

# ACT Department of Disability, Housing and Community Services

Report on Review of Administrative  
Requirements of Non-Profit Organisations  
in the ACT (Red Tape Review)

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## About this report

### Consultant

Eric Chalmers is an experienced management consultant with a broad background in strategic planning, change management and risk management in the finance sector. Eric has a background as senior executive and consultant on issues ranging from strategic planning and management to policy, process and business improvement. He has extensive experience in Government as a senior executive (both Commonwealth and State), adviser (Commonwealth, State/Territory and international government bodies) and advocate, Board member and executive within the community sector in the ACT.

Eric's current focus is largely in the community sector, with involvement as an executive, board member, chair and consultant to many community organisations and to Governments in their role as funding and supporting bodies.

### Acknowledgments

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The consultants would like to thank the project Steering Group for their ongoing support and assistance and all those, from both non-profit organisations and Government Agencies who gave freely of their time and assistance.

The quality of any review such as this is dependant on the quality and forthright contributions by all key stakeholders.

### Disclaimer

While every attempt has been made to provide accurate information in this report, no liability attaches to the ACT Department of Disability, Housing and Community Services, Minter Ellison Consulting, or any other individuals concerned with the preparation of the report for any consequences of using the information in this report.

Minter Ellison Consulting does not endorse any of the policies and opinions provided by those consulted.

# 1 Executive summary and list of recommendations

## 1.1 Project outline

The aim of this Project has been to consider:

- the nature and extent of administrative requirements imposed by the Territory
- impediments to the effective operation and long-term viability of Non-Profit or Non-Government Organisations (NGOs) generated by regulatory and administrative requirements
- the range of legal entities and other structures under which NGOs may operate and any inconsistencies in the application of definitions
- recommendations for “modification, reduction or removal of areas of administrative burden that will assist the efficiency, viability and sustainability of the NGO sector in the ACT, whilst maintaining appropriate levels of governance, accountability and risk management”.

This project involved research for the ACT Department of Disability, Housing and Community Services (the Department) and has been informed by the recommendations of the report “Cutting the Red Tape” by the National Community Services Data Committee. That report specifically looked at the problems experienced by NGOs in collecting and reporting data for individual clients requiring support from multiple programs/governments.

## 1.2 Method

A series of individual and group interviews with Non Government organisations (NGO) staff has been used to identify the administrative and regulatory costs of most relevance to them and to collect their views on what changes might be of greatest value in reducing the administrative burden on NGOs.

The output from these interviews was then reviewed against a variety of previous documents relating to similar issues in the ACT and elsewhere and with ACT Government Agencies (Agencies) involved with the NGOs.

## 1.3 Key findings

The issues identified throughout this project by NGOs as creating the greatest burden were not the anticipated regulatory aspects of registration, incorporation, taxation etc. These regulatory processes are accepted as necessary or, in the case of smaller NGOs, are dealt with as and when the NGO perceives a need to do so.

On the other hand, the review found that there is a lack of knowledge about regulations that arise infrequently or seem extraneous to an NGOs core relationship with their clients. This can result in significant issues, both in terms of administrative burden and by causing disruption, particularly for smaller NGOs.

The NGOs consulted generally do not look at their relationship with Government in terms of regulation, process, reporting etc, but in terms of the broad impact of the relationship on the organisation and their capacity to support clients.

Overall, the review found that the administrative and regulatory requirements that create the greatest burden revolve around funding and the subsequent reporting to administrative Agencies. In part because of the reliance on uncertain funding for ongoing survival, NGOs allocate a substantial portion of unpaid, or at least unfunded, time and effort to seek, use and acquit funds from Government.

Comments from NGOs during the study are:

- consistent with a number of previous papers, covering similar issues in the ACT and elsewhere in Australia
- consistent between the NGOs interviewed, although the emphasis differs between the larger NGOs and smaller, single issue NGOs
- broadly accepted by the Agencies consulted.

The following comments summarise how these key findings relate to the original project aims.

### 1.3.1 The nature and extent of administrative requirements imposed by the Territory

- **Accountability, registration and incorporation** requirements imposed by the Territory were not seen as a burden, except for the reporting and funding requirements discussed below. There is general acceptance of the need to be accountable for public funds. While these areas of regulation are substantial, they are accepted as necessary and of lesser day-to-day impact than the key areas described below.

