
14 Implementation

Key points

- Over the last 14 years there have been five major reviews of the not-for-profit (NFP) sector, yet many recommendations remain unimplemented. This study builds on these reviews to develop a package of recommendations that seek to optimise the contribution of the sector to improving community wellbeing. As the previous chapters have highlighted, governments need to pursue wide-ranging reforms.
- Concerted action will be needed from all stakeholders to successfully implement the proposed changes. The NFP sector needs to strengthen its capacity to engage with government and adapt to the changing environment in which it operates. Governments need to ensure appropriate institutional arrangements are in place to develop and implement much needed reforms, including those requiring a whole-of-government response.
- The institutional architecture proposed to implement reform is modest, involving a:
 - Registrar for Community and Charitable Purpose Organisations that registers all national legal forms, offers the companies limited by guarantee form with appropriate compliance requirements, endorses NFPs for Commonwealth tax concessions, and provides a one-stop-shop for reporting for governance, financial accountability, tax endorsement and fundraising
 - Office for NFP Sector Engagement that will work with Commonwealth agencies and Council of Australian Governments (COAG) to implement regulatory reforms, drive policy change as relates to the sector, and build the capacity of agencies to engage more effectively with NFPs in their funding and other relationships
 - Centre for Community Service Effectiveness, that is independent of government, and will provide guidance to the sector on evaluation and build the information base for evidence based community service program and policy development.
- Given the scope of the proposed reform agenda it would be best to phase the implementation of these changes over a number of years. Priority should be given to putting in place those elements of the institutional architecture that are needed to support and drive the broader reform agenda.
- Successful implementation will require governments and NFPs to develop a better understanding of each other and stronger trust. As such, there is a need for cultural change on both sides, including a preparedness to let go of some unhelpful misconceptions.
- State and territory governments also need to implement the government sector reforms to fully realise the potential benefits from the proposed reform agenda.

The recommendations set out in the previous chapters have a clear end point, which is providing the sector with legal and regulatory framework and capabilities to optimise their contribution to improving community wellbeing. This contribution is not limited to delivering services but goes to the heart of civil society, including the sector's role as a voice for those who are marginalised and disadvantaged. A key overarching issue is determining what institutional arrangements are needed to underpin the implementation of the proposed reforms. There is also the issue of how reforms should be sequenced in order to achieve the desired outcomes. This recognises that the successful implementation of the reforms will require the development of enhanced capabilities and skills in both the government and not-for-profit (NFP) sectors and much needed cultural change.

This chapter sets out a broad implementation plan. It has two major components, the institutional structures required to support and deliver the reforms, and guidance for the sequencing of the reforms. There is a brief discussion of how the proposed reforms can support and drive cultural change in both the government and NFP sectors. The chapter concludes by discussing the importance of state and territory governments implementing the government sector reforms arising from this study.

14.1 Institutional change is necessary

Successful implementation of the Commission's recommendations will require strengthening existing institutional arrangements in relation to regulation, sector engagement and research. These changes are needed to underpin the implementation of many long overdue reforms and ensure appropriate arrangements are in place to respond to future challenges.

Over the last 14 years the NFP sector has been the subject of a number of reviews and studies. Many of the recommendations of this work have yet to be implemented, and much remains as relevant today, perhaps more so as governments look to the sector to assist in improving social inclusion (appendix K). Further, the sector is large and growing and exerts considerable influence over how resources are allocated and used, particularly in relation to the delivery of human and community-based services. In the medium term, Australia's ageing population will place increasing demands on many of these services, while at the same time putting an even higher premium on how efficiently and effectively they are provided. This underscores the importance of having in place the regulatory, information, innovation and relationship platforms necessary for NFPs to adapt and respond to changing community needs and preferences.

The proposed institutional changes are not motivated by wanting to ‘mould’ the NFP sector to become more like government or business. Equally, it is important to stress that the changes are not intended to preserve current roles or guarantee a future for any particular community based organisation or peak body. Clearly, over the last few decades, the needs, preferences and expectations of the community have changed in relation to many of the services that have typically been provided by NFPs. Demographic change is likely to further accentuate such pressures in the future. To some extent this can be expected to create a degree of ‘churn’ within the sector and drive long-term structural change. The proposed institutional arrangements are intended to support the NFP sector as it adapts and responds to the pressures for change rather than shield it from the need to change.

What changes to existing arrangements are required?

There are three main ‘institutions’ required to implement the proposed reforms at the Commonwealth level — the Registrar, an Office for NFP Sector Engagement and the Centre for Community Service Effectiveness. They bring together and strengthen existing arrangements to provide a more sustainable platform for the sector. The Centre for Community Service Effectiveness and Registrar have been described at length in chapters 5 and 6 respectively. The proposed Office for NFP Sector Engagement (the Office) is described in detail below.

