

<i>Current problem</i>	<i>Proposed response</i>	<i>AER response to proposed response</i>
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**Smarter regulation of the not-for-profit sector**

*A new national one stop shop to consolidate Commonwealth regulatory oversight*

<p>The current regulatory framework is complex, lacks coherence and is costly for NFPs - especially those operating across jurisdictions. There is no consolidated location to examine regulatory matters for NFPs at the Commonwealth level. There is no central public record data location</p>	<p>Establish a national Registrar to:</p> <ul style="list-style-type: none"> <li>• Consolidate Commonwealth regulation for incorporation of NFP associations and companies (including Aboriginal corporations)</li> <li>• Register and endorse tax status</li> <li>• Register national fundraising organizations</li> <li>• Provide a single portal for corporate and financial reporting</li> </ul>	<p>We support a simpler national system of regulation and reporting for the Not-for-Profit (NFP) sector and encourage government to make a bold start on that journey. Particularly in areas where a national approach would create efficiencies such as legal incorporation, annual and government reporting, tax status and fund raising.</p> <p>We support the use of a common terminology and a standard chart of accounts for the NFP sector to encourage consistency and streamline interaction with government.</p> <p>We support the introduction of a national regulator to oversee the established reporting and regulatory framework and the consistent application of agreed standards.</p> <p>We acknowledge the sector's concerns about a growing emphasis towards short-term funding and funding only for outputs. This results in fewer funds for long-term or strategic goals and for running an efficient and sustainable organisation.</p>
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		<p>We believe priority should be given to establishing a simplified national regulatory framework for requirements and reporting. This framework would include consistent standards and benchmarks for charities and the NFP sector.</p> <p>A simpler national system of regulation and reporting is needed to improve efficiency, relevance, transparency and governance. Particularly in areas where a national approach would create efficiencies such as legal incorporation, tax status, annual and government reporting and fund raising.</p> <p>We support the introduction of a national regulator to oversee the established reporting and regulatory framework and the consistent application of agreed standards, similar to those of the United Kingdom and New Zealand. The regulator could also be responsible for providing basic levels of training about the regulation and good governance practices of the NFP sector.</p> <p>The quality of reporting in the sector is highly variable. There is a need for a consistent base level of reporting by all those organisations with public accountability. We encourage the development of specific financial and non-</p>
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		<p>financial reporting guidance.</p> <p>Financial reporting guidance should be developed by the Australian Accounting Standards Board (AASB) in areas where the guidance for "for-profit entities" is not appropriate or where there is a need for guidance on an issue relevant only to the NFP sector. A national regulator could work with the sector to develop useful non-financial reporting guidance. Voluntary measures to promote best practice reporting and to create consistency.</p>
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*Simplifying processes for and improving effectiveness of tax endorsement*

<p>Complexity and inconsistency in handling applications for tax concessions, Charitable purpose definitions are out of date</p>	<p>Registrar to endorse Commonwealth tax concession status for NFPs based on specified criteria and a statutory definition of charitable purpose. State/territory governments should recognise Commonwealth tax concession status, and explore scope for a single national application process</p>	<p>We see the current tax policy settings for the NFP sector as basically sound, but believe there is scope for improvement through greater harmonisation of relevant legal requirements and the streamlining of applications through a central regulator.</p> <p>Our dealings with the Australian Taxation Office (ATO) on behalf of NFP sector organisations show that matters relating to Deductible Gift Recipients (DGR) and charitable status are generally dealt with in a timely and professional manner.</p> <p>However, in discussions with our NFP clients, it became apparent that the experience of NFPs who are not supported by an accounting or legal firm can be very different. This is often because the NFP does not have the resources needed to understand the complexity of the current arrangements and the numerous regulatory bodies involved.</p> <p>Indeed, we see merit in having a 'one-stop-shop' national agency for registering and regulating NFPs. This agency would operate separately from the ATO, allowing the latter to focus on its revenue collection role.</p>
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		<p>This could also alleviate any perceived conflict from the ATO performing the competing roles of also determining (i) who should be endorsed with charitable status, and (ii) who should be entitled to the ensuing tax exemptions and concessions.</p>
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*Improving fundraising legislation and reporting requirements*

