by inoperative inheritance legislation.</p>	Not implemented
22	<p>Community Social Welfare Organisations should have a publicly available policy on client fees for each of the services they provide. Governments should require such a policy as a part of funding agreements. The policy on client fees should be based on consideration of:</p> <ul style="list-style-type: none"> • economic circumstances; and • individual need. <p>It should also recognise principles of access and equity.</p>	Difficult to assess the extent of implementation
23	<p>Commonwealth and State/territory governments should examine the opportunities for individual funding for clients on a service by service basis, taking into account:</p> <ul style="list-style-type: none"> • the availability of current and potential service providers; • service provider overheads; • the ability of clients or their representatives to assess and monitor service quality; and • the provision of information to help clients identify and access appropriate services. 	Progress has been made in some jurisdictions and service areas

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Table K.1 (continued)

<i>Rec. No.</i>	<i>Recommendation</i>	<i>Status</i>
24	The Commonwealth government should provide funds to the Australian Accounting Standards Board and the Public Sector Accounting Standards Board to develop within two years suitable accounting standards for Community Social Welfare Organisations.	Progress has been made in some jurisdictions
25	AusAID and the Commonwealth Treasury should introduce processes of regular review to ensure that Non-Government Development Organisations and their approved funds still meet the criteria by which they were granted tax deductibility status.	Progress has been made
26	The Australian Taxation Office should introduce processes of regular review to ensure that Community Social Welfare Organisations receiving tax deductibility status and other tax benefits still meet the criteria by which they were granted those benefits.	Implemented
27	The Commonwealth and State/territory governments should establish a form of incorporation under the Corporations Law for Community Social Welfare Organisations. Such organisations would be required to report using the accounting standards proposed in Recommendation 24.	Not implemented
28	The Commonwealth government should fund the establishment of a pilot best practice program for the sector: <ul style="list-style-type: none"> • pilot projects should be chosen on the basis of expected net benefits and to cover all major sub-sectors — for example, disability services, home and community care, aged care and employment services; • relevant Commonwealth government departments should develop pilot projects in consultation with the sector; and • pilot project outcomes should be widely disseminated in the sector. 	Progress has been made in some jurisdictions
29	The Australian Bureau of Statistics and the Australian Institute of Health and Welfare should develop a framework for the collection and publication of statistics. These statistics should facilitate service planning by including information on: <ul style="list-style-type: none"> • the programs delivered by Community Social Welfare Organisations; • the characteristics of Community Social Welfare Organisations; and • the clients of services. 	Progress has been made

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Table K.1 (continued)

<i>Rec. No.</i>	<i>Recommendation</i>	<i>Status</i>
30	<p>The Commonwealth government should fund an independent evaluation of the extent and direction of funding for research into the delivery of community welfare services.</p> <p>Such a review should:</p> <ul style="list-style-type: none"> • describe the funding available for research into service delivery; • recommend any desirable redirection of existing funding; and • recommend on funding arrangements which should apply to research into service delivery issues. 	Not implemented
31	<p>Commonwealth and State/territory governments should review their funding policies and guidelines for peak councils to specify:</p> <ul style="list-style-type: none"> • appropriate roles and functions; • responsibilities of funded peak councils and funding bodies; • selection criteria; • level and duration of funding; and • mechanisms for regular review of criteria. 	Progress has been made in some jurisdictions

Source: IC (1995).