How these institutions are intended to fit within the existing institutional architecture is summarised in figure 14.1.

The Office for NFP Sector Engagement

Implementation of the reform agenda needs a policy home within government at the national level. The Office for NFP Sector Engagement would provide this home, to drive the establishment of the Registrar and the Centre for Community Service Effectiveness. In addition, the Office would be tasked with ensuring the reform process is underpinned by effective engagement with the sector and those government departments and agencies engaging with the sector in the delivery of human and community-based services. Given the broad ranging nature of the reform agenda, including the need for whole of government responses to some important challenges, it would be most appropriate to locate the office in the Prime Minister’s portfolio, at the centre of Australian government.

Figure 14.1 The institutional architecture for regulation, sector engagement, and research

REGULATION	<p>State and Territory</p> <p>Regulators</p> <ul style="list-style-type: none"> ➢ Incorporate and regulate associations, co-operatives, mutuals, trusts, foundations ➢ Fundraising approvals (harmonised) ➢ Jurisdiction tax concession approval ➢ Investigate compliance ➢ Complaints handling 	<p>Australian Government</p> <p>Registrar for Community and Charitable Purpose Organisations</p> <ul style="list-style-type: none"> ➢ Register and regulate, NFP companies limited by guarantee and Indigenous corporations ➢ Endorse and register Commonwealth tax concessions entities ➢ Register for cross-jurisdictional fundraising ➢ Single reporting portal ➢ Guidance on governance ➢ Investigate compliance with regulation ➢ Complaints handling 	<p>Sector</p> <p>Organisations</p> <ul style="list-style-type: none"> ➢ Incorporated <ul style="list-style-type: none"> ❑ Companies limited by guarantee ❑ Indigenous corporations ❑ Incorporated associations ❑ Cooperative mutuals ❑ Trusts and foundations ➢ Unincorporated <p>Peak bodies</p> <ul style="list-style-type: none"> ➢ Self regulation 	
	SECTOR ENGAGEMENT	<p>State and Territory</p> <p>Agencies</p> <ul style="list-style-type: none"> ➢ Drive reforms <ul style="list-style-type: none"> ❑ Facilitate agency capacity to implement reforms ➢ Compacts and protocols ➢ Workforce planning ➢ Sector development 	<p>Australian Government</p> <p>Office for NFP Sector Engagement</p> <ul style="list-style-type: none"> ➢ Drive reforms ➢ Facilitate <ul style="list-style-type: none"> ❑ agency capacity to implement reforms ❑ social innovation ❑ market for NFP debt ➢ Compact monitoring and action implementation <p>Department of Innovation</p> <ul style="list-style-type: none"> ➢ CRC Program ➢ Enterprise Connect 	<p>Sector</p> <p>Peak Bodies</p> <ul style="list-style-type: none"> ➢ Advocacy and engagement ➢ Encourage collaboration ➢ Facilitate business – NFP forums ➢ Workforce planning <p>Intermediaries</p> <ul style="list-style-type: none"> ➢ Back office and other support ➢ CDFIs
		RESEARCH	<p>ABS/AIHW</p> <ul style="list-style-type: none"> ➢ Satellite accounts ➢ Volunteering surveys ➢ Longitudinal and administrative data 	<p>Centre for Community Service Effectiveness (tendered)</p> <ul style="list-style-type: none"> ➢ Evaluation clearing house ➢ Evaluation benchmarking ➢ Encouraging best practice ➢ Supporting meta-evaluation

The need for such an organisation within the machinery of government is well recognised. The 2008 Senate Inquiry into disclosure regimes (SSCE 2008) looked at the institutional arrangements needed to support the NFP sector. Among other things it noted that Australia did not have a body to monitor relevant legislation and lacked the equivalent of the UK Office of the Third Sector. The Senate Committee’s recommendation (SSCE 2008, p. 36) was that the Australian Government ‘establish a unit within the Department of the 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’. The NFP sector itself has also recently proposed a dedicated Minister at the Commonwealth level (Australian Institute of Company Directors 2009).

There are complementarities between the Office and the Department of the Prime Minister and Cabinet's Social Inclusion Unit. On the face of it, the co-location of the Office with this Unit would appear to have considerable merit. The potential for synergies between these two areas is underscored by the importance the Australian Government ascribes to the role of NFPs in fostering social inclusion:

Community organisations play a crucial role in combating social exclusion and enhancing the economic, social, cultural and environmental wellbeing of our society. (Stephens and Macklin 2009)

Moreover, the recommendations contained in this report aim to improve the efficiency and effectiveness of the sector. In this regard, the reform package can be seen as integral to the success of the national social inclusion agenda.