With limited resources, NGOs tend to focus on issues of immediate relevance to everyday operations and priorities. Once solutions to regulatory issues are in place and stable, processes to support them do not generally impact on day-to-day decisions and operations. Funding, reporting and acquittal, on the other hand, were reported as being at the forefront of daily concerns and activities.

- **Regulatory compliance requirements** have quite different responses from the larger and smaller NGOs.

Larger NGOs with multiyear funding arrangements and more extensive infrastructure to support their services tend to have the systems and resources in place to ensure compliance with regulatory requirements. Although the NGOs regard the regulations as substantial, they do not see them as a burden, but as an overhead they need to address.

On the other hand, regulatory compliance is a major, but largely hidden, burden for smaller, single issue NGOs where the issue is a combination of:

- lack of knowledge, especially if a specific regulatory issue has not been raised externally (eg by an auditor) or experienced by a board member elsewhere
- insufficient internal resources or experience to deal with the issue once it is raised.
- The administrative burden associated with **insurance** again falls more to the smaller NGOs because of issues relating to:
  - perceived difficulties with the availability of some insurance
  - cost and levels of cover required for infrequent activities
  - fear about liability consequences.

Larger NGOs regard insurance as one of many operational issues requiring effective monitoring and management and an issue of sufficient importance to be reviewed regularly by the Board.

- **Volunteer management** is not seen as a burden where adequate infrastructure is in place. However, the administrative cost associated with seeking, managing and overseeing volunteers does create a significant burden on smaller NGOs. The cost and perceived image of police checks for potential older volunteers is also seen as an issue.

### 1.3.2 Impediments to the efficient operation and long-term viability of NGOs generated by regulatory and administrative requirements

Formal regulatory requirements did not rank highly as impediments to effective operations and long-term viability, because the issue was:

- dealt with previously (eg by committees etc); and
- not a *relative* burden unless changes occurred that raised the profile of such requirements for the NGO.

The administrative requirements of reporting and funding on the other hand are perceived as constantly changing and are seen as a crucial impact on viability and capacity.

For government agencies engaged in human service funding there are two main processes for allocating funding this includes through Service Funding Agreements and through grant processes. Service Funding Agreements result following a procurement process that may include a tendering process. Procurement processes are bound by procurement legislation. Grants are determined through accountable internal processes. In both cases funding is allocated to achieve government objectives. Broadly, Service Funding Agreements tend to be used for high value, longer term, multi-year programs while grants reflect simpler shorter term programs and entail less of a reporting burden. Service Funding Agreements are available for up to three years duration and for ongoing activities.

Through service funding reporting the NGO provides important information to support policy formulation, broader oversight of service delivery, etc, as well as for purposes of managing the agreement itself. Grants, generally do not require periodic reporting and are more often seen as gifts for specific initiatives, (often to encourage innovation) and covered by different application, assessment and administrative processes.

Funding (applications and documentation), reporting and acquittal issues make up the bulk of NGO examples of excessive burden, cost and time constraints. For Service Funding Agreements the issues revolve around performance and financial reporting. For grants, the issues are created by the application, documentation and acquittal processes.

The administrative burden is aggravated when multiple funding sources and inconsistent requirements cover areas such as application detail, governance and reporting requirements, and risk management assessments.

Complex applications for smaller grants, the need for funding single projects from multiple funding sources (often a mix of services funding agreements and grants), and similar but differing reporting and acquittal processes all create additional administrative costs. This is often aggravated by limited infrastructure to support project applications and oversight. Timing of reporting also creates a significant burden at particular times of year and poor or limited feedback about reports makes tight deadlines and complex reports more difficult for NGOs to accept as necessary.

Agencies accept that recent changes made to improve the consistency and efficiency of the management of tenders, grants and contracts have tended to create common processes for the structuring and submission of applications, regardless of the size or complexity of the proposal. This common approach to tenders, grant applications and the contracts that support successful applications results in significant administrative burden on smaller NGOs and all NGOs bidding for small, simply structured grants as the processes focus on the need for adequate control and risk management of the larger, more complex examples and then apply this structure to all cases.

### 1.3.3 The range of legal and other structures under which NGOs may operate and any inconsistencies in the application of definitions.