Table K.2 Government response to recommendations from the Senate Inquiry into disclosure regimes for charities and not-for-profit organisations, 2008

<i>Rec. no.</i>	<i>Recommendation</i>	<i>Status</i>
1	The committee recommends that all Australian Governments agree on common terminology for referring to organisations within the Sector. Governments should also develop a common meaning for terms referring to the size of these organisations, including 'micro', 'small', 'medium' and 'large'. This standard terminology should be adopted by all government departments.	Agreed to in principle
2	The committee recommends that the Government establish a unit within the Department of Prime Minister and Cabinet specifically to manage issues arising for Not-For-Profit Organisations. The unit should report to a Minister for the Third Sector.	Noted. The Social Inclusion Unit within the Department of Prime Minister and Cabinet provides coordination on these issues across government. The Social Inclusion Unit reports to the Prime Minister and the Minister for Social Inclusion.
3	The committee recommends that there be a single independent national regulator for Not-For-Profit Organisations.	Noted. The Government will consider this, drawing on the findings of the Productivity Commission's review of the not-for-profit sector
4	The committee recommends that the Australian National Regulator for Not-For-Profit Organisations should have similar functions to regulators overseas, and particularly in the UK, including a Register for Not-For-Profit Organisations with a compulsory sign-up requirement. The committee recommends consultation with the Sector to formulate the duties of the National Regulator. As a minimum, the Regulator should: <ul style="list-style-type: none"> a) Develop and maintain a Register of all Not-For-Profit Organisations in Australia. Once registered, the Commission should issue each organisation with a unique identifying number or allow organisations with an ABN to use that number as their Not-For-Profit identifier. This could be enabled using existing ASIC website resources. b) Develop and maintain an accessible, searchable public interface. c) Undertake either an annual descriptive analysis of the organisations that it regulates or provide the required information annually to the ABS for collation and analysis.. 	COAG's Business Regulation and Competition Working Group is considering regulation reform of the third sector as part of its 2009 work plan Noted. The enactment of a single, independent national regulator, enacted by Commonwealth legislation, will be considered by Government. COAG's Business Regulation and Competition Working Group (BRCWG) is considering regulation reform of the third sector as part of its 2009 work plan

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Table K.2 (continued)

<i>Rec. No.</i>	<i>Recommendation</i>	<i>Status</i>
4	<p>d) Secure compliance with the relevant legislation</p> <p>e) Develop best practice standards for the operation of Not-For-Profit Organisations.</p> <p>f) Educate / Advise Not-For-Profit Organisations on best practice standards.</p> <p>g) Investigate complaints relating to the operations of the organisations.</p> <p>h) Educate the public about the role of Not-For-Profit Organisations.</p> <p>The voluntary codes of conduct developed by ACFID and FIA respectively should be considered by the Regulator when implementing its own code of conduct</p>	
5	<p>The committee recommends that the Commonwealth Government develop the legislation that will be required in order to establish a national regulator for Australia.</p>	
6	<p>The committee recommends that, once a Register is established and populated, this information should be provided to the ABS, who should prepare and publish a comprehensive study to provide government with a clearer picture of the size and composition of the Third Sector.</p>	<p>Noted. The Productivity Commission's review will consider this issue. The ABS will be conducting a Non-Profit Institutions Satellite Account in 2009 which will provide evidence of the contribution of the not-for-profit sector</p>
7	<p>The committee recommends that a single, mandatory, specialist legal structure be adopted for Not-For-Profit Organisations through a referral of state and territory powers. Given the degree of change such a legal structure would mean for some not-for-profit organisations, the legal structure must be developed in full consultation with these organisations.</p>	<p>Noted. The BRCWG has included regulation reform of the third sector as part of its 2009 work plan</p>
8	<p>The committee recommends that the Henry Review include an examination of taxation measures affecting Not-For-Profit Organisations with a view to simplifying these arrangements and reducing confusion and cost of compliance for these organisations.</p>	<p>The Henry Review has released a discussion paper seeking community input. Chapter 7 of that paper relates to tax treatment of not-for-profit organisations and possible alternative arrangements</p>

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Table K.2 (continued)