The Office would support relevant Ministers in the implementation of the proposed reform agenda. In terms of complementarities with the national compact, it would also be efficient for the Office to have carriage of implementing the compact. In sum, the Commission sees the key functions of the Office as being to:

- assist with the establishment of the national Registrar, including working with the Registrar and line agencies to develop a reporting template that will provide sufficient organisational financial probity information for line agencies to accept as financial 'health checks' for contracting purposes
- pursue implementation of reforms related to government funded services
- pursue proposed agendas in relation to the efficiency and effectiveness of the sector, including regulatory reform
- drive development of the knowledge base, including establishing the Centre for Community Service Effectiveness and promoting performance measurement approaches that support evaluation and its dissemination
- assist and monitor implementation of the national compact.

The Office could also act as a facilitator for the proposed initiatives for stimulating social innovation (chapter 9) and for developing the market for NFP debt (chapter 7).

Submissions following the draft report expressed strong support for the Office, although some participants saw the role of the Office as having a different emphasis. For example, Social Traders argued that:

We believe that government fulfils a variety of roles in its interaction with the NFP Sector including regulator, purchaser, investor and enabler. It is our contention that the proposed Office for Not for Profit Sector Engagement should concentrate its activity in the investor and enabler roles. This would allow existing regulator and purchaser relationships between government departments and the sector to continue with

“tailored” advice provided by the proposed office, this advice following the strategic priorities and actions set out in a new NFP Sector Strategy. (sub. DR189, p. 3)

The Commission considers that the ‘enabler’ and ‘investor’ roles are more appropriately pursued at the state and territory level. Nevertheless, the activities of the Office would complement efforts at the state and territory level that are intended to support sector development (box 14.1).

Given the desirability of sequencing reforms over a number of years (see below), it would be appropriate for the Office to remain in place for at least five years. At that time, progress in implementing the reform agenda should be reviewed, including the continued need for the Office. An agreed evaluation framework to underpin this assessment should be developed at the time the Office is established. This should be done in consultation with other relevant government agencies and the NFP sector.

To ensure transparency and accountability, the Office should be required to provide the relevant Minister with an annual report of its activities and progress towards implementing the reform agenda. This report should be tabled in Parliament.

How will these changes affect other key stakeholders?

The implementation of the broader reform agenda requires concerted action from all stakeholders, including state and territory governments and peak bodies. It is therefore important to consider how the proposed changes to existing institutional arrangements at the Commonwealth level may impact on other key stakeholders.

The role of state and territory governments

The proposed changes to current institutional arrangements at the Commonwealth level is likely to see the migration of multi-jurisdictional NFPs to the Commonwealth legal form. However, the reforms do not involve any diminution of the role played by state and territory governments in fostering the development of the NFP sector.

State and territory governments will continue to play the greatest role in fostering sector development and working with community based organisations to address existing and emerging social issues in regional and local communities. However, reflecting the importance of this role, it is crucial that state and territory governments implement the government-sector reforms arising from this study (see section 14.4).

Box 14.1 State and territory government action to strengthen NFPs

Government submissions and survey responses across jurisdictions described a number of measures being taken to strengthen NFPs.

New South Wales — Financial management training workshops for service providers, and development of a Unit Costing Tool for use in tendering (Department of Ageing, Disability and Home Care); non government organisations (NGO) Training Program (established 2004) to assist in improving governance in small to medium sized NFPs (Department of Community Services).

Victoria — The Office for the Community Sector (2008) aims to strengthen Government's support for community groups. A theme of the Government's Action Plan: Strengthening Community Organisations is to build the capacity of community organisations. Actions include work with the NFP and community sector to develop a framework focusing on identifying the future skills and capabilities needed in the sector.

Queensland — The Strengthening Non-Government Organisations Initiative (2005), aimed to build the capacity and capability of funded communities and disabilities services providers. An outcome was the Community Bookkeeper initiative, which supported the Government to recognise and fund organisations to adopt a standard chart of accounts. Arts Queensland co-funds BoardConnect which offers board development and governance support specifically to arts organisations, mostly NFPs.

South Australia — The Department for Families and Communities is ensuring access to Government contracts for eligible community service organisations to contribute to organisational sustainability and efficiency. These contracts include fuel, motor vehicles, stationary and electricity.

Western Australia — The Department for Child Protection has forums to share good practice and explore ways to increase service efficiency and improve client outcomes. The Department of Housing has made funding available to assist larger NFPs with business improvement strategies in order to meet registration requirements under the community housing growth strategy (appendix I) and some similar capacity building in the Indigenous NFP housing management field and the community housing sector.

Tasmania — The goals of the Office for the Community Sector include helping the sector become more self-sufficient for its core mission work, including through funding for sector capacity building.

Across jurisdictions — The Commission's survey of Australian government agencies engaged with NFPs in service delivery (Appendix D) found that capacity issues were identified in relation to the majority of programs. For most programs nominated in survey responses, agencies are supporting capacity building in the NFPs to ensure they are able to deliver services and remain financially viable.