<p>High compliance costs and unnecessary jurisdictional differences associated with fundraising, Internet fundraising not covered</p>	<p>Register cross jurisdictional fundraising organisations.</p>	<p>This approach would clearly enable organisations to access funding in a more streamlined, effective and innovative manner.</p>
<p>Lack of consistency and comparability in financial reporting requirements for NFPs and governments</p>	<p>Fast track harmonisation of state/territory fundraising legislation</p>	<p>For the NFP sector to act in a truly strategic manner, they must have a fully functioning system to enable effective identification of appropriate funding and the mechanisms to then apply successfully.</p>
	<p>Australian governments to fast track introduction of Standard Chart of Accounts for reporting by NFPs and governments in all jurisdictions and extend the Standard Business Reporting Program to NFPs. Registrar to establish a single portal for public record corporate and financial information</p>	<p>Any barriers that are removed to maintain the solvency of the NFP sector must be a good thing for society.</p>

*New legal forms to improve options for NFPs*

<p>No national legal form other than companies limited by guarantee means national or larger NFPs may have to register in multiple jurisdictions. Hard to migrate from one form to another or one jurisdiction to another</p> <p>Disproportionate reporting requirements imposed on small NFPs</p>	<p>Australian Government to establish a Commonwealth Associations Incorporation regime and all governments to allow easier migration from one legal form to another, and between jurisdictions</p> <p>States/territories to reform Association legislation to reduce the reporting burden on small incorporated NFPs</p>	<p>We support the establishment of a Commonwealth Associations Incorporation regime through the central regulatory body.</p> <p>This function should be undertaken by the Australian Securities and Investments Commission (ASIC).</p>
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**Building knowledge systems**

*Promoting national data systems on the NFP sector*

<p>Lack of timely, quality data on the economic contribution, scale and scope of the sector and outcome and impacts of sector</p>	<p>Develop an Information Development Plan to assess the desirable frequency of satellite accounts for the sector and build databases for assessing the contribution the sector over time</p>	<p>This factor can often be deemed as being too difficult – when factoring in the key elements of being timely, of good quality. Any form of ‘service mapping’ would be welcome. This move would enable grant priorities to be allocated towards perceived areas of need and would enable a more responsive reaction from funding bodies.</p> <p>Equally, from an internal perspective, grant funding organizations would be able to allocate their funds in a structured manner – be this over a budget round or business planning time frame.</p> <p>It would be fundamentally critical however, to ensure the data submitted be both timely and of good quality to enable a level of integrity to be enjoyed.</p>
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*Building a better evidence base for social policy*

<p>Lack of common principles in measuring and evaluating NFP contribution leads to lack of comparability</p> <p>Current evaluation requirements for NFPs funded by government can be complex and provide little meaningful information for either party in evaluating the contribution of NFPs and service outcomes</p>	<p>Australian governments to endorse a common framework for measuring and evaluating the contribution of NFPs</p> <p>Australian governments to ensure that reporting and evaluation processes align with the proposed measurement framework. Government should fund the reporting and evaluation it requires of NFPs and consolidate and report back to the sector the key data and evaluative information collected in a timely manner</p>	<p>Again welcomed, it is critical that this approach is sustained in the longer term and following operational analysis of the process, the perceived benefits are being realised.</p> <p>Having an understanding of the information being submitted coupled with a commonality to reporting protocols will benefit all within the sector. It is critical to be able to compare and contrast against operational successes to understand how many projects contribute to a fundamental cause or set of project factors that are required to be achieved.</p> <p>There should be a shift in public perception of NFPs to identify and demonstrate the worth of these organizations, and how their outputs collaboratively enrich our societies and behaviors. If the output of this proposed analysis be published, it would go a long way to encouraging more giving on behalf of individuals and organisations when they realise the value of the work being carried out.</p>
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*Promoting dissemination of evidence on effectiveness of social programs*

