

**SUBMISSION FROM WESTERN AUSTRALIA  
TO THE  
PRODUCTIVITY COMMISSION'S REVIEW OF THE CONTRIBUTION OF  
THE NOT FOR PROFIT SECTOR  
June 2009**

**Introductory Comments**

NFPs interact with government through a variety of means. This submission focuses on NFPs in their role of delivering community services, particularly where this involves funding or some other support from government. The content of the submission follows the themes of the questions in the Productivity Commission's April 2009 Issues Paper *Contribution of the Not for Profit Sector*.

When governments choose to deliver services to the community via NFP organisations it is ostensibly to derive some benefit and it behoves governments to reduce barriers which could impede this goal. Potential benefits include reduced costs, promoting innovation and providing greater choice for end-users, while potential barriers include excessive reporting requirements, and complex contracting and grant administration systems that add to the administrative burden. Obtaining a balance between accountability in expending public funds (whether from government or directly from the public) and streamlined regulation and administration is a challenge for both NFPs and governments. Ultimately the question is how are the needs of end users and the community as a whole best served.

Measuring the contribution of the NFP sector is further complicated by the fact that NFPs are not homogenous and that they are also at different levels of maturity with regard to matters such as governance and capacity to deliver services.

**1. Scope of the Study**

The importance of this study is recognised and the Commission's proposed approach to assessing the contribution of the NFP sector is supported. However, further issues that may warrant a greater focus are:

- Aboriginal Corporations – nearly 90% of Aboriginal communities in Western Australia are incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) and are responsible for delivering a range of government-funded services from health and child care through to the operation of sporting clubs and community stores. It would appear that such Aboriginal corporations fall within the proposed parameters of the Commission's Review. Given the importance of the services that Aboriginal corporations provide, especially in the context of overcoming Indigenous disadvantage, it would seem appropriate for the Commission to give particular regard to this segment of the not-for-profit sector.
- Environmental groups – governments have significant relationships with volunteer-based NFP organisations in the environment category and this category is likely to experience marked growth in the near future. The forward looking nature of this study would suggest some focus on these groups would be appropriate.

While previous inquiries have led to reform within the sector, a number contain valuable findings that could be further considered through this study. These include:

- The Senate's *Report on Disclosure Regimes for Charities and Not-For-Profit Organisations* – recommendations on the development of a simplified and tiered disclosure regime;
- *Inquiry into Charitable Organisations in Australia 1995* – benefits could be gained through further examination of:
  - jurisdictions' processes for engaging service providers (Recommendations 3, 4 & 8);
  - the real cost to the sector of providing services including training and recruitment (Recommendations 6 & 7);
  - a framework for the collection and publication of Community Social Welfare statistics – this will provide a common and consistent basis for reporting on funded services locally and nationally (Recommendation 29); and
  - peak council funding arrangements, especially given the number of peak bodies currently within the sector (Recommendation 31).

The Western Australian Drug and Alcohol Office would also like to draw the Commission's attention to the *Australian National Council on Drugs (ANCD) 2009 Survey* on the burden of submission writing and reporting on alcohol and other drug non-government organisations. This report, which was released on 21 May 2009, addresses factors affecting the governance, sustainability and funding of NFP organisations in the alcohol and other drug sector.

## **2. Measuring the contribution of the not for profit sector**

### *Existing Measures*

It is noted that a majority of national research into the contribution of the NFP sector focuses heavily on service delivery contributions, with less focus on the sector's role in advocacy and connecting with and enhancing the community. Similarly, evaluation of the sector tends to focus specifically on funded work, with little evaluation of the wider or more indirect contributions of the sector.

Current measures often focus on the value of voluntary effort which characterises the majority of organisations. These measures would be enhanced by the inclusion of measures of the benefits of engaging community board members to oversee the governance of organisations.

Further, community partnerships are increasingly important within the sector, and valuable information could be gained through a deeper understanding of the benefits they can offer.

### *Proposed Conceptual Framework*

Whilst a conceptual framework for measuring the contribution of the NFP sector is important, and in particular one which emphasises outcomes measures, further consideration within this framework should be given to:

- the extent to which the framework will enable more disaggregated and targeted analysis, for example:
  - inputs – will 'government funding' distinguish between Commonwealth, State and Local Government funding; and
  - outputs – will 'services to clients' identify specific levels of clients, ie public, government etc;
- whether there is a need to consider the relative costs of the same service being provided by government;

- a reference to leadership development and acquisition of skills that are transferable to any community setting. While leadership potentially falls under the impact "ability to exert influence", the framework could benefit from its specific mention;
- recognising the diversity of models and that the contribution of agencies providing these may not be captured effectively utilising a single mode of measurement. The Drug and Alcohol office notes that some programs provided (eg residential therapeutic communities) are by the nature of their service model, resource intensive with lower client throughput, particularly when compared with outpatient or drop-in services. However, the contribution of each type of service is important and needs to be measured and assessed separately and also in the context of a balanced service offering;
- the nature of the relationship between government and a NFP organisation ie is it a strict contract for service, a grant in aid or some other form. This is a variable that makes comparisons within and between jurisdictions difficult. There is also the added complexity of government funding NFPs and then also purchasing services from them;
- the difficulties in measuring impacts given that the causal or correlative links between outcomes activities in one area and the broader community impacts are statistically difficult to determine. In such cases it is likely that anecdotal approaches to data gathering will be adopted. This information can be enlightening, but can also tend to focus on successes over failures. It is not clear from the Commission's paper how realisable measuring these impacts will be;
- how to measure why the same interventions may work in some cases but not others. For example, experience from the community housing sector shows that some people enter the community housing system through crisis programs, stabilising in supported accommodation, moving into long term secure affordable housing and re-entering the workforce, Equally, however, there are many 'revolving door' clients who continually enter, exit and re-enter the crisis and social housing systems. It is not clear how the proposed community impact framework will shed any light onto why this is so;
- the fact that the shift from output measures to performance outcomes is relatively recent, and some government agencies are still grappling with the related changes to data collection and performance measurement; and
- the potential for measuring impacts to create an additional layer that may add to the reporting burden of NFPs.