Sources: NSW Government (sub. 166); Victorian Government (sub. 178); Queensland Government (sub. 156); South Australian Government (sub. 175); Tasmanian Government (pers. comm., 28 October 2009); Commission assessment (August 2009).

It is also important to note that the proposed institutional arrangements do not diminish the importance of COAG's role in coordinating the development of nationally consistent reforms that address common problems. For example, in relation to government funded human services, there could be a considerable payoff from developing a nationally consistent approach to streamlining tendering, contracting, reporting and acquittal requirements and improving government contracting practices (chapter 12).

The role of peak bodies

The proposed institutional architecture would, for the first time at the national level, provide the NFP sector with the opportunity to engage with government through sector-specific institutions that have clearly defined roles and responsibilities (including in relation to implementing the broader reform agenda). It is envisaged that peak bodies will play an important conduit role in informing the development of these reforms and in keeping their members informed of how they will be affected by the changes and resulting opportunities to improve their efficiency and effectiveness.

Importantly, the proposed institutional arrangements would improve the NFP sector's access to data and other forms of information, especially through the Centre for Community Service Effectiveness. This is likely to enhance the capacity of peak bodies to undertake research and evaluation that is relevant to improving the skills and capabilities of their member organisations (for example, by informing the development of training courses and seminars).

The development of the National Roundtable of Nonprofit Organisations and Nonprofit Australia demonstrated a desire by many in the sector to develop new sector-wide agencies. In September 2009, there was a renewed push for the formation of a single peak body (Australian Institute of Company Directors 2009). Given the diversity of organisations and interests that make up the NFP sector, the creation of a single peak body represents a significant challenge. Nevertheless, such a development would complement government efforts to improve their engagement with the sector, including through the creation of dedicated sector-specific institutions. In this, it is important that sector representation and advocacy is able to accurately convey the diversity of views among 'grass root' community based organisations. Ultimately, the development such a body is something for the NFP sector itself to resolve.

How will these changes affect the role of the national compact?

The Australian Government initiated the development of a national compact with the NFP sector in 2008 (box 14.2). This follows a period when government and sector relations were strained, in part a result of de-funding of some advocacy organisations and the inclusion in service contracts of ‘gag’ clauses restricting or forbidding NFPs speaking out (Gillard 2008; Staples 2008). The Government’s national compact is an attempt to chart a new course by recognising the relationship between government and the sector as a key foundation of civil society and integral to progressing the Government’s social inclusion agenda:

The Government believes a strong, vibrant, independent and innovative Third Sector is essential to underpin its Social Inclusion Agenda. This agenda has at its core a commitment to create communities where all Australians can participate, learn, engage and have a voice. ... This new partnership will allow us to work on the challenges we face, build a stronger Third Sector in Australia and through this, drive innovation, creativity and sustainability in our communities. (Australian Government 2009d, p. v)

The scope of the proposed national compact is inclusive of the whole NFP sector.

The development of the national compact can be usefully informed by experience both in Australia and overseas. Over the last decade, state governments have sought to reshape their relationship with the NFP sector, through initiatives such as compacts, agreements and partnerships (box 14.3). These agreements have tended to focus on NFPs involved in the delivery of government funded services. Core principles include respect, accountability, inclusiveness, engagement and service quality. The United Kingdom established a national compact in 1998.

These experiences point to the value of a ‘top down’ process of engagement between government and the NFP sector. Such a process is valuable in establishing the broad principles for engagement and in setting the ‘tone’ of engagement, which is integral to achieving cultural change (see below).

However, these experiences also suggest that of themselves such processes are rarely sufficient to significantly change attitudes and decision-making at a more micro-level. This underscores the importance of compacts being supported by a range of complementary ‘bottom up’ measures such as detailed implementation plans and accountability frameworks. The UK Commission’s current consultation on a ‘refreshed’ compact makes a relevant observation:

If there is a lesson to be learnt from the first 10 years of the Compact, it is that policies, however admirable and widely agreed, need support to be implemented. (Commission for the Compact 2009a, p. 9)

Box 14.2 A National Compact

The Australian Government initiated the development of a national compact in 2008, and in 2009 proposed a draft vision and purpose:

- The draft vision states that ‘The Government and the Third Sector will work together in partnership to improve social, cultural, civic, economic and environmental outcomes, building on the strengths of individuals and communities. This partnership will contribute to a more inclusive Australian community with better quality of life for all’. (p. 4)
- The draft purpose states that ‘This national compact represents a commitment by the Government and the Third Sector to work in a genuine partnership to achieve this shared vision. The compact’s shared principles provide a foundation for action to improve working relationships, strengthen sector viability and develop and deliver better policy and programs’. (p. 4)

Through the consultation process to date, the Government has also developed draft principles under the following themes, to provide ‘rules of engagement’ as a foundation for action and change:

Respect	Inclusiveness	Diversity
Effectiveness	Efficiency	Sustainability

The Government is also asking for views on more specific commitments, noting that compacts developed overseas have typically been followed by such commitments expressed in plans or codes and outlining actions, responsibilities, targets and timeframes. In Australia, consultation to date indicates that both parties want the compact to include such commitments to action.