None of the NGOs interviewed indicated that the core legal or other structures under which they operate create administrative burden, or at least any ongoing burden. This appears to be the

consequence of a settled environment being created following any initial difficulties experienced in determining the most appropriate structure. Subsequent issues are only likely to arise if changes are made to the structure, environment or regulations.

In the absence of any indication from NGOs that their legal structures are creating ongoing burden, a comparison of various possible structures as envisaged in the project brief was not undertaken. Most NGOs reviewed are incorporated associations or part of structured national organisations. Generally, the NGOs consulted do not see structure as an issue that is controllable in the medium term.

## **1.4 Recommendations**

Minter Ellison Consulting recommend the following actions be considered by Government to provide relatively simple improvements to the major areas of administrative cost and burden raised by NGOs in this review. Most recommendations are administrative in nature and may be achieved from within existing structures and policies.

The aim is to put in place simple structures to improve communication and the quality of relationships, support the development of improved governance and processes in NGOs where this is appropriate and reduce the time taken on both sides in responding to crises and misunderstandings.

### ***Improve Support for Small Organisations***

1. Enhance the knowledge of regulatory requirements through the development of a database containing the title of each legislative or regulatory requirement, its principal purpose and when it may apply to the NGO.
2. Investigate and develop practical guidelines and documentation such as simple flow charts and checklists to support adherence to regulatory requirements.
3. Consider a program of support for improving governance that is outside the core grant / service funding arrangements.
4. Consider creating a principal contact agency for NGOs that are in receipt of regular grants or grants from a number of agencies. This contact point would be the relationship manager if a service funding agreement exists for the NGO.

### ***Consider the Impact of Multiple Agreements and Grants***

5. Produce a single set of policies covering both Service Funding Agreements and grants that relate the level of documentation required for grant applications, funding agreements, reporting and acquittal to the level of risk to Government inherent in *each transaction*.

### ***Consider the Size and Complexity of Funding Arrangements***

6. Review and simplify applications, approval, reporting and acquittal processes for grant activities of low value and low risk

### ***Reduce Multiple Demands for Corporate Information***

7. Investigate a single point of collection and assessment by Government of core business data (eg financial, governance, risk management) relating to each NGO. It is suggested this be provided once each year by each NGO to a central location at an agreed time.

### ***Enhance Understanding and Communication***

8. Develop a communication strategy for funding relationships. This may include identifying an agency relationship manager for each NGO with service funding agreements, to provide the agency's primary point of contact with the NGO regarding program issues.
9. Provide shared professional development opportunities across sectors.
10. Develop mechanisms to clearly delineate the agency role where there exists funding and delivery of services to the community.

11. Institute a program to clarify and communicate the purpose of each piece of information required by agencies. This is to ensure that the agency and NGO both make effective use of the information being supplied to the agency. It will also minimise duplication and maximise consistency of requests for information across agencies.

***Review Reporting***

12. Review report timing and content and develop an agreed program of reporting with NGOs, with the aim of minimising reporting due dates in July and January.

## 2 The brief and methodology

### 2.1 Background

The ACT Government's vision for a strong and effective funding relationship with the community sector is enshrined in the *Community Sector Funding Policy* (February 2004), which sets out a strategy for a collaborative approach to community sector funding that contributes to the long term viability and sustainability of ACT Government funded community sector organisations. In particular, the *Community Sector Funding Policy* commits the ACT Government to work collaboratively with the community sector to minimise unnecessary administrative processes.

Accordingly, the Department decided to review the nature and extent of the administrative and regulatory requirements imposed by the Territory on NGOs in the ACT with the aim of identifying areas of administrative burden that might be modified, reduced, or removed to assist the efficiency and viability of the non-profit sector in the ACT.

This review has undertaken research informed by the recommendations of the report 'Cutting the Red Tape' by the National Community Services Data Committee (refer Attachment C) and considers:

- the regulatory burden for community services
- ways to minimise the burden while maintaining accountability
- the consistency in application of benefits which may arise from definition issues applying to similar Agencies.

### 2.2 Project objectives

The aim of the review has been to consider:

- **administrative requirements** including the nature and extent of requirement imposed by the Territory
- **impediments** to the efficient operation and long-term viability of NGOs generated by regulatory and administrative requirements
- **the range of legal entities and other structures** under which NGOs may operate and identify any inconsistencies in the application of definition
- **recommendations** for "modification, reduction or removal of areas of administrative burden that will assist the efficiency, viability and sustainability of the NGO sector in the ACT, whilst maintaining appropriate levels of governance, accountability and risk management.