<i>Rec. No.</i>	<i>Recommendation</i>	<i>Status</i>
9	<p>The committee recommends that a National Fundraising Act be developed following a referral of powers from states and territories to the Commonwealth.</p> <p>This Act should include the following minimum features:</p> <ul style="list-style-type: none"> • It should apply nationally. • It should apply to all organisations. • It should require accounts or records to be submitted following the fundraising period with the level of reporting commensurate with the size of the organisation or amount raised. • It should include a provision for the granting of a license. • It should clearly regulate contemporary fundraising activities such as internet fundraising. 	<p>Noted. The BRCWG, as part of its 2009 work plan, is considering reform options to fundraising legislation</p>
10	<p>The committee recommends that a tiered reporting system be established under the legislation for a specialist legal structure.</p>	<p>Noted. Refer to response to recommendation 3. A Review of financial reporting by unlisted companies under the Corporations Act 2001 has been conducted by the Treasury and policy reforms are being considered.</p>
11	<p>The committee recommends that the tiers be assigned to organisations based on total annual revenue</p>	<p>The Commonwealth Government is also developing a Commonwealth grants policy framework that, amongst other things, will include arrangements to minimise unnecessary red tape for grant recipients</p>

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Table K.2 (continued)

<i>Rec. No.</i>	<i>Recommendation</i>	<i>Status</i>
12	The committee recommends that the Commonwealth Government work with the Sector to implement a standard chart of accounts for use by all departments and Not-For-Profit Organisations as a priority.	Noted. The BRCWG, as part of its 2009 work plan, is considering reform options aimed at developing a standard chart of accounts.
13	The committee recommends that a new disclosure regime contain elements of narrative and numeric reporting as well as financial, in acknowledgement that the stakeholders of the Sector want different information to that of shareholders in the Business Sector. The financial reporting should be transparent and facilitate comparison across charities.	The commonwealth Government will also consider accounting disclosure regimes in the light of the Review of financial reporting by unlisted companies by Treasury. The findings of the Review of accounting standards for 'Non-publicly Accountable Entities', that is, non-listed entities, by the Australian Accounting Standards Board, and the Productivity Commission Review of the contribution of the not-for-profit sector will also be considered
14	The committee recommends that the national regulator investigate the cost vs benefit of a GuideStar-type system (a website portal that publishes information on the aims and activities of Not-For-Profit Organisations) in Australia to encompass all Not-For-Profit Organisations.	Noted. This recommendation will be considered within the context of the reviews noted, States and Territories will be consulted in the process

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Table K.2 (continued)

<i>Rec. No.</i>	<i>Recommendation</i>	<i>Status</i>
15	<p>The committee recommends that a Taskforce be established for the purposes of implementing the recommendations of this report. The Taskforce should report to COAG. Its membership should include:</p> <ul style="list-style-type: none"> • a government representative from the Commonwealth; • a COAG-elected representative to speak for states and territories; • one or more qualified legal experts with expertise with the major pieces of legislation affecting Not-For-Profit organisations; • a representative from an organisation which manages private charitable foundations; • an accountant with not-for-profit expertise; and • a number of representatives from the peak bodies of Not-For-Profit Organisations, including a representative from a peak body for social enterprises. <p>The Taskforce should actively seek to ensure that the measures of reform that it implements do not impose an unreasonable reporting burden on small and micro Not-For-Profit Organisations.</p>	<p>Noted. The Commonwealth Government will consider the recommendations of the Senate Inquiry throughout 2009, as findings of various reviews are reported. It will consult extensively across the third sector, business community and State and Territory Governments. It will also seek expert advice as required. The appropriate mechanism for consultation will be determined as the issues are considered</p>

Sources: SSCE (2008); Parliament of Australia (2009).

References

IC (Industry Commission) 1995, *Charitable Organisations in Australia*, Report No. 45, June.

SSCE (Senate Standing Committee on Economics) 2008, *Disclosure regime for charities and not-for-profit organisations*, December, http://www.aph.gov.au/Senate/committee/economics_ctte/charities_08/report/report.pdf (accessed 15 September 2009).

Parliament of Australia (2009), *Commonwealth Government response to the Standing Committee on Economics Senate inquiry into disclosure regimes for charities and not-for profit organisations*, www.aph.gov.au/senate/committee/economics_ctte/charities_08/gov_response.PDF (accessed 6 October 2009).