The proposed implementation and governance of the national compact is that a National Compact Council, comprising Third Sector champions, could be an appropriate mechanism to represent the interests of the Third Sector in related matters, and could have responsibility for developing a five year action plan and for recommending processes to resolve differences.

Source: Australian Government (2009d).

Box 14.3 Some state and territory engagement frameworks

New South Wales — *Working Together for NSW Agreement* (2006) with NFP human service organisations, has principles of: an evidence-based approach; a focus on outcomes; respect; open communication and consultation; independence; and inclusiveness.

Victoria — *Victorian Partnership Agreement* (2002), a three year agreement between the Department of Human Services and health, housing and community service organisations, was seen as a reconciliatory document for a stronger relationship to ensure effective public policy and best service outcomes. The Action Plan for Strengthening Community Organisations (2008) aims to simplify and streamline the Government's interactions with NFP and community organisations, and enable them to invest in their own capabilities and long-term sustainability.

Queensland — the principles of the *Queensland Compact* (2008) include to: build strong working relationships; improve engagement in planning and policy; improve the sector's capacity and sustainability; and continue to improve service quality and innovation. The *Compact Governance Committee Action Plan* sets out agreed goals, actions and outcomes taken from the relevant compact principles and commitments.

South Australia — *Common Ground Partnership Agreement* (2004), between the government and the Health and Community Services Sector, provides a framework and enabling mechanisms to enhance the relationships between the relevant departments and the sector. Shared principles include: a value on integrity; transparency; accountability; honesty and leadership; and a commitment to optimise opportunities for collaboration; and participation consistent with accountabilities to each party's stakeholders.

Western Australia — *Industry Plan for the Non-Government Human Services Sector* (2004) is committed to: the common good; inclusiveness; collaboration and cooperation; quality service provision; continuous improvement; improving wellbeing; flexibility and mutual accountability and engagement of clients and communities.

Tasmania — The Department of Health and Human Services (DHHS) established the Office for the Community Sector in 2008, as the primary portal through which relationships between the 13 business units of DHHS and NFPs are managed and reflecting the significant investment that DHHS has within the Tasmanian community sector.

Australian Capital Territory — *Social Compact* (2004) with the community sector has principles of: trust, openness and transparency; mutual respect; valuing distinct and complementary roles; integrity, ethical practice, accountability and leadership in operation; responsibility; community participation in decision making; accountability for outcomes; innovation, continuous improvement, flexibility and cultural sensitivity.

Sources: NSW Government (2006); DHS (2002a); Victorian Government (2008); Queensland Government (2008, 2009a); South Australian Government (2009); Western Australian Government (2004); DHHS (2010); ACT Government (2004b).

As noted earlier, the Office for NFP Sector Engagement should be given carriage for implementing the national compact. This would include working with those government departments and agencies that have significant engagement with the NFP sector to develop individual agency action plans and appropriate accountability frameworks for giving effect to the proposed relationship. The application of the principles underpinning the national compact should be consistent with the overarching objective of ensuring best value for money for the community from procurement and grant-making processes. The Office should help identify best practice in relation to the implementation of the national compact and report on progress in its annual report to the Minister.

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.

14.2 Sequencing of reforms

Given the number and breadth of the proposed reforms, consideration needs to be given to the sequence of reforms in order to ensure that desired outcomes are achieved. This reflects limits to the ability of organisations to absorb and respond to change. Moreover, some reforms require the introduction of complementary measures and all need the institutional platforms to underpin the process.

In considering the appropriate sequencing of reforms arising from this study, it is important to consider:

- whether a reform is a discrete one-off measure (for example, to address a well identified anomaly in current funding or regulatory arrangements)
- the extent to which a reform requires prior actions to be taken or needs to be supported by cultural change
- whether the reform needs to be supported by complementary measures at the time it is implemented
- the budgetary implications of the proposed reforms
- the capacity of government and NFP organisations to absorb change in the short and medium term.

Priority must be given to making the institutional changes outlined in the previous section. This would establish the role of the Registrar for Community and Charitable Purpose Organisations, the Office for NFP Sector Engagement, and Centre for Community Service Effectiveness as the platforms for the broader reform agenda.

The Commission sets out below some of the priority areas that should be actioned in the initial implementation phase of the reform agenda.

Establishing a national regulatory regime

The Registrar for Community and Charitable Purpose Organisations needs to be initially established as a statutory body or organ in the Australian Securities Investment Commission (ASIC). Priority should be given to the transfer of incorporation of companies limited by guarantee and endorsement of tax concessions. The Office of the Registrar of Indigenous Corporations (ORIC) should be subsequently transferred across once the Registrar is functional.