It is anticipated that the information gathered through this study will also be valuable to jurisdictions in updating state-based data on 'formal volunteering'. However, this will only occur if data is collected on a state-wide basis. If the study is conducted in close partnership with State Governments, identification of state-based organisations to contribute data could be facilitated.

#### *Evaluating the Contribution of the NFP Sector*

Given the breadth and diversity of the NFP sector, it is appropriate that a variety of indicators be used to properly reflect the range of contributions made. There are benefits to be gained from building upon work and methodologies that already exist – such as the indicators contained in the Report on Government Services, or within the Council of Australian Governments' new Framework on Federal Financial Relations. It is noted, however, that meaningful comparisons can be difficult because of the different funding arrangements and quantity of funding.

It is critical that any evaluation measures do not place a further reporting burden on an already over-burdened NFP sector. Any indicators should be high level and streamlined across the sector, including integration where there are multiple funding bodies. To avoid unnecessary reporting burden, performance indicators and measures that are applied should be relative to the level of information needed.

Data summary information gathered by government agencies in relation to service specification outcomes would be a useful tool to gather information regarding NFP contracting and programs. A review of the various service specifications (including outcome and output information) would give a sense of the types and range of outcomes required by government in general.

It is noted that the National Plan for Family and Domestic Violence's report 'Time for Action' provides quality information that could add value to this study in regards to length of funding and sustainability.

Further, the Western Australian Department of Indigenous Affairs emphasises that evaluation of the contribution of Aboriginal corporations, or of NFP organisations that provide services to Aboriginal people, should provide for the capture of specialised contributions such as the maintenance and strengthening of culture and language, the preservation of heritage sites, and the facilitation of reconciliation and healing.

### **3. Enhancing the efficiency and effectiveness of the not for profit sector**

It is acknowledged that there is scope for improvement in the public sector's approach to its relationship with the NFP sector. Feedback from the sector indicates that recipients of government funding and outsourced providers experience high administrative costs in dealing with grants management processes and an at times one-size-fits-all approach to administrative requirements. These requirements often differ between agencies, which imposes a significant burden on those NFP organisations delivering a range of programs on behalf of the government.

At a more universal level, governments could also consider initiatives such as:

- developing a single stream of reporting for NFP organisations that deliver a range of government programs;
- moving to an outcomes-based contractual relationship between government and the NFP sector, enabling NFP organisations to experiment with different implementation approaches, without public sector micro-management of their operations;
- using a standard business costing model;
- using a rolling cycle of audits against standards; and
- reducing the number of reports required to be submitted.

Some government agencies in Western Australia are taking steps to redress some of the problems encountered by NFPs when dealing with government. Some of these examples are set out in Attachment A. More broadly, however, there have also been some recent initiatives in this State at the cross-government level.

#### *State Government Review*

In October 2008, the Western Australian Government announced a wide-ranging review of the operational and financial performance of the Western Australian public sector. A six-member Economic

Audit Committee of senior economic and public sector management specialists, bringing together a broad range of experience in financial management and government administration, was commissioned to undertake this review.

The Committee has a keen interest in improving the relationship between the Western Australian public sector and the NFP sector. The relationship is an important one to the State Government, as NFP organisations are capable of providing highly efficient and effective services to citizens and are rich sources of public and social innovation.

#### *Indexation*

Commencing in 2004-05, the Western Australian government introduced the whole of Government indexation policy for the Non-Government Human Services Sector. Under this policy, 80% of the indexation rate is calculated according to wages growth projections and the remaining 20% according to movements in the Consumer Price Index.

In 2005-06 the indexation policy was applied to the State component of the joint Commonwealth/State Supported Accommodation Assistance Program. The Commonwealth component of SAAP continues to be indexed at the rate advised by the Commonwealth.

During 2007, a review was undertaken of the current Government policy on indexation for human services. As a result of the review, a process for calculating indexation funding has been agreed. For future years:

- the State indexation rate will be calculated annually as part of the Department of Treasury and Finance's Mid-year Financial Review process in December for the following budget year and forward estimates period; and
- the State indexation rate will be calculated on the Wage Price Index and Consumer Price Index growth rates published in the Mid-year Financial Review process.

The indexation policy has been a positive step in achieving a more sustainable position for non-government services and has resulted in indexation payments that are more closely aligned with actual cost increases in service delivery. However, confusion for NFP organisations can occur where the State and the Commonwealth apply different indexation rates.

#### *Spread of Knowledge*

The sharing of knowledge and best practice among NFP organisations is vital. It enables providers to develop more effective programs and processes, creating greater efficiencies within the sector. Suggestions have been made that a central clearing house or 'one-stop-shop' website for the dissemination of such knowledge could be one way of addressing the situation in Western Australia. This is currently being investigated by the Western Australian Council of Social Services (WACOSS).