<p>Learning is limited due to lack of quality evaluation of activities, and no systematic dissemination of evaluation information</p>	<p>Australian Government to initially fund a Centre for Community Service Effectiveness. This will provide a portal for gathering and disseminating evaluations, meta analysis of evaluation methodologies for NFPs involved in the delivery of government funded community services</p>	<p>Due to their very nature, many projects provide services that are distinct and specialist in nature. With these specialism, the barriers to entry to some of these services are so high be it due to location or staff capabilities, it is critical to understand and celebrate good practice within these ever diverse programs.</p> <p>In raising both public and industry awareness of the work that is going on will not only engage with a wider potential audience, but will also enable opportunities to grow and develop in the future.</p> <p>A further benefit of funding a Centre for Community Service Effectiveness would enable projects who receive funding to limit duplication as there would be a higher level of understanding on behalf of funders of projects that are currently being planned, in progress, or have been delivered.</p> <p>Utilisation of Australian Securities and Investments Commission (ASIC) processes would critically avoid the duplication of setting up new systems that are already in place and functioning effectively.</p>
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**Sector development**

*Supporting capacity to access capital*

<p>The NFP sector has been growing rapidly but some NFP organisations have difficulties accessing finance for start-up and capital expansion</p> <p>Social enterprise activities, which adopt a business model, are not yet well understood in financial markets, and NFPs offering such investment options may not have the ability to provide suitable accounts or business plans</p>	<p>Establish a joint working party made up of sector, business, philanthropic and government representatives to explore obstacles to NFPs raising capital</p> <p>The working party should evaluate options to enhance access to capital by the sector, such as: supporting financial intermediaries who serve NFPs, pooled / matching funds and provision of loan guarantees (noting that these last two options may pose a financial risks to the government)</p>	<p>A positive and common sense approach to enable appropriate matching between projects and financial funding partners.</p> <p>It should be appreciated though, that in order to have a vibrant market with no barriers and equal competition, by in some way allowing NFP organizations preferable routes to finance because of their tax status versus non-NFP organizations this could be argued as being anti-competitive to their organisation who may want to deliver services but cannot raise capital to do so as they are not NFP organizations.</p> <p>Equally, Government should not endeavor to allocate or give assistance to NFP organizations as this contravenes non NFP from competing on equal terms within this often lucrative market.</p> <p>In order for NFPs to successfully apply for appropriate funding, it is critical that clear messages are given to projects when they apply for funding. The proposed financial intermediaries should encouraged NFPs to seek clarity about the length of funding available and submit fully costed budget</p>
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		applications including all appropriate overheads. Further, by improving skills and knowledge about different funding mechanisms available, and taking on responsibility for their own long-term sustainability, will ensure the market fully utilises the resources at its disposal in the most effective and ethical manner possible.
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*And encourage philanthropy and giving*

<p>Despite recent growth in philanthropy, Australia's giving is relatively low compared with like countries. NFPs need to diversify their revenue sources to improve sustainability including through encouraging greater philanthropy (giving)</p> <p>Tax deductibility appears to induce giving above what would otherwise be the case, but DGR status is too restrictive</p>	<p>To lower the transaction costs of giving, options to promote and support planned giving, especially payroll giving and bequests, should be explored. Options include increasing the awareness of the tax benefits, and financial assistance and advice to smaller organisations to help them establish planned giving programs</p> <p>Expand DGR status to all charitable Institutions and funds endorsed by the proposed national Registrar (see above)</p>	<p>These are all valuable suggestions. A further option that could be promoted would be for organisations to offer staff for a period of time to assist to operational activity with the NFPs. This would enable greater turnover of activity with no extra cost attached, a new impetus of skills brought into the organisation.</p> <p>For example in the Alcohol and Other Drugs (AOD) sector, if staff from the Alcohol sector were to work within an Alcohol charity setting this volunteering would promote corporate responsibility and give something back to those who are involved with the net effect of the sector that the corporations represent.</p> <p>Further, by exploring new and varied ways for NFPs to access funding takes away reliance on the 'traditional' sources of funding that may make some organisations less than active in their approach to raising finance.</p> <p>We support the proposal to expand DGR Status to all charitable institutions that are endorsed by the National Registrar.</p>
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*Building sector capabilities in evaluation and governance*