Simultaneously, the Australian Government should advance changes to the Corporations Law that would improve the appropriateness of companies limited by guarantee for a broader group of NFP organisations.

The COAG Working Group on Business Regulation and Competition should continue to press ahead with its work on the national adoption of a standard chart of accounts, the harmonisation of fundraising legislation (including establishing the proposed national register), and agree to the harmonisation of key aspects of incorporation of associations legislation.

Building the knowledge base

The Centre for Community Service Effectiveness needs to be fully scoped and designed and then tendered. This would be best done by the Office for NFP Sector Engagement, but could be undertaken by existing institutions, such as the Social Inclusion Unit or the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) . The Centre's first tasks will be to establish the portal for lodging and sharing evaluations, and develop a package of information for the sector on quality evaluation methods.

The commissioning of the Australian Bureau of Statistics (ABS) to develop the Information Development Plan (IDP) for building the information on the sector is a high priority. This will see the formation of an advisory committee including agencies involved in the collection of relevant data such as the Australian Institute of Health and Welfare (AIHW), as well as sector representatives.

Promoting innovation and productivity

At the Commonwealth level, a priority is to provide the Cooperative Research Centres (CRC) program with the resources to expand their role in assisting social enterprises to form research collaborations that can be competitive for the CRC funds. This should be complimented by the expansion of the Enterprise Connect program to establish a centre for social enterprise.

The Office for NFP Sector Engagement should play a facilitating role in getting the social innovation funds established and operating effectively in Commonwealth agencies. The social innovation funds at program level will need to be designed carefully to ensure that administrative costs are minimal, and that cost-effectiveness (if not impact) evaluation is embedded in the activities supported through these funds. While different models for disbursement of these funds could be trialled, lessons from pilots should be shared, and a preferred model promulgated. The

Office should work with COAG to encourage states and territories to also implement social innovation funds for all major community service programs.

The Office should also take the lead in ensuring the establishment of the panel to advise on capital market development for NFP debt.

Driving change

The establishment of the proposed Office for NFP Sector Engagement is essential for implementing the reforms and driving change. Beyond those areas mentioned above, a priority area for attention is the implementation of the reforms in government funded services. These include working with agencies on the approaches to choosing an appropriate model for engagement, and with this, the best way of involving NFPs in the design of services, as well as tendering and contracting processes.

14.3 Cultural change is needed for long-term success

During the course of this study the Commission has been struck by the degree to which the underlying relationship between government and the NFP sector has deteriorated. The relationship has become unnecessarily adversarial and lacking in trust. As discussed in chapter 12, this is a significant impediment to improving the efficient and effective delivery of a wide range of human and community-based services that are crucial to improving individual and community wellbeing. The current situation reflects deep seated problems for which there are no ‘quick fixes’. Rather, addressing these issues will require goodwill on both sides and a willingness to sustain reform efforts over a number of years.

The successful implementation of the proposed package of reforms will need to be supported by cultural change within both the government and NFP sectors. In the context of this study, cultural change can be thought of as re-shaping the attitudes, norms and values underpinning the decisions and behaviours of those people who engage across the government/NFP divide (for example, service and program managers in the public sector and the professional staff and volunteers working in the NFP sector).

What forces have shaped the current situation?

The 1980s and 1990s represented a significant structural adjustment in the underlying relationship between government and a large part of the NFP sector. In

the Commission's view, this appears to have de-stabilised the 'domain consensus' (that is, a shared view of roles and responsibilities) that had underpinned government and NFP engagement for much of the post-war era. And, despite some reforms being more than a decade old, submissions and consultations suggest the relationship between government and the NFP sector continues to be under pressure. The expanding role of for-profit providers in some service areas has undoubtedly added to these pressures.

These pressures have created uncertainty about the boundary lines between governments and NFPs, particularly in relation to 'ownership', 'control', 'responsibility', and 'risk'. It also appears that there is now more variability in where the boundary lines are drawn across the range of services NFPs have typically provided. It is a moot point whether some of the current problems in government and NFP engagement could have been avoided had past reforms been better implemented. What is clear is that poor implementation and change management has contributed to some serious underlying problems (chapter 12).

There appears to be considerable variability in the extent to which these problems apply to any particular service area or the policies and programs of any particular government agency. Nevertheless, these problems are sufficiently widespread to have contributed to the development of so called *nervous network governance*. This is governance fraught with volatility, a lack of trust, and permanent tensions (Bode 2006).

The proposed reform package seeks to put in place changes in processes, frameworks, and institutional arrangements that are crucial to reducing the degree of uncertainty and tension that characterises the underlying relationship between governments and NFPs. It is important to note that this does not involve moving away from market-based funding and procurement arrangements, where such approaches are feasible and appropriate.