There are a number of factors that limit the spread of knowledge among NFP organisations, including:

- access to and adoption of technology;
- resourcing constraints which limit the capacity of organisations to network and share knowledge;
- high staff turnover resulting in a loss of knowledge within the sector;
- competition between NFP organisations for funding (see further comments under '*Regulatory Environment*');

- different areas of operation amongst NFPs and the non-homogenous nature of the sector; and
- government restrictions around confidentiality.

A number of strategies are in place in Western Australia to overcome these issues and facilitate the spread of knowledge throughout the sector, including:

- the establishment of a peak forums and government engagement with these; and
- streamlining projects within government to decrease reporting requirements and aid the dissemination of information.

Western Australia has also had in place a Human Service Industry Roundtable, which has provided a forum for government and NFP sector representatives to discuss and share information. This Roundtable is currently under review.

#### *Regulatory Environment*

In Western Australia, a number of regulatory reform initiatives are underway to encourage streamlined contracting processes. The overall aim is to facilitate increased efficiency and effectiveness within the NFP sector.

The majority of regulatory requirements relate to financial, governance and outcome objectives. The Western Australian Funding and Purchasing Community Services Policy outlines a broad framework within which government and NFP organisations can negotiate service agreements. However, certain restrictions do apply with regard to minimum financial requirements (ie monetary thresholds for financial audits, number and degree of financial income expenditure statements, etc).

Some government departments, in consultation with the sector, are working towards streamlining regulations in service agreements. This includes the establishment of a head service agreement (with subsequent schedules for each funded service), raising of monetary thresholds for financial audits and assessing reporting requirements with a view to streamlining.

Other proposed improvements include the creation of a comprehensive database that would significantly improve processing within government through the facilitation of on-line grant applications and greater efficiencies in grant acquittal and reporting timeframes.

Like all organisations, NFPs need to periodically review their operating practices, structure and efficiency and make changes as necessary. In addition, as agencies grow they need to factor into funding submissions their need for adequate infrastructure and management.

A major concern often expressed by NFP organisations is the regulatory and reporting burden – particularly when operations involve a number of different funding sources or operating across jurisdictions. As outlined above, the Western Australian Government is reviewing its processes and taking steps to address these concerns. Harmonisation of regulatory, reporting and governance arrangements between States and Territories would also assist in addressing this burden. Work to this end is being progressed through the Council for the Australian Federation and the Council of Australian Governments. However, at the same time, it should also be recognised that the new national reporting frameworks may result, in some situations, in additional reporting requirements as new performance indicators are developed and there is a stronger commitment to measuring outcomes.

The Commission's Issues Paper queries whether governments are moving towards 'leader provider' relationships. This is generally not the case in Western Australia. The application of the *Funding and Purchasing Community Services Policy* ensures that government agencies justify all funding

arrangements, in particular transparency in engaging service providers. While there are some benefits to be derived from engaging with one large organisation (ie streamlined reporting, one head agreement, infrastructure and resource capacity and capabilities), Western Australian government agencies are required to ensure that preferred service provider status is fully justified. In some cases, however, there is a need for NFP organisations to assess the efficiencies of competition within the sector (ie like organisations competing for the same government funding).

It has been argued that changes to funding practices over the past decade, including the practice of funding larger organisations have had a detrimental impact on small NFPs across Australia. In particular, these changes are purported to have:

- encouraged competition, in some cases making it difficult for smaller NFP organisations to stay in operation;
- discouraged collaboration and partnerships in the NFP sector due to confidentiality (commercial in confidence) contracts and conditions of funding;
- led to a tendency for NFPs to not raise contracting/program issues due to concerns that criticism of the government may negatively impact their grant applications; and
- possibly reduced the 'social creativity' of the sector.

Similarly, changes in the registration process for the community housing sector appear to have adversely affected smaller and less well governed or managed organisations from applying thus making them ineligible for capital funding programs. NFP organisations have also reported higher compliance costs. However, the registration process has been used to establish high standards based on a national standards framework. How best to deal with this tension between compliance standards and compliance burden is something requiring careful consideration. The Department of Housing has made funding available to assist larger NFPs with business improvement strategies in order to meet registration requirements, including the engagement of financial consultants to reform financial management and accounting practices and procedures, establish project financial feasibility modelling, develop medium and long term growth business plans and develop organisational risk management plans. Whilst the community housing regulatory and registration requirements do not apply to Indigenous Regional Service Providers, this is currently under consideration.

It could also be argued that having large numbers of small NFP organisations has the potential to add to administrative and service duplication. Again, it is a question of attaining balance between capacity to deliver services and the potential to provide alternative and innovative services.

When considering the effects of the regulatory environment, further issues to be considered include the diversity of the sector and organisations' advocacy roles. Perceptions that government funding could be at risk could impede involvement in advocacy activities. In addition, the current taxation system inhibits NFP organisations from operating solely or primarily as advocacy organisations if they wish to retain charity status. The Commission is encouraged to pursue this matter of government operating with full transparency with NFPs that concurrently hold service provider contracts and conduct challenging advocacy programs. This information is expected to aid in ensuring ethical relationships between governments and NFP organisations.