<p>Lack of evidence on the impact of NFP programs and activities limits improvements to organisational efficiency and effectiveness</p>	<p>States/territory government programs aimed at building the capacity of NFPs for service delivery or community development should include specific training and guidance on undertaking evaluations</p>	<p>The Alcohol Education and Rehabilitation Foundation (AER) would encourage the skilling up of projects in carrying out basic, core business functions to ensure their daily operations continue to succeed.</p>
<p>Many NFPs lack the skills and knowledge required to meet increasing public, government and business donor demands for accountability and risk management</p>	<p>Australian governments to promote training for NFP board and management in governance and related areas through provision of financial support</p>	<p>We have both developed and delivered such training to assist grantees to access funding more successfully. We feel that such programs enable greater trust between ourselves and NFPs and forge greater partnerships between us.</p>
<p>Many NFPs have difficulty undertaking essential management and administrative tasks.</p>	<p>Australian governments to support the provision of business support services to NFPs. At national level this could be through directing the Business Enterprise Centres to also tailor services to NFPs. State and territory governments could work with local governments to explore the viability of infrastructure hubs that provide back office and other services to community based NFPs</p>	<p>Again as in the point made above, we would only want to encourage a climate of fair and open competition between those defined as NFP and other types of organisations.</p>

*Through support for paid workforce development*

<p>'Contribution' based funding of NFPs for service delivery is affecting efficiency and effectiveness, NFPs that employ staff face difficulties attracting staff with adequate skills. This is most problematic in community services where salaries are low relative to market salaries for similar work</p> <p>Under current policy settings the human services sector will face increasing workforce pressures. But workforce planning has focussed largely on education and health services</p>	<p>Government funded services delivered through NFPs should be fully funded, based on independent costing assessments that is comprehensive in accounting for all costs including wages at market rates</p> <p>Growing demand from an ageing population and supply constraints requires long-term workforce planning for community services</p>	<p>It is critical if NFPs are to deliver services effectively that they apply the principal of Full Cost Recovery (FCR).</p> <p>It is important to remember that the NFP sector isn't there to provide a service in a less than competitive way and that service commissioners may expect to only pay for the direct project costs and not the associated overheads that present with any size of organisation.</p> <p>By encouraging a climate of FCR, it is our view that longer term sustainability of activity can be enjoyed by projects as they will be bidding for funding in a true and complete manner, not merely applying for funding with under-budgeted submissions that only pay for direct service delivery. Further, if projects remain solvent and grow, this will conversely enable staff to secure longer-term contracts within their organisations. This may manifest in growth potential for the NFPs and this normally results in better pay structures, content workforce with an end result of fewer turnovers of skilled staff that directly affects the bottom line of any business in terms of recruitment.</p>
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*And volunteers*

<p>Rising costs of engaging volunteers due to qualification and other requirements (such as police checks)</p>	<p>Mandatory vetting requirements for working with children and vulnerable people should be streamlined and police checks should be portable, for a specified period of time</p>	<p>This element of the business operation is non-negotiable and any proposed changes should ultimately be in the best interest of those being protected and not for financial or operational benefit to an organisation.</p> <p>We would question in what manner that the mandatory vetting requirements will be streamlined and made more portable? Until the level of streamlining and portability are defined, there are a number of points of principal that we want to raise as areas of concern for AER:</p> <ol style="list-style-type: none"> <li>1. It is critical that the level of check being transferred will match the level of check required within the new position.</li> <li>2. As time moves on, new check status lists could be introduced – any portable certificate must satisfy any new listing conditions.</li> <li>3. The older the check being transferred, the greater the risk of newer information not being made available to the new employer. Any information on a certificate only</li> </ol>
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		reflects the information held on the date of issue. It is conceivable therefore, that if a new check is not carried out, then new offences could go un-noticed.
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**Stimulating social investment**

*Promoting social innovation*

<p>NFPs lack funding for research and experimentation required for social innovation</p> <p>Wicked problems require multi-dimensional solutions with contributions from a range of government agencies as well as community level engagement and support</p>	<p>Australian governments should explore the potential to expand existing programs such as the CRC program to support social innovation. Other options include establishing 'social innovation funds' in key program areas to support trials and demonstration programs</p> <p>Philanthropic foundations and business be invited to contribute to these innovation funds</p>	<p>This proposal is welcomed – perhaps government could offer a small financial incentive to collaborating organisation to encourage them to work together more consistently and effectively. This one off payment may go some way to the extra strategic planning and operational effort expended in not only identifying key collaborative partners, but also softening the operational impact these collaborations can represent.</p>
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**Improving the effectiveness of direct government funding**