In undertaking the research we have focussed on the administrative burdens nominated by the NGOs themselves.

Whilst the original project scope assumed a more formal regulatory burden in setting the direction of the research, the strong response from NGOs was that "Red Tape" or the "areas of administrative burden that might be modified, reduced, or removed to assist the efficiency and viability of the non-profit sector in the ACT" is largely related to less formal administrative tasks associated with the delivery of service, funding and practical outflow of regulatory structures refer.

The analysis and recommendations thus focus strongly on these outputs from NGO interviews, subsequently confirmed in discussions with the Agencies, and a select review of relevant literature.

## 2.3 Methodology

The project was undertaken in five stages:

1. Project Initiation
2. Stakeholder Consultation
3. Review and Analysis
4. Draft Report – reviewed by the Steering Group and Government Agencies
5. Final Report

The full project plan is at Attachment A.

The project ran from 9 July 2007 to 23 November 2007. The scope and depth of the consultation and analysis was structured within this timetable and the available funding for the project.

The consultation process aimed to:

- draw out the significant aspects of the current system of regulation, its strengths and its weaknesses as seen by the major stakeholders in the system
- quickly develop alternative options for change
- identify the implications of risk for government, the NGOs and in particular for the system's clients.

The structure and program of interviews was agreed in advance with the Department. Regular consultation ensured that Government officers are aware of the developing issues, and involved in the structuring of recommendations. Departmental officers also attended a number of the group interviews. The consultation methodology is described more fully at the beginning of Section 3 below.

ACT Government involvement in the project has been through participation in a small steering group comprising key departmental officers. Agencies had the opportunity to review findings and recommendations and to participate in the development of potential solutions.

The review has focussed on two specific groups of NGOs:

- large regularly funded organisations (involved with ACT Health and the Department of Disability, Housing and Community Services)
- a selection of more tightly focused, specialised groups located within Centres.

This represents a small, but we believe representative portion of the total NGO sector. The National Roundtable of Non-Profit Organisations estimates that the sector employs some 6.8% of Australians, comprising Social Services (26%); Education and Research (24%); Culture and Recreation (21%); Health (15%); Business and Professional Associations and Unions (2.5%) and Other (11.5%).

As evidenced in the variation in responses from the larger and smaller groups interviewed and in the varying response of Agencies involved in subsequent discussions, care needs to be taken in applying findings from one group of NGOs to assumptions about the needs and priorities of other groups.

The review aimed to develop practical recommendations for action aimed at simple improvements to the major areas of administrative cost and burden raised by NGOs. Most are administrative in nature and can be achieved from within existing structures and policies.

## 2.4 Consultation Process

The consultation process was designed to gain a relatively broad range of input from the community sector and Agencies within a reasonable cost.

The Review had a number of components:

- desk research of papers relevant to the process and supplied by the Department and participants. The focus of this research has been to confirm the scope of NGO activities and relationships with Government and to inform discussion on issues raised in the interviews etc. A summary is contained at Attachment C.
- face-to-face interviews of 20 of the larger funded NGOs provided by the Department. These interviews were structured but focussed on the issues of concern / relevance to the NGOs. These discussions were well attended and supported.
- five focus groups of smaller groups of NGOs, based in community services facilities across Canberra (Griffin Centre, Gorman House, Pearce Centre, ACT Sports House and the Environment Centre). Contacts and introductions were also arranged through the Department. These sessions were poorly attended although a variety of efforts were made to encourage attendance by smaller, more specialised NGOs (refer discussion below).
- written submissions from and group interviews with nine key peak bodies. The original project plan provided for written submission from Peak bodies, but this was altered to a joint and well supported meeting at their request.
- presentation of a summary of the initial input from NGOs (Refer Attachment B) to Agencies and development of both responses to the comments on administrative burdens and suggestions made by the NGOs and any other issues that Agencies believe should be considered in the review.

Detailed notes were kept of each interview and participants were advised that their specific comments would not be passed on to Agencies without prior permission. Whilst some were happy for their comments to be identified, most appreciated the opportunity to discuss their issues anonymously. Later discussions with Agencies confirmed that most of the issues had been raised with some of them by some NGOs – the descriptions were not a surprise.