These changes are a necessary but not sufficient condition for addressing impediments to optimising the NFP sector's contribution to improving community wellbeing. The long history of government and NFP engagement, including the uncertainty arising from past reform efforts, continue to shape decision making and behaviours at a more micro level within government agencies and NFPs. As this report has highlighted, some of these attitudes and behaviours are clearly an impediment to implementing much needed change.

What changes are needed to support cultural change?

During the course of this study the Commission spent a considerable amount of time listening to representatives from government and the NFP sector. In relation to the need for cultural change, two things are abundantly clear.

First, while governments have recognised the need for change and are implementing high level changes to policy frameworks and processes these actions appear to be making little headway in improving the underlying relationship with NFPs. Partly, this reflects the piecemeal nature of reforms, with insufficient attention being given to the linkages between program areas (even in some cases within the same agency). Just as important, however, is the limited effect that high level changes appear to be having in changing the attitudes and behaviours of those policy and program managers working with NFPs.

Second, submissions and consultations suggest that within some NFPs there remains an underlying resistance to governments wanting to have more influence over the design and delivery of services and to having to satisfy government accountability frameworks. As part of the Commission's survey, government agencies were asked to identify what difficulties (if any) their organisation has experienced in establishing efficient and effective partnerships with NFPs. There was a wide range of responses to this question with some recurring themes about the quality of NFP governance frameworks and staff turnover. However, a number of respondents also pointed to NFPs being suspicious of the government's intentions. They also pointed out that some NFPs can have a poor understanding of government accountability frameworks and how governments work more generally. In this regard, one respondent's answer may shed some light on the influence of long-term historical trends by suggesting that:

Many of the NFPs have been funded through programs which were originally established under a 'grants' funding model, rather than a fee for service approach. Many NFPs have been funded historically, ie based on what they did in the past, rather than what is needed now or into the future.

Achieving cultural change within the government and NFP sectors will be crucial to developing better mutual understanding and greater trust. Ultimately, these types of changes depend to a large extent on the quality of the *human* dimension of engagement processes.

The government sector

It is envisaged that the Office for NFP Sector Engagement would play a key role in driving cultural change across the Commonwealth public sector, including through

the implementation of the national compact. However, those government departments and agencies with significant engagement with the NFP sector should individually consider the need for cultural change within their own organisation.

There still appears to be an attitude within some government departments that NFPs are a ‘cheap’ way of ensuring certain services are provided. The attitudes, norms, and values that come with this type of mentality are corrosive to the underlying relationship between government and NFPs and undermine the sustainability of service delivery.

The information provided to this study suggests that government agencies should focus on supporting staff in relation to:

- developing a good understanding of the NFPs they are dealing with, including their individual missions, service mixes, resource constraints, histories and degree of dependence on government funding
- effectively allocating and managing risk through the development of an explicit risk management framework developed in consultation with service providers
- understanding the importance of relational governance to improving the efficiency and effectiveness of service delivery outcomes (for example, by strengthening: problem identification processes; policy formulation and program design; dispute resolution mechanisms; the exchange of knowledge and information; monitoring and evaluation processes; and sector capacity building).

Staff need to be encouraged to look beyond service agreements and contracts and develop the relationship management skills necessary to manage and implement change within service delivery systems that are characterised by a high degree of interdependence.

The NFP sector

In submissions and consultations, there was a tendency among some NFPs to stake claim to the ‘high moral ground’, reflecting that they do not earn a profit from their activities and because of the nature of the services they provide. To some extent this appears to give rise to an expectation that governments should trust NFPs and largely get out of the way of these organisations pursuing their community purpose activities even though governments may be making a significant contribution to funding. There also appears to be a strong view within the sector that NFPs enjoy a ‘monopoly’ in relation to generating wider and indirect benefits from their activities.

There needs to be a greater appreciation among NFPs that the community expects a high level of accountability from government for the use of public funds. Further, in allocating these funds, governments need to be responsive to changing community needs and preferences. Across the NFP sector some organisations deliver a higher net benefit to the community through their activities than others. It is appropriate that government has the flexibility to adjust the level and allocation of funding to seek higher net benefits and to reflect changing priorities.

The range of direct and indirect benefits that NFPs undoubtedly generate through their activities is diverse. However, the generation of public benefits is not exclusive to NFPs. Consequently, in applying value for money in grant-making and procurement exercises, governments should take account of all significant wider costs and benefits arising from an organisation's activities. The proposed Centre for Community Service Effectiveness will enhance understanding in government and the NFP sector about the nature and size of the sector's contribution to the community and help inform funding decisions.

More generally, individual NFPs funded to provide services should ensure they understand the government's objectives in relation to these services, the policies and programs of the relevant government agency, and the public policy making process more generally.

