

Contribution of the Not-for-Profit Sector Productivity Commission Draft Research Report

Comments on Recommendations

Smarter regulation of the not for profit sector

A new national one stop shop to consolidate Commonwealth regulatory oversight

Comment: I support the proposed response of establishing a national Registrar. This should simplify reporting and information provision. The Registrar should take an educational approach where there is non-compliance on most matters in the first instance. Clearly ongoing non-compliance would need enforcement.

Simplifying processes for and improving effectiveness of tax endorsement

Comment: A legislated definition of charitable purpose, which reflects current community expectations and aspirations, would assist clarity in this area. Recognition of charitable status by state and territory governments, especially if the tax concessions were consistent, would simplify the processes.

Improving fundraising legislation and reporting requirements

Comment: Harmonising fundraising legislation across Australia and allowing for cross jurisdictional registration would be a step forward but may be difficult as there are significant differences between state and territory legislation. It would be simpler to develop a new national Fundraising Act through the COAG process, which could provide consistency and also deal with some of the more contemporary fundraising methods such as online and corporate giving.

The Standard Chart of Account proposal is likely to lead to greater transparency and also greater efficiency within NFPs, especially if all levels and areas of government accepted this for reporting purposes.

New legal forms to improve options for NFPs

Comment: The creation of a new form of incorporated association that is recognised across jurisdictions would need to be clearly targeted to avoid further confusion when NFPs chose their legal form.

The company limited by guarantee remains the preferred form for larger NFPs that operate across state and territory borders and for foundations. This structure is well understood in many NFP sectors, by funders, including corporate sponsors, and by board directors.

The other incorporation option should be targeted at smaller NFPs that are largely membership based i.e. clubs. However, the aim of simplification and cost effectiveness could also be achieved through the recognition under the Corporations Act of a 'small NFP company limited by guarantee', which carried less onerous audit requirements. A small NFP company could then easily migrate to the more demanding reporting and

audit regime of a company limited by guarantee, if it reached a legislated level of operational expenditure or capital base.

Building knowledge systems

Promoting national data systems on the NFP sector.

Comment: The need for better data on the NFP sector is recognised. Government funding should take account of any additional data collecting requirements and related administrative costs within NFPs.

Building a better evidence base for social policy

Comment: It is essential that Government fund the reporting and evaluation it requires of NFPs and that sector data is reported back in a timely way to assist strategic decision making at local and organisational levels.

Promoting dissemination of evidence on effectiveness of social programs

Comment: Peak bodies in all NFP sectors should be encouraged (funded) to become clearing houses of information about programs and projects that work in their particular sector. A Centre for Community Service Effectiveness is mentioned in the report. This is only one part of the NFP sector and learning about effective programs also needs to happen where services are delivered, not only at a meta policy level.

Sector development

Supporting capacity to access capital

Comment: Community foundations should be part of any working party to explore raising capital for NFP programs and projects. Community foundations could be encouraged to increase their role as lenders and gain licences in relevant financial services areas.

Encouraging philanthropy and giving

Comment: The two step process for charitable status and then deductible gift recipient status needs to be simplified. While the recommendation to support DGR status being granted to all charitable institutions and funds on the proposed national Register is supported, as a first step NFPs that are charitable should be immediately able to seek DGR status under a number of existing categories to maximise effectiveness.

Community foundations should be Charitable Institutions with DGR status (rather than their current complex company and multiple trust structure) and could play an active role in supporting local communities and smaller NFPs to benefit from payroll and planned giving.

Building sector capabilities in evaluation and governance

Comment: Government funding for NFPs to gain skills in evaluation and governance is supported. A range of excellent programs already exist on governance and NFPs should be supported to access these and other opportunities.

Providing additional support for NFPs that require back office support is also a practical recommendation. However, smaller is not always less efficient and each NFP needs to develop its organisational strengths in its own way. It is also important that NFPs have sufficient access and ownership of back office information to enable them to retain corporate memory, especially about program planning and evaluation, and fundraising relationships.

Stimulating social investment

Promoting social investment

Comment: Increased investment by government to support innovation in organisations developing social and community services is to be encouraged. The concept of 'innovation funds' is positive, however again this could be extended beyond the 'social' realm into cultural, environmental, education and other areas.

The tax status of the funds will play a part in whether philanthropic trusts and foundations are able to and interested in contributing to these funds. The funds would need to be endorsed as both tax concession charities and as deductible gift recipients to attract a wide range of support.

Many philanthropic foundations already fund innovative projects and the NFP sector would not want this to diminish. There is a risk that some foundations may come to see innovation as a role for government and move away from this work. Innovation Funds must be presented as additional sources of funding.

Improving the effectiveness of direct government funding

Comment: These recommendations are supported.

Removing impediments to better value government funded services

Comments: These recommendations are supported.

Building stronger, more effective relationships for the future

Comments: It has been disappointing that the many reviews of the Not for Profit sector have not led to more change. Since the Industry Commission Inquiry into Charities in the early 1990s, many recommendations have been made but not implemented. It is clear that there needs to be a focal point for leading change in the NFP sector. The creation of a Registrar for NFPs, if it also had an educational and law reform role, could provide this leadership, rather like the Charities Commission in the UK.

Catherine Brown
LLB BA Grad Dip Bus Admin FAICD

(Consultant, lawyer and director in NFP sector since 1999. Former CEO and senior executive in the human services NFP sector for 11 years from 1988.)

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