This process gains a relatively broad range of input quickly, helps ensure that the analysis and recommendations are both extensive and balanced and allows the consultant to focus on providing practical recommendations that have a high probability of both being implemented and of providing effective administrative relief when they are available.

At the outset and during each interview, participants were reminded that the focus of the review is on “any areas of unnecessary compliance burden that may be modified, reduced or removed to assist the efficiency and viability of the non-profit sector in the ACT”. The focus is not on funding itself, but on the broad range of regulations, etc that impact on an NGO’s delivery of services.

The issues set out in Attachment B summarise participants’ responses, and their perceived priorities. Generally, issues have been summarised from similar comments from a number of NGOs as contained in the interview notes referred to above. Overall, the responses and priorities were consistent.

## **2.5 Recommendations**

The review was to recommend modification, reduction or removal of areas of administrative burden that will assist the efficiency, viability and sustainability of the non-profit sector in the ACT, whilst maintaining appropriate levels of governance, accountability and risk management.

Based on the comments above, the recommendations discussed in the next Section suggest improvements in the areas of:

- improving support for small organisations
- considering the impact of multiple agreements and grants
- considering the size and complexity of funding arrangements

- enhancing understanding and communication
- reviewing reporting.

These recommendations are aimed at improving the day-to-day interaction, administrative processes and the level of understanding of roles of both Agencies and NGOs. As a consequence, the suggested changes will help to:

- reduce the level of detailed process needed to demonstrate appropriate use of public funds
- ensure that documentation, including grant applications, tenders, contracts, reporting and acquittal processes are meaningful and well understood by both Agencies and NGOs.
- provide better quality information to support Government's policy making and thus
- improve accountability.

This will be done by providing:

- 1 common understanding of what is needed and why
- 2 support structures to minimise the cost in time and commitment
- 3 support to ensure the process is useful and used by both parties

improved governance opportunities for NGOs and balanced oversight by Agencies.

## 3 Findings and Recommendations

### 3.1 Regulation vs administrative burden

#### 3.1.1 The underlying burden

The NGOs consulted generally do not look at their relationship with Government in terms of regulation, process, reporting etc, but in terms of the impact of the relationship on them and their capacity to support clients. They appeared to be driven by quite different imperatives than government or the commercial private sector.

A combination of these different drivers and perception of purpose and a strong focus on delivering services with limited resources (money, people, time, etc) results in the focus of burden being clearly on the things that stop them spending time where it counts to them – with their clients. Responses from Government Agencies and research of other documents dealing with similar issues confirm this.

It is because of this different focus that the more obvious candidates for “Red Tape” – regulations – are either seen as necessary (eg help to put in place rules that make known risks easier to deal with – like child protection) or are not seen at all until an event from outside requires action.

This arises from three quarters:

- regulation is a burden in times of change, e.g., set up, when changing structure, expanding, etc. The ACT Review of Business Regulation in 2002 (refer Attachment C) confirms that the business community generally had seen a significant improvement between 1995 and 2002. For NGOs with an existing infrastructure that supports efficient processes, these requirements are largely not seen as burdens.
- for small NGOs not regularly exposed to regulations, the issue is one of lack of knowledge and resources. They are only able to respond to what they are aware of. A regulation that is not front-of mind is less likely to be recognised, and thus is not a burden until it is brought to their attention.
- NGOs allocate a substantial amount of unpaid and unfunded resource to the perpetual processes involved in seeking, applying for, reporting on and acquitting funding. The processes involved often intrude directly into the provision of core services and are generally not funded.

Comments by the NGOs interviewed were consistent with the 2002 Review of ACT Business Regulation (Attachment D) which found that there had been a maturing of the regulatory framework and the business community since the previous review in 1995. In particular, the perception of burden had changed from “concerns about the sheer volume of regulation to a focus on:

- The accessibility of information about regulatory instruments and associated administrative requirements
- The quality of regulatory instruments and associated administrative arrangements
- The consistency and equity of enforcement of existing regulatory instruments”.

Morgan and Disney make the comment (Attachment C) “It is our assessment that actual red tape is less than perceived red tape, and that many of the issues raised as examples of red tape, are in fact about relationships, program management practices, and capacity of government Agencies, ICCs and funded organisations”. This review has confirmed this view.

