

## **1. INTRODUCTION**

The Tasmanian Government recognises the vital social and economic contribution made by the Not for Profit (NFP) sector to the Tasmanian community. NFPs and charity organisations work across highly diverse areas such as education, health, arts and culture, sport, welfare and rights, the environment and religion. This diverse sector includes organisations established as clubs and social or community associations through to philanthropic trusts, research institutes, foundations and charities. Some of these organisations provide services to the community on behalf of government through contractual arrangements.

In Tasmania, the Department of Health and Human Services (DHHS) is a major stakeholder in relation to the community sector and has a strong interest in improving governance and accountability. The Department of Justice (DoJ) also has an interest in the NFP sector as it is the organisation responsible for the regulation of the *Associations Incorporations Act 1964* and *Collections for Charities Act 2003*.

The following comments have been provided noting that they are based on the role and function of DHHS and its relationship with community sector organisations and DoJ as regulator of the two Acts mentioned above.

## **2. BACKGROUND**

Reports provided by the Australian Institute of Health and Welfare and the Australian Bureau of Statistics indicate that, across all jurisdictions, the NFP sector is growing in terms of investment, workforce and activity. This increase is requiring greater levels of accountability and reporting to funding organisations, particularly as NFP organisations often have multiple funding providers and are therefore required to provide multiple reports.

Support for policy frameworks which promote strong community organisations and collaboration between NFP organisations, government and other stakeholders has been building for some time.

Within that context, there has also been an increased focus on reducing the administrative and regulatory burden on the NFP sector, but the priorities, direction and shape of such reform remains contested.

The impetus for reform stems from the recognition that there are a number of significant issues restricting the efficiency and sustainability of the sector. Broadly speaking, these issues point to a need to consider the regulatory structure and administrative arrangements that govern the operation of the sector and its interaction with all levels of government.

The Tasmanian DHHS provides funding through a grants process which is articulated within service agreements. However, these service agreements have had limited capacity to clearly define the purpose of the funding, the expected outcomes and associated key performance indicators. The key measurements of efficiency and effectiveness, particularly those related to quality and safety, have often been absent within the agreements.

In April 2008, DHHS established the Office for the Community Sector reflecting the significant investment that the Department has within the Tasmanian community sector.

In total, this investment is approximately \$170 million to 240 organisations contained within 400 service agreements and providing for 114 different service types. This equates to approximately 10 per cent of the total departmental budget. Through this funding the DHHS contributes to the overall employment of approximately 8 500 staff and engagement of 15 000 volunteers within the community sector in Tasmania. The Department operates out of 13 operational units, all of which fund services at various levels, delivered by the community sector.

Recent years have shown a trend in increasing investment into the Tasmanian community sector and it is expected that this will continue. With the current and anticipated growth in both investment and activity of DHHS funded organisations it was critical that the Department put in place structures and processes that ensured sustainable and productive partnerships so that funds invested into community sector organisations were utilised efficiently and that the activities funded were effective in improving consumer outcomes. These three key platforms are reflected in the Office for the Community Sector's Strategic Plan, which can be found at [www.comunityexpress.dhhs.tas.gov.au](http://www.comunityexpress.dhhs.tas.gov.au).

### **3. COMMENTS ON QUESTIONS RAISED IN ISSUE PAPER**

The following comments relate to questions and points of interest flagged in the Productivity Commission's April 2009 Issues Paper.

- (a) Comments are invited on the Commission's proposed approach of adopting a broad view of the sector for the purposes of assessing its contribution and narrowing the study's focus to consider the specific policy and capacity issues raised in the terms of reference (Issues Paper, Pg 12)*

The proposed approach, as illustrated in Figure 1, page 11, is appropriate for the Tasmanian context, and consistent with the priorities of the DHHS in relation to partnerships with the community sector for the delivery of community based services.

However, the broad diversity of the sector in terms of the type of services delivered, funding models and organisational structures means that assessing and measuring the contribution of NFP organisations is always frustrated by lack of directly comparable data and information.

Specifically, there is an underlying lack of data and lack of consistency between definitions of community services as used by the Australian Bureau of Statistics, those used by community sector organisations, and those used by other analysts such as the Australian Institute of Health and Welfare.

- (b) Comments are invited on whether the findings and recommendations of previous inquiries remain relevant to the operations of the not for profit sector. Of those that continue to be relevant, and have not been acted on by government, which are the most important for improving the efficiency and effectiveness of the sector? (Issues Paper, Pg 15)*

The Tasmanian community sector reform agenda, commenced by the Office for the Community Sector in October 2008, addresses many of the recommendations proposed by the Inquiry into Charitable Organisations in Australia (1995). Specifically:

- A Quality and Safety Standards Framework for the community sector will be introduced from 1 July 2009. The Framework has been specifically developed for the Tasmanian sector, which is characterised by over 240 organisations ranging from extremely small to very large, populating the full continuum of Quality and Safety responses (recommendation 1);
- An Integrated Finance and Performance Framework will be introduced from 1 July 2009. The framework standardises processes for developing the business case for community sector funding, setting appropriate evaluation criteria, selecting appropriate providers and developing a service agreement that is outcomes focussed (recommendations 3, 4, 5, 8, 9);
- The development of unit costing principles for the funding of community based services is being progressed by the DHHS Reform Implementation Unit for implementation in November 2009 for Disability and Out of Home Care (recommendation 6, 7); and
- The review of peak body funding policies and guidelines (recommendation 31)

Full details of the Office for the Community Sector Strategic Plan, the Quality and Safety Framework, and Integrated Finance and Performance Framework, including draft and final proforma and the Peak Body Review are available on the communityExpress internet portal: [www.communityexpress.dhhs.tas.gov.au](http://www.communityexpress.dhhs.tas.gov.au)

***(c) Comments are invited on these, or any other, international studies of the contribution of the not for profit sector and their relevance to measuring the contribution of the sector in Australia. The Commission would also welcome information on studies undertaken by not for profit organisations to assess their own contributions (Issues Paper, Pg 18)***

Experience in Tasmania has demonstrated that definitional issues relating to the diverse nature of the community sector have a significant impact on the ability for researchers to establish meaningful and comparable data on sector activity. For example in workforce areas where sub sector specialisation occurs and workforce strategy is usually confined to a particular range of not for profit organisations. In these situations, data collected by organisations such as the Australian Bureau of Statistics and the Australian Institute of Health and Welfare are usually not comparable with industry specific data, which may be collected, for example, by the Community Services and Health Industry Skills Council relating to mental health or disability services.

In 2008 the Tasmanian Council of Social Services (TasCOSS) completed a survey of the community services sector in Tasmania, with funding assistance from the DHHS. That survey, which also highlights data limitations, can be found at [www.tascoss.org.au](http://www.tascoss.org.au).

*(d) Do you agree that a conceptual framework is important? Do you have any suggestions on the key elements of the framework? Are there any specific issues in measuring the contribution of Australian based international development and aid organisations?*

*Participants are invited to comment on appropriate methodologies for evaluating the contribution of the not for profit sector. The Commission is particularly interested in receiving feedback on the appropriateness of using a range of indicators for this purpose (Issues Paper, Pg 23)*

Community sector reform in Tasmania includes the development of an integrated finance and performance framework. The intention is to more strongly link financial remuneration with the achievement of consumer outcomes. An important aspect of this reform is to develop a standardised outcomes framework that allows for reporting of output and outcome performance by organisations and a better capacity to aggregate this information to sub sector and industry level.

While work on this aspect of the reform is at an early stage, a conceptual matrix based on the Report on Government Services (ROGS) structure and integrated with the planning framework being progressed in Tasmania, can be found on our community sector portal, [communityExpress](#).

#### **4. TASMANIAN LEGISLATION**

##### ***(a) Associations Incorporation Act 1964***

The *Associations Incorporation Act 1964* creates the framework for incorporated associations' registration in Tasmania. While incorporation by an association is voluntary, incorporation is desirable to limit the liability of members. The process is not of itself onerous, however a fee of \$128 is required for registration and \$51.20 for providing an annual return.

To register, information must be provided about the officers, such as the president, treasurer and public officer as well as details of the objects and purpose of the organisation. The application must also be accompanied by a copy of the constitution and rules of association.

Annual returns must be provided which largely consist of an audited annual financial report. As many organisations are small with minimal financial risk to the public or members, there has been some relaxation in the last 12 months of auditing requirements for small organisations with a turnover and total assets of \$40 000 or less.

##### ***(b) Collections for Charities Act 2003***

The *Collections for Charities Act 2003* was designed to minimise the regulatory burden on charities. A registrations process would have required funds to administer which of necessity would have involved a fee. No fees are payable under the Act.

An incorporated association or corporation may solicit for charitable purposes in Tasmania. This means that individuals may not solicit, although approval can be given in certain circumstances. However, where an organisation is incorporated outside Tasmania or is a corporation whose principal office is located outside Tasmania, that organisation must not solicit for any charitable purpose unless the organisation is first approved by the Commissioner. Approval is a low impact process for which no charge is made.

*(c) Harmonisation*

It is noted that "incorporated associations are governed by state and territory based legislation which differs between jurisdictions" which suggests that there is an opportunity for greater harmonisation of these regulations. As there has not been a formal review of the Tasmanian legislation since enactment, other than a national competition policy review to test the need for regulation, Tasmania would support a formal review conducted in a national context.

While the regulation of charitable collections in Tasmania is not onerous, particularly for organisations operating only in Tasmania, it is yet another requirement for those charities operating across multiple jurisdictions. There is a need for a form of national licensing or for a mutual recognition arrangement for charities operating in multiple jurisdictions. This need has been identified for some time however agreement on the means has not been achieved.

## **5. CONCLUSION**

The Tasmanian Government welcomes the opportunity to provide comments on the contribution of the NFP. The reforms already being undertaken in Tasmania demonstrate a strong commitment to the NFP sector and it is envisaged that further work done at a national level will further enhance those reforms.