## 4. Service delivery

### *Government Funded Services*

In line with the Western Australian State Supply Commission's *Funding and Purchasing Community Services Policy*, a government funded service is broadly defined as purchasing 'community-based services' – meaning those services of a nature intended to address physical or social disadvantage and/or that promote the health and wellbeing of individuals and families. For example, services that:

- contribute to capacity building within the community to respond positively to an identified need;
- address disadvantage for which a collaborative approach is required within the community;
- encourage the involvement of volunteers, increased business or community support or the personal empowerment of recipients of the service; and
- contribute to the ability of people to live and participate in the community.

In general, trends in government funded community services relate to community development, in particular, early years and parenting (including family and community support). While these services could be classed as traditional activities, current economic and community needs have required new service initiatives such as emergency relief services to be established.

### *Harmonisation of Payroll Tax Legislation*

The States and Territories are currently engaged in a process to harmonise payroll tax legislation with new Acts already introduced in New South Wales and Victoria. One area being examined deals with the exemption available to charitable organisations.

The payroll tax exemptions in New South Wales and Victoria is limited to wages paid to staff that are exclusively employed for the charitable purpose of an entity, whereas Western Australia's current approach is to exempt all of the wages paid by an eligible charitable entity. Western Australia has identified a number of exempt charitable organisations that run commercial operations and are receiving a substantial benefit from the exemption, while their competitors are fully taxable.

Up until the recent decision of the High Court in *Commissioner of Taxation of the Commonwealth of Australia v Word Investments Limited* [2008] HCA 55, adopting the harmonised position would have narrowed the scope of the existing exemption for charities in Western Australia by only covering the wages paid to staff that are exclusively employed for the charitable purpose of an entity.

Western Australia's current approach (full exemption for all wages paid by a charity) is more generous to charities, much simpler to administer and is consistent with the High Court decision. However, the approach adopted by other jurisdictions prior to the High Court decision is consistent with applying competitive neutrality principles for industries that have both non-profit and commercial operators. This distinction would no longer appear to be possible in light of the *Word Investments* decision.

It is considered that there are unfair market impacts arising as a result of the High Court decision (and which previously existed in the payroll tax base in Western Australia) that need to be addressed to ensure competitive neutrality is reinstated.

### *Competitive Neutrality*

The *Policy Statement on Competitive Neutrality 1996* (see Attachment B) applies to State Government instrumentalities and does not apply to NFP providers competing for government contracts.



The Western Australian Government has an *Open and Effective Competition Policy* that applies to its procurement and tendering processes. However, this does not deal specifically with the issue of competitive neutrality.

NFP organisations receive concessions on land tax and stamp duty from the Western Australian Government, which provides them with an advantage over for-profit competitors. However, it should be noted that NFP organisations are not able to use State Government funding (except lottery grants) to purchase capital equipment and property. This means that many small NFP organisations, which are solely funded by the State Government, are not able to take advantage of land tax concessions, as they do not own property.

Diversity is also an issue in the NFP sector. Some large non-government organisations compete with the private sector in areas such as the provision of aged care accommodation and operate using a business model similar to their private sector competitors. It is these types of organisations who receive a real competitive advantage from the concessions offered by the State Government. On the other hand, there are smaller NFP organisations that receive the concessions but do not operate on a scale that allows them to compete with private sector operators. In these cases the concessions do not provide a competitive advantage.

If competitive neutrality principles were applied to NFP organisations in the tendering process then organisations would be required to work out their costs as if they were paying State taxes in their pricing for that tender.

Research has not been carried out to quantify any competitive advantage enjoyed by NFP organisations through the exemptions and concessions granted by the State Government. Further work would be required to ascertain the scope of competition between the for-profit and not-for-profit sectors in the State Government's competitive tendering process and to assess the impact of the application of competitive neutrality principles on NFP organisations. Salary sacrificing is another factor that could be considered in such an analysis.

#### *Efficiency and Effectiveness of Government Funded Services*

Historically, a key benefit of the NFP sector is its capacity for innovation and responsiveness to local needs. It is noted that tendering processes which are highly prescriptive and based on tight service specifications may reduce the capacity for innovation and the development of new ideas. This is more likely where a government agency has rigidly set funding programs and priorities. NFPs whose funding applications conform to an agency's funding preferences are more likely to succeed. If the government agency's parameters are too narrow, this can act against innovation by deterring applications from NFPs that do not quite fit the approved profile.

A further potential threat to innovation is the growing focus of the Commonwealth Government on the development of national service systems (for example, in the area of disability), which may run counter to the development of more innovative responses to local needs.

NFP organisations have the potential to drive innovation in service delivery models in response to their interaction with end users. Changes are needed in the relationship between governments and NFP organisations to allow this innovation to inform policy and program development. Similarly, the relationship between the government, NFP service providers and the end users of services needs to be re-considered. A genuine partnership between users, service providers and government agencies will provide better outcomes for all three. However, a shift in the power balance across these three elements is required to achieve better overall outcomes.

The contractual relationship between government agencies and NFP service providers continues to be dominated by a focus on inputs and outputs. Greater attention is needed on the outcomes for end users and the broader community. A more mature and productive relationship is one that would focus primarily on the outcomes achieved and the resultant impact on society.

With regard to this, the Western Australian Disability Services Commission suggests that too much focus has been placed on users as passive recipients of services. It argues that society would benefit from practical strategies to acknowledge and unlock the social capital that exists in the networks that exist within society. The personal resources of service users and the social capital that surrounds them needs to be acknowledged and integrated in the provider-consumer relationship. The Disability Services Commission is of the view that concepts of 'co-production' could be used to re-shape the attitudes of governments and the roles of not-for-profit providers. Self directed services (where a measure of control and decision making is vested in the end user of services) could be seriously considered as a new way of increasing the overall effectiveness of services funded by government and provided via the NFP sector. The Disability Services Commission has found that 'personal budgets', 'individualised funding' and 'self directed services' have the power to achieve better outcomes for individuals and more value for public money.