This focus by NGOs also reinforces the observation by a number of Agencies that the core issue with NGOs lies within the area of improving communication and relationships with Government.

The NGOs themselves reinforced the issue in comments that refer to their need to be included in helping solve issues for clients. They relate the need for inclusion to the concept of partnership and a sense of trust in each other.

### 3.1.2 NGO comments

Funding and reporting-related administration have been the overall focus most commonly raised by NGOs in this review. These functions create a considerable amount of work, often involving duplication of effort and multiple, similar, but not identical, reports. The burden here is created by a mixture of cost, use of limited resources and allocation of substantial management time. Funding also generally does not provide adequate, or in many cases any, coverage for the substantial costs involved in these support processes.

Other regulatory requirements such as structure, tax implications, OH&S, child protection etc, are not considered as having anywhere near the same impact or burden, but for differing reasons as explained by the NGOs and summarised below.

- For larger NGOs, complexity of reporting, multiple entries/requests, poor feedback and a sense of misunderstanding or exclusion from some decisions about individual clients or, more broadly, poor communication between the NGO and Agency, are the most pressing issues as they relate to funding and the extensive work involved in managing the acquisition and use of funds.

Other regulatory processes for larger NGOs generally are not seen as a hindrance, but as a guide to minimum standards or best practice. The NGOs often believe they have broader, more tightly controlled standards in place for the key regulatory items (eg workplace safety; child protection; police checks; charitable collections; etc).

There are specific issues with individual regulations which may be seen as "out-of-touch" or impractical, but overall they are not high in the NGOs' perception of administrative burden.

- Medium sized NGOs that have not been able to develop effective infrastructures find the overall burden of seeking funding, reporting and acquittal, as well as more specific regulatory compliance, more difficult. For these NGOs the problem is not their belief that regulation is necessary, but their capacity to create the administrative functions to ensure compliance.
- For smaller NGOs the issues relating to funding revolve around cost of applying, difficulty in understanding "jargon" etc. For all NGOs the administrative cost of applying for small grants is becoming increasingly prohibitive.

For smaller NGOs the principal non-funding issues are lack of awareness of many regulations and a lack of infrastructure to identify regulatory requirements or to comply formally – they often just do not know. One outflow from this is the much greater likelihood that small NGOs based on volunteer input did not see the need or benefit in attending interview sessions or lacked the (paid or volunteer) capacity to do so.

### 3.1.3 Agency responses

The response of Agencies to the issues raised was both general and positive acceptance of what was said by NGOs and a recognition that the principal underlying issue in their view relates to the need for improved communication and relationships at a number of levels. Issues raised include:

- the consequences of high staff turnover on both Agencies and NGOs
- a recognition that the reporting burden on both NGOs and Agencies is high, but that there is a need for improved understanding by NGOs of the need for much of this information by Government and coordination to minimise the cost and burden of reporting and subsequent analysis for both NGO and Agencies

- some Agencies have been more successful than others in streamlining the funding and relationship aspects of their work with NGOs. This may in part be due to the nature of the relationships involved and the absence of complex health and well-being related issues.
- there is a recognition that a centralised approach to process creates increased burden on smaller NGOs and smaller grants, but to some extent this has been a natural consequence of streamlining processes (eg through a more centralised coordination unit created within the Department for NGOs funded through that Department)
- greater involvement and concentration on the detail at the start of a funding agreement/grant will help to minimise misunderstandings, improve common understanding about administrative requirements and their purpose, etc.

These overall findings suggest that a number of actions can be taken at an administrative level to ease the administrative burden on NGOs in the ACT without the immediate need for major legislative or core regulatory change. There is also recognition on both sides that action is being taken in a variety of areas already to monitor and alleviate administrative burden.

### 3.1.4 Analysis and recommendations

Within these broad findings, a more detailed analysis and recommendations follow and are structured as:

- Support for small NGOs
- Impact of multiple agreements and grants
- Impact of size and complexity of funding arrangements
- Multiple demands for corporate information
- Understanding and communication as a support mechanism
- Reporting

## 3.2 Improve support for small NGOs

Although not part of the original project scope, the Department sought the consultant's views on how some of the issues raised in this report might be addressed through improved business models for smaller NGOs and the impact that this might have on the level of administrative burden. In other words, the consultants were asked whether improved capacity or structure within smaller NGOs is likely to lead to better outcomes and an increased capacity to cope with regulation.

### 3.2.1 The Issue

There have been a number of specific projects aimed at improving NGO governance and capacity, both within the ACT and interstate. For example:

- requirements for the development of Risk Management Plans for all funded bodies
- provision of a governance manual for NGOs
- governance requirements attached to funding approvals
- compulsory information sessions when accepting a grant.

Especially in NGOs that have a significant voluntary base, the review found that capacity tends to be developed to suit the specific needs at the time. The NGO generally has inadequate funding, resources and time to do any more. NGOs do what has to be done.

On the other hand, there are examples of seemingly excessive regulation leading to disruption in individual NGOs, withdrawal from activities or even cessation of operations. For example:

1. police checks being rejected by potential older volunteers
2. community organisations not applying for grants because:
  - the cost to the NGO of applying in terms of the time required or administrative costs is seen as not worthwhile given the potential grant income
  - the presence of inadequate resources to prepare and submit the bid
  - poor knowledge of what is expected in the bid for funds
3. NGOs not seeking out or addressing regulatory requirements unless there is an immediate need or outside pressure

Additional requirements for funding or regulation may exacerbate these issues. For example:

- requiring ethical supplier's statements or risk management assessments from NGOs who do not have in place the capacity to prepare these but are quite likely to have sufficient structure to effectively manage their own limited activities
- long, complex forms designed to lead applicants through the process of completion and to inform applicants about what is required if the NGO does not understand what is being asked for in the form (eg through the use of jargon and unfamiliar words, structures, etc)

### 3.2.2 Potential areas for improvement

How then should Government help to improve small NGOs' ability to manage themselves within their capacities and to recognise and deal with emerging issues as well as encourage improved:

- planning
- governance (suited to the NGOs risk and scope of activity)
- capacity and flexibility
- decision making?

The suite of recommendations in this paper is designed to encourage improved governance, through:

- simplified grant applications
- centralised accreditation processes
- reporting which fits the need and is well documented and explained
- development of more sustainable relationships and exchange of information with Government
- more flexible timing around the core pressure times of year.

However, improving NGO governance and capacity is a complex issue that involves development at a number of levels, longer-term commitment from both the NGO and Government and ongoing active support.

While a development model for improving NGO governance is beyond the scope of this Report, the final recommendation below addresses specific administrative aspects that can support improvement in NGO capacity. There are a number of additional actions Government can take which will address some key "red tape" issues while helping NGOs progress along the path of improved governance and capacity:

Government could consider the urgent development of a simple, step by step set of regulatory guidelines for small NGOs, categorised by type of NGO

- The guidelines should be in the form of a simple checklist of regulatory requirements, links to more detailed information and support and sample forms where appropriate. This could be in the form of a simply accessed electronic data base.
- The checklist should concentrate on helping NGOs to determine what regulations they must comply with and where to access these. The links should then be maintained by the individual regulatory bodies with a specific page developed specially for small NGOs and tested for its applicability.
- Such a service should assist in reducing NGOs' issues with recognition, response, and compliance with regulations and encourage positive voluntary compliance.

It is recognised that recommendations three and four below would require a greater level of policy change than most other recommendations in this paper. However, it is important to address both issues if the overall burden on small, creative and strongly community-based NGOs is to be reduced and the NGOs are to provide effective support for the implementation of government policy.

The process of allocating a single primary contact point by Government for service funding agreements is already in place. However, so far as existing Government policy is concerned, grants are different in that they are individual, competitively allocated grants that in theory Government does not then manage through an ongoing relationship with the NGO.

However, where an NGO is regularly receiving funding through grants, from one or a number of agencies, there is in fact a relationship with Government. This research suggests there would be a benefit, for both Government and the NGO, if the "relationship" were recognised and managed through the allocation of a single primary contact point, just as occurs with the existing multi-year service funding agreements.

If Government is unable to support these two recommendations directly, alternate paths will need to be found if the overall aim is to be achieved.

## Recommendations

1. Enhance the knowledge of regulatory requirements through the development of a database containing the title of each legislative or regulatory requirement, its principal purpose and when