*Providing clarity over funding obligations*

<p>NFPs can have unrealistic expectations of what governments will fund. Governments, on the other hand, like to label projects that they make a contribution to as funded by government. In addition, governments admit to less than full cost funding for some services for a range of reasons</p>	<p>Australian governments to determine and explicitly state in any tender or negotiated contracts whether they intend to fully fund such service provision or only make a contribution to such costs and, if so, the extent of that contribution</p>	<p>This response echoes the issues discussed previously in relation to FCR models and the appropriate definition by projects of the true costs associated with not only delivery a service, but delivering it in effective manner.</p>
<p>There is a perception that current procurement and grant making processes do not adequately take account of the wider benefits (or spill overs) NFPs may be able to offer</p>	<p>Models of engagement underpinning service delivery should be consistent with the principle of achieving best value for money for the community (including any spill over benefits that providers generate)</p>	<p>Fundamentally, AER support Grantees fully in their operations, and a pre-requisite to the relationship requires NFPs to deliver services for the greater good of the community in which they serve, and for the wider benefit of those who engage in the AOD sector.</p>

*Ensuring appropriate independence and minimal compliance burden*

<p>Increasing the conditions attached to grants is intruding on the non-funded aspects of agencies and increasing the compliance burden for smaller NFPs</p> <p>Some NFPs face significant constraints on their ability to experiment with new activities and approaches due to restrictions associated with their funding arrangements.</p>	<p>Where Australian governments provide specific purpose or operational grants they should ensure that compliance requirements are proportionate to the scale of the program (in terms of the level of government funding) and risk involved, and restricted to the activity funded.</p> <p>Where possible remove prescriptive requirements on approaches and processes (inputs) in funding arrangements and limit obligations and reporting requirements to the specific funded activity. Respect agency independence. Allow NFPs to keep any surplus generated by improvements in their efficiency</p>	<p>AER fully supports this common-sense approach to proportionate grant reporting.</p> <p>Clearly, we have a duty to our Trust to ensure that funds are discharged in an appropriate manner and in line with the requirements of the funding agreement, but we must avoid a disproportionate over-burden of compliance that will have a direct affect on the operational activity of the NFPs in order to satisfy limited gains by the grantor.</p> <p>We must ensure that our relationship with those that we fund is open, transparent and business like. Further, such monitoring should be rationalised to a level that meets the need of the specific project and our demands. In short, one size may not fit all when we talk in terms of the monitoring of grant projects to NFPs.</p> <p>We aim to follow the mantra of 'Measure what you value and value what you measure.'</p>
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**Removing impediments to better value government funded services**

*Getting the model right*

<p>Although the purchases-provider model is appropriate in many cases, and has delivered efficiencies, there is an over-reliance on the purchaser-provider model and it is being applied in situations where other models of engagement would be more appropriate.</p> <p>Some problems that require extensive collaboration between NFPs and government, extended life contracts and ongoing collaborative evaluation to inform and modify approaches</p>	<p>Australian governments to better match the model for engagement with NFPs especially in the delivery of human services including greater use of collaborative models and, where appropriate, client directed funding models</p>	<p>AER support this approach to the appropriate matching of funding models to projects.</p> <p>Collaboration across government in order to deliver solutions through combined multi-stakeholder engagement ensures appropriate and efficient use of grant monies. It takes away the need for agencies to work in isolation to achieve a common goal. Further, it is critical that Government departments have the appropriate skills to mentor and monitor these activities to ensure successful progress.</p> <p>Client directed funding models are an appropriate way forward if true focus on the end user is defined within contracts to enable service to be dynamic and responsive to the changing needs of the population being served. Critically, assessments against agreements must demonstrate that quality is being delivered in line with client expectations.</p>
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*And improving purchase-provider processes*