Individual funding is an effective mechanism for improving outcomes for individuals in some circumstances. Increasing the level of control given to end users and enabling them to make choices about the services they receive (and the providers they use) has been shown to deliver better outcomes for individuals, NFP organisations and government, and is therefore worthy of further consideration. This is not to say that such innovative approaches are without their own challenges such as a requirement for strong administrative structures. Nevertheless, if the additional effort adds materially to the outcomes then this approach has merit.

The Drug and Alcohol Office highlights the need for social inclusion to be extended to include the families and significant others of primary clients.

Some broad examples of initiatives within Western Australian government agencies to improve engagement with the NFP sector are outlined below. Further examples are included within individual agency information provided at Attachment A.

- The Disability Services Commission works in partnership with funded organisations to ensure the delivery of quality services and supports in the community. This partnership is facilitated through initiatives such as the Chief Executive Officers Round Table, which includes CEOs from NFP organisations along with the Director General of the Disability Services Commission and provides a forum to progress agreed policy and operational agendas which contribute to the development of the sector and improved services for people with disabilities.
- The Department for Communities and Department for Child Protection are working with key NFP organisations on a 'Streamlining Project' to improve contract arrangements between the parties. Reforms include the development of a head agreement, the rationalisation of financial and reporting requirements, and negotiating flexible reporting timelines.
- In 2008-09, the Department for Child Protection moved to a program management model for contract management, aligning funded services with agency level outcomes. The Department has also, in partnership with representatives from the NFP sector, acknowledged the need to redefine the relationship with funded services. Subsequently, *A New Framework* was developed following extensive consultation. This process included distribution of a discussion paper, development of five reference groups and ongoing consultation and participation through a

consultative committee. Parties involved in the development of this Framework include WACOSS, UnitingCare West, Anglicare, Ngala, Centrecare, Yorganop and Wanslea Family Services. All parties are committed to this Framework and view it as a united action that will strengthen working relations and provide a way forward in the provision of community services.

- The Drug and Alcohol Office has collaborated with the NFP sector to develop a range of initiatives including the *Quality Framework* and peer review processes. These initiatives have been strongly supported by the sector. The Office has also limited the need for repetitive tendering processes by instigating three year contracts and establishing a preferred provider pool, and minimised reporting requirements, especially in cases where agencies have multiple funding sources. For example, where funding is provided by both the Drug and Alcohol Office and the Office of Aboriginal and Torres Strait Islander Health only a single report is required. Reporting requirements have been simplified to focus on highlights rather than full descriptions of all activity areas.
- The Drug and Alcohol Office and the Department for Child Protection have developed joint management procedures with mental health agencies to improve the management of complex clients. This includes training to enhance the capacity of staff to deal with these clients effectively and a range of best practice guidelines for people with mental health and amphetamine related problems.

Effective program evaluation models are critical to the delivery and continued effectiveness of program outcomes when contracting NFP organisations. Current government evaluation processes include periodic service reviews, active contract management, progress report and data summary collation, service group consultation and service group review processes (including Preferred Service Provider application and service agreement negotiation). The Department for Child Protection's performance and financial reporting requirements, for example, include:

- six monthly progress and data reports;
- annual service reviews; and
- annual audited financial statements.

To retain existing services through current service providers, the Department uses a Preferred Service Provider approach. This reduces the need for an open tender process and consequently reduces the costs and service disruption involved in a tender process.

## **5. Trends**

Resource constraints significantly affect the efficiency and effectiveness of the NFP sector in Western Australia. For example, workforce shortages arising from a difficulty in competing and thus recruiting during Western Australia's resource boom, an ageing workforce, decreased volunteerism, and a lack of training and professional career development opportunities has constrained many organisations. Difficulty obtaining and securing adequate funding – due to inadequate rates of Commonwealth indexation, the short-term nature of many grants and funding arrangements, and, more recently, falling donations in times of economic hardship – also present challenges, particularly in the current context of increased demand. These problems are often compounded in regional/remote areas due to geographical isolation, and housing and other infrastructure deficiencies.

Looking to the future, the Council of Australian Governments' reform agenda presents both challenges and opportunities for the NFP sector. As the sector is increasingly called upon to play a significant role in delivering many of the services and outcomes of these reforms, they are presented with many new opportunities for both funding and capacity building. For example, under the National Affordable Housing Agreement it is anticipated that in time the NFP housing system will manage a greater portion of social and affordable housing across Australia. Further, within the Indigenous NFP housing management field and the community housing sector, significant business improvement and capacity building strategies and programs have been implemented over the last two and a half years, involving engagement of private sector financial and risk management consultants, business management training, Board and governance training, development of policy and procedure templates etc. Some larger NFPs have restructured and are employing high level professional staff including Chief Financial Officers and Housing Development professionals.

The scale and the extent of the opportunities has also attracted organisations from the private retirement villages sector to establish NFP social housing companies. This has brought extensive housing development and management expertise into the social housing sector from the private market driven housing sector. There have already been some positive outcomes from this process, with large scale social and affordable housing development proposals being approved, joint NFP/private developer proposals being brought to the table, and strategic partnerships between these new players and the NFP Growth and Preferred Providers that have emerged from the social housing system.