14.4 State and territory governments need to commit to implementing the government-sector reforms

Recognising the importance of the relationship between state and territory governments and the NFP sector, including in relation to the delivery of a wide range of human and community-based services, it is essential that they commit to implementing the government-sector reforms.

State and territory governments are already pursuing a wide range of measures in this area (box 14.4). Notwithstanding these reforms, submissions and consultations suggest that the issues identified in this report continue to apply as much at the state and territory level as they do at the Commonwealth level. Indeed, even in those jurisdictions where reforms have been underway a number of years, there remains a significant gulf between government and NFP perceptions about the effectiveness of these measures and the quality of their overall engagement. For example, during consultations some NFPs indicated that while reforms have been introduced with considerable 'fanfare' at the state and territory level, in some cases there has been a lack of follow-through and the changes have not 'filtered down' and influenced the attitudes and behaviours of policy and program managers. As at the Commonwealth

level, the overall story is mixed with some public sector organisations and policy areas clearly doing better than others. However, at a minimum, there appears to be considerable scope for all jurisdictions to close the gap between ‘best’ and ‘worst’ practice in relation to their engagement with the NFP sector.

Further, there is considerable variability in reform efforts within and across levels of government. While some degree of variability is unavoidable given the need to tailor reforms to existing institutional, regulatory and funding arrangements, it also has the potential to impose additional transaction costs on those NFPs operating in more than one jurisdiction or across a range of agencies. Governments need to work together to reduce the costs associated with inconsistent, overlapping and redundant requirements.

The need for state and territory governments to support cultural change within those agencies with significant engagement with NFPs is paramount. Feedback from the sector clearly indicated that, at the state and territory level, well intentioned reforms to policy frameworks and processes were rarely translating to improved engagement.

Much of this chapter has necessarily focused on implementing the changes needed to improve government and NFP engagement in the delivery of government funded services. Such changes are expected to provide flow-on improvements for NFPs receiving grant assistance, especially in more appropriate reporting requirements.

The reforms in the regulatory system and in measurement should benefit the sector as a whole. These reforms will provide a sound platform for the sector to expand its contribution to the wellbeing of the Australian community, whether through delivering services to clients or members, building community connections, shaping opinions and understanding, or enhancing the endowments of heritage, culture, arts and the environment available to Australians now and into the future.

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.

Box 14.4 **Strengthening relationships for better service outcomes**

New South Wales — *Keep them Safe: A shared approach to child wellbeing* (2009) includes key commitments relating to the sector. *Stronger Together: A new direction for disability services in NSW 2006–2016* has a focus on assisting NFPs with future labour demands, development of governance knowledge and board management skills.

Victoria — The *Action Plan for Strengthening Community Organisations* (2008) comprises 25 key actions around the themes of: reducing the regulatory burden and streamlining interaction with government; building the capacity of community organisations; supporting innovation and growth; enhancing the role of NFPs; and recognising community organisations and coordinating efforts across the Government.

Queensland — The *Compact Governance Committee Action Plan* requires the Government to adopt genuine consultative approaches that seek input to policy development and planning ‘early enough to make a difference’. The Department of Communities has also made data available to NFPs to enable improved planning, policy and priority setting between the government and non-government sectors.

South Australia — *Common Ground* aims to drive policy debate and improve the delivery of human services in the State. Government and its agencies regularly seek advice from the sector on the development and implementation of new social policies and community services programs, (recognising their expertise and close proximity to local communities), and human services has a Peaks Forum. From January 2006, Department for Families and Communities (DFC) funding of NFPs for community services have been exempt from the state’s procurement rules. DFC’s Annual Partnership Survey also allows for related feedback from funded organisations.

Western Australia — *Funding and Purchasing Community Services Policy* (2002) aims for greater NFP involvement in planning and evaluation of services, and provides a broad framework for NFP and government negotiation on service agreements. A Human Services Industry Roundtable has been established. A government partnership with the Western Australian Network of Alcohol and other Drugs Agencies is reflected in the *Western Australian Drug and Alcohol Strategy 2005–09*.

Tasmania — The Office for the Community Sector (2008) aims to support the delivery of more effective community sector services: its three-fold reform agenda includes the introduction of a quality and safety standards framework; an integrated finance and performance framework; and Strategic Development of the sector as service provider.

Australian Capital Territory — *ACT Social Compact* (2004) includes the principle of consumer and community participation in planning, policy development and other decision-making processes. The *Community Sector Funding Policy* (2004) reforms include: three year funding cycles and multi-year funding arrangements for effective service delivery, consistent whole-of-government approach to funding; and joint professional development and training and a focus on quality improvement.

Sources: NSW Government (2009a,b); Victorian Government (2008); Queensland Government (2009); South Australian Government (2009); Western Australian Government (2002, sub. 157); DHHS (2008, 2010); ACT Government (2004a,b).