<p>In some cases the purchaser-provider model is being poorly applied thereby eroding the 'natural' advantages of NFPs in delivering services. These include:</p> <ul style="list-style-type: none"> <li>• poor consultation with the sector</li> <li>• excessively short-term contracts given the nature of the problems being addressed</li> <li>• tendering, contractual and reporting requirements that impose significant compliance costs</li> <li>• overly prescriptive contracts resulting in micromanagement</li> </ul>	<p>Australian governments should continue to work to improve the quality of their engagement processes with the NFP sector. They should</p> <ul style="list-style-type: none"> <li>• adopt a flexible approach to the lead agency model, assessing its relative merits on a case-by-case basis</li> <li>• ensure that the length of service agreements reflect the period required to achieve agreed outcomes</li> <li>• consider master agreements and prequalifying supplier arrangements at least at whole of agency level</li> </ul>	<p>AER's approach to funding of projects follows closely the requirement to having service agreement duration linked to the realistic achievements of objectives as defined within agreements.</p> <p>By having appropriate timescales set, NFPs will be able to deliver services with the financial certainty that funds will be available to adequately satisfy the duration of the whole project.</p> <p>With regard to the lead agency model, AER supports this way of working. From a consistency and financial regulation perspective, this is the most effective way in which to promote and facilitate multi-agency working for the benefit of stakeholders and those receiving services.</p>
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*Improving management and appropriate sharing of risk*

<p>Poor risk management leads to inappropriate cost shifting and overly prescriptive compliance measures, adding to cost with no commensurate benefits. Contract clauses that shift risk to NFPs may reduce government's incentive to manage implications of policy change on NFPs</p>	<p>An explicit risk management framework should be prepared by government agencies as part of the contracting process in collaboration with the service providers to determine the nature of risk, who should bear such risks, and the costs associated with managing and bearing risks</p>	<p>AER understands the factors around NFPs having risk attached to the service agreements that they have with us. Working with high risk client groups requires an open and honest dialogue with projects to ensure that there is value for money achieved in the services that they deliver.</p> <p>In order to manage risk attached to projects, we need to ensure that our grantees understand how they can manage risks within their areas of specialism and the clients that they serve. Objectives contained within agreements should reflect these risk factors. We should also work together as an industry to understand how we assess risk and ensure that all parties are utilizing an identical 'scale' of assessment.</p> <p>Work should also be carried out to decide if risk within projects should be owed by one party or indeed, shared. Further, how will risks be acted upon if the risk factors identified are then realised ?</p>
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**Building stronger, more effective relationships for the future**

<p>Increasing use of sector/government compacts risks remaining just good words unless there are accompanying actions. Opportunities and processes for more effective working relationships also need supportive mechanisms</p> <p>A number of reviews have recommended appropriate change. However, few have been adopted, in part due to a lack of a policy driver in the Australian government</p>	<p>Any compacts entered into with governments and the sector need robust mechanisms for implementation, monitoring and evaluation</p> <p>The Australia Government to establish an Office for NFP Sector Engagement within the Prime Minister and Cabinet portfolio to:</p> <ul style="list-style-type: none"> <li>• drive the reform agenda</li> <li>• oversight the implementation of the proposed Commonwealth Compact</li> <li>• drive a review of government contracting with the NFP sector</li> </ul>	<p>The vision of the Government and the Third Sector working together in partnership to improve and enhance the overall quality of life of all Australians is supported by AER.</p> <p>AER does believe that the Corporate Sector needs to be included in the Compact as they are a major contributor to the Third Sector. The Corporate Sector has great potential to enhance the work of the Government and Third Sector, with most Australian businesses implementing a clear set of Corporate Responsibilities. These responsibilities form a strong link between the Corporate Sector, Third Sector Organisations and the wellbeing of the Australian community. A good example of this is Volunteers Australia, who survive purely from corporate sponsorship.</p> <p>In order for the Compact to work in this sector, appropriate professional skills need to be promoted and valued within the Third Sector, such as Accounting, Business management and Legal skills.</p> <p>A development of the Compact recognises that NFP play a critical part in our community and that their attributes and skills benefit us all. In developing the Compact, credibility is</p>
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		<p>given to the operational activity that is occurring within the sector. Further, when new regulation or legislation is introduced, the vehicle of the Compact will enable such implementation to be as a streamlined and positive process.</p> <p>By establishing an Office for NFP Sector Engagement, it would be anticipated that the sector will be able to enjoy a higher profile within government and society as a whole. It could be further anticipated that such a development will also allow better lines of communication and information sharing and be a fundamental and continuous partner in the shaping of Government policy on the delivery of these highly valued community services.</p>
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