Further developments affecting the NFP sector include:

- an increase in the complexity of business and legal structures of NFP organisations. For example, Lotterywest states that while the majority of its grant applicants continue to be organisations incorporated under the *Associations Incorporation Act 1987*, it is increasingly seeing applications from organisations such as trusts and not-for-profit businesses limited by guarantee or shares;
- an increasingly competitive environment, leading to:
  - the adoption of commercial activities to support service delivery;
  - consolidation in the sector with large, multiple service site organisations;
- the current economic climate causing:
  - increasing workloads and demand on the services, in particular for those offered by emergency relief agencies, eg for rental assistance;
  - a decline in corporate sponsorship and reduced fundraising income as a result of the economic downturn and other factors, such as the level of donation to the Victorian Bush Fires and Queensland Floods, diverting donations that may have otherwise flowed locally;
  - a lack of affordable rental properties for administration and service provision; and
  - difficulties in attracting/retaining staff, which are compounded by lower income earnings when compared to the public and private sectors (although during times of economic downturn this difficulty may be somewhat ameliorated);
- the complex requirements of legislation and regulation that have an increasingly adverse effect on volunteerism and the sustainability of smaller NFP organisations, this is particularly evident in the sport and recreation industry;

- workforce issues such as staff recruitment and retention, particularly in remote areas. There is a need for the provision of housing for staff in remote areas and the costs associated with this. Continuation of charitable status salary packaging to provide tax incentives to attract a quality workforce is another factor; and
- in clinical areas, quality improvement processes including effective clinical supervision, whether developmental or incorporated through an accreditation body, are essential to improve and maintain the quality of the sector and ensuring governance, consumer and community focus, and accountability. The cost of implementing these to an appropriate standard is often underestimated and has potential to reduce front-line service delivery capacity.

**AGENCY INFORMATION**

This attachment outlines the ways in which some key Western Australian Government agencies work with the NFP sector and some of the issues they have identified for the Commission's consideration. This information is in addition to that which may have been provided in the main body of this submission.

***Department for Child Protection***

The Department for Child Protection works in partnership with the community services sector to deliver a range of services to provide for the protection and care of children and young people and to support at risk individuals and families in resolving crises.

In 2008-09, the Department provides funding of nearly \$70 million recurrently for 335 services of which approximately \$20 million is provided for a range of domestic violence services. Of the 335 funded services, funding is allocated to 137 services through the Commonwealth/State National Affordable Housing Agreement (NAHA).

***Department for Communities***

The Department for Communities funds more than 150 NFP organisations in the areas of:

- family centres across the State including local level service providers, large national NFP organisations, local government services and Aboriginal corporations;
- home visiting services in the metropolitan and outer-metropolitan areas;
- occasional care child-care services including those in regional and remote areas;
- parenting services including the Aboriginal Early Years program; and
- vacation care.

In addition, specialist areas of the Department fund services including:

- family and domestic violence services;
- a diverse range of children and young peoples' services such as the Leeuwin Youth Development Program, Chaplaincy Services in Government Schools and Kids Helpline;
- services supporting seniors; and
- supporting volunteering (including local government volunteer services).

***Department for Racing, Gaming and Liquor***

The Department of Racing, Gaming and Liquor administers the application of permits under the *Liquor Control Act 1988* and *Gaming and Wagering Commission Act 1987*. In this role, the Department has some concern that many NFPs lack a full understanding of the laws governing their activity. For example, there are ongoing instances in relation to:

- breaches of community gaming permits – NFP permit holders frequently claim that they were not aware of the requirements. The Department has attempted to address this issue by having the permit holder sign a declaration on the application that they fully understand the terms and

conditions of the activity that they are responsible for. However, instances still occur where the permit holder claims that they are unaware of their obligations; and

- liquor licensing applications – some NFPs, particularly volunteer clubs, seek concessions/exemptions in relation to meeting responsible service of alcohol training requirements, claiming that it is difficult to get people to undertake the training. It appears that these NFPs do not understand that concessions cannot be made as the sale of alcohol is regulated and can cause harm to people if used irresponsibly.

In these instances, it appears that many NFPs are not fully aware of their obligations under the law and expect that concessions can be made due to their NFP status.

In terms of transparency and consistent application of the law, policies, and practices and procedures, the Department cannot treat NFPs differently to any other organisation and must maintain the integrity of licence/permit processes under the relevant statutes. In this regard, it may be worth considering providing training or funding for training to assist NFPs in understanding their obligations under such laws.

### ***Department of Sport and Recreation***

Sport and recreation play a significant role in capacity building for individuals and the community. Volunteers are numerous and make a significant contribution to the sport and recreation industry. The most recent data available shows that over 187,000 Western Australians volunteer for sport or recreation organisations. This represents 36.9% of all volunteers (507,700) and 13.1% of the adult population (1.4 million). The value of volunteers' contribution to Australian sport and recreation has been conservatively valued at \$1.6 billion annually.

Also of significance are the benefits of participation in sport and recreation to major policy areas such as health (including mental health), education, crime prevention and social inclusion.

Within the sport and recreation industry, areas requiring attention include:

- workforce and leadership development, for paid and volunteer staff, to increase the skills base and retention rates;
- efficient and innovative approaches to service delivery, for example closer operational strategic ties between the corporate sector and NFP sector may offer ways of managing the workload for the NFPs; and
- access, planning and sustainability of facilities essential to the sport and recreation sector.

Examples of the Department's programs and services to assist NFPs in the sport and recreation sector are outlined below:

- *Organisational Sustainability Program* - underpins agreements to fund State Sporting Associations. Each organisation is benchmarked against best practice in governance, management, human resource management, development of the sport/activity and other areas relevant to the organisation. In the past, funding was granted annually. The move to triennial funding has enabled sporting associations to enhance their strategic planning due to a reduced level of reporting and fewer applications for funding.
- Inclusive programs - a wide range of participation initiatives target low participation groups, including seniors, women, people with disabilities, people from Indigenous communities, people from culturally and linguistically diverse backgrounds and young people.

- Indigenous Sport Program – Indigenous Sport Development Officers promote and support participation across the State. Specifically, an Indigenous Sport and Recreation Plan for the selected communities of the Wunan and Kullarri areas in the Kimberley and the Western Desert area in the Pilbara and Goldfields addresses future needs for programs and facilities.
- Information and Communications Technology – an audit of its utilisation by peak sporting bodies was recently conducted. The Department is now considering an implementation plan to address the findings and recommendations.

### ***Disability Services Commission***

In 2007/08 the Disability Services Commission provided funding totalling \$213 million to 106 non-government organisations to deliver services to people with disabilities. This represented just over half of the Disability Services Commission's budget.

The Disability Services Commission's predominant approach to funding NFP organisations is through an individualised funding model. In contrast with more traditional 'block' funding models, individualised funding entails the allocation of funds for specified individuals. The Department has found this approach to funding to be extremely successful as it:

- provides consumers with the opportunity to direct their own supports;
- allows portability of funding across organisations;
- increases consumer choice; and
- supports the sustainability of smaller, local NFP service providers.

### ***Drug and Alcohol Office***

The Drug and Alcohol Office is the main funding body in Western Australia for the provision of an extensive and diverse range of alcohol and other drug services to the community. While the Office provides some clinical services directly to the community, over two thirds of treatment services are delivered by NFP organisations of varying sizes, the majority of whom receive funding from the Drug and Alcohol Office. In addition, the Office funds smaller scale services that also provide a range of community support, education services and programs such as Local Drug Action Groups Inc, Youth Emergency Accommodation, and Sobering Up Shelters.

Within a collaborative framework, as reflected by the *Western Australian Drug and Alcohol Strategy 2005-2009*, the Office works in partnership with the Western Australian Network of Alcohol and other Drugs Agencies, the peak NFP body for alcohol and other drug education, prevention, treatment and support in Western Australia. This partnership reflects the shared vision and "whole of community" approach that the Government and NFP sector are committed to in their efforts to respond to alcohol and other drug issues for both individuals and the community.

### ***Western Australian Fire and Emergency Services Authority (FESA)***

FESA provides funding to local government volunteer bush fire brigades and State Emergency Service organisations through its Emergency Services Levy (ESL) Grants Scheme. In 2007/08, \$16.4 million was allocated via this grants process where local governments apply for an operating grant and a capital



grant for each service. Operating grants fund essential costs such as running vehicles and buildings, protective equipment, volunteer insurance and operational consumables. Capital grants include new firefighting appliances, vehicles and buildings.

Operating grants are paid to local governments in quarterly installments. How local governments spend their operating grant is generally a matter for them to determine in consultation with their brigades/units. FESA has no direct role in these decisions, other than to continue to provide specialist advice and support as the circumstances require.

<b>Volunteers supported by FESA in 2007/08</b>	
Bush Fire Service	24,901
Fire and Rescue Service	1,781
History Society	18
Marine rescue volunteers	1,231
State Emergency Service	1,827
Volunteer Emergency Service	510
Volunteer Fire Service	265
<b>Total</b>	<b>30,515</b>

Tax related issues have arisen recently for some NFPs supported by FESA:

- Income Tax Exempt Status – the Australian Tax Office (ATO) is currently investigating this status as a result of recent case law that found that volunteer fire fighting bodies are no longer considered as Public Benevolent Institutions. The ATO has indicated it will amend the *Income Tax Assessment Act 1997* to make them income tax exempt in the future. If volunteer brigades lose their income tax exemption status then this will have a significant impact on the operations of the brigade.
- Deductible Gift Recipient (DGR) – the ATO is currently investigating this status as a result of recent case law which resulted in volunteer fire fighting bodies no longer being able to issue DGR receipts in their own right. The ability for volunteer fire fighting bodies to fundraise in their own right is an important and politically sensitive issue. Brigades fundraise for additional plant and equipment, training purposes, personal protective equipment and social related aspects. The ATO will be working with FESA and its volunteer bodies to develop alternative arrangements.

### **Lotterywest**

Lotterywest has a unique role within the Western Australian community through its significant grant support to the NFP sector. Its grant making supports the spectrum of NFP activity; last year providing 1,270 grants totalling \$86.8 million to 1,035 community organisations and local government authorities throughout the State.

Given Lotterywest's broad knowledge of the sector, it has recently been encouraged to facilitate discussions on community needs and policy approaches. Recent discussions with the NFP sector have raised the following comments:

- there is a need for greater understanding of the different role of government, NFPs, corporate organisations and philanthropists in the delivery of human services;

- there is a need for effective government and NFP engagement around funding and grant making, specifically clarity of purpose;
- there is confusion between the difference of a grant and funding, with recognition needed that they are different instruments to be used for different purposes, and with different accountability regimes;
- there is an increasing gap between amounts provided under “contract for service” arrangements and what the service actually costs to deliver;
- there is a continuing challenge for cash flow management due to the delay of some government agencies to release funds for contracted services;
- the sustainability of the sector is under threat which is exacerbated by Government funding conditions preventing money from being spent on the creating of an asset base (e.g. cars and buildings) for the organisation; and
- the increasing complexity and differing reporting requirements demanded by funding bodies.

### ***Department of Housing***

The Department of Housing has the following types of funding and contractual relationships with the NFP sector in Western Australia:

- capital funding programs to build or purchase housing to be managed by NFP organisations through Community Housing programs and provision of housing to remote Indigenous communities;
- head leasing arrangements to facilitate management of public housing, community housing and Aboriginal housing assets by NFP organisations;
- tenancy support services, to assist people to sustain their public rental, community rental, Indigenous community rental or private rental tenure;
- funding contracts for tenancy advocacy and housing peak organisations; and
- services to assist Indigenous clients to access private rental accommodation.

NFP organisations currently manage approximately 6,000 Community Housing units of accommodation and 2,000 units in Aboriginal communities, or 18% of total housing stock in Western Australia, mainly under head lease arrangements.

### ***Trends & Developments Impacting the Housing NFP Sector***

The government funded NFP housing sector in Western Australia comprises:

- the Community Housing sector; and
- housing in discreet Aboriginal communities managed by Aboriginal community corporations or by external Regional Service Provider NFP corporations.

Following reviews in 2006 and 2007, the Department of Housing developed a growth and investment strategy to significantly expand the NFP housing sector. Key elements of the strategy include:

- targeting of investment to large scale “growth” providers, with an emphasis on NFP housing companies, limited by guarantee, established under the Corporations Act 2001;
- requiring Community Housing NFPs to contribute land, profits and leveraged borrowings to social and affordable housing developments, rather than relying on full capital funding from Government;
- establishing effective government regulation of this business;
- providing funding and other support to help build the capacity of these organisations (eg. providing staff secondments, funding for financial business planning consultants, funding of development officers in regional Western Australia etc); and
- improving the interface between the Department’s public and the NFP’s community rental housing systems, through, for example, through the introduction of a Joint Housing Wait List and a common housing allocations system.

The following outcomes have been achieved so far:

- a policy based registration system has been established to assess the capacity and capability of NFP organisations against a national standards framework (National NFP Regulatory Code for Growth Providers, and National Community Housing Standards);
- significant growth and investment is occurring with registered tier 1 Growth Providers, with some growth also being progressed with medium scale tier two providers; and
- by end 2009/10 it is anticipated that registered first and second tier providers will be managing more than half of the State’s total Community Housing stock – almost 3,500 units.

Western Australia is using considerable State (\$310 million 2007/08 to 2010/11) and Commonwealth (\$600 million 2009/10 to 2010/11) investment in social housing to drive reform and build capacity in the NFP sector. It is planned that 75% of houses constructed will be controlled and/or owned by NFPs under the State Government’s Community Housing strategy.

From 2004 the Department of Housing adopted a new strategic approach to the delivery and management of housing services in Western Australia’s over 250 Aboriginal communities. The main elements of the strategy include the introduction of:

- Regional Service Provider contracts with Indigenous NFPs providing housing management and maintenance services for clusters of communities within regional localities;
- a coherent, performance based recurrent funding stream for both management and maintenance of housing stock, linked to increased rent returns and capital upgrade programs; and
- new NFP tenancy support programs, ranging from homemaker/living skills services, to more intensive social intervention packages.

Across both the community housing and the Indigenous NFP sectors there has been a change in approach towards more business oriented, larger scale, region wide, NFP housing organisations and companies, rather than the traditional locally based, welfare community or self management models. This has required a greater emphasis on regulation and contract management by the Department, linked to clear performance outcomes.

**COMPETITIVE NEUTRALITY**

The *Policy Statement on Competitive Neutrality 1996* is the mechanism used by the Government of Western Australia to ensure the principles of competitive neutrality are adequately applied to all State Government instrumentalities.

The principle of competitive neutrality is an integral component of the Competition Principles Agreement agreed by the Council of Australian Governments in April 1995 as part of the National Competition Policy.

The Competition Principles Agreement states that competitive neutrality should apply to the significant business activities of publicly owned entities, not to the non-business, non-profit activities of these entities. Moreover, the Agreement requires the Government to apply competitive neutrality only to those activities where the benefits to be realised from implementation outweigh the costs.

The scope of the *Policy Statement on Competitive Neutrality 1996* captures State Government entities with significant business activities, and is not intended to be applied by the Department of Treasury and Finance to the activities of NFP organisations.

The Western Australian taxation system includes taxes such as stamp duty, payroll tax and land tax. Concessions for NFP organisations exist under land tax and stamp duties, which may be used as a competitive advantage by NFP organisations when tendering for government contracts.

The *Land Tax Assessment Act 2002 (WA)* permits both concessional payments and/or exemptions for NFP organisations. A fifty percent concession on the land tax payable is allowed if at least half of the total area of the organisation's land, and the area of any part of a building on the land, is used for the association's purposes.

Charitable or similar organisations are also exempt from duties in respect of conveyances and mortgages.

Such exemptions/concessions allow Western Australian NFP organisations an advantage over for-profit organisations when tendering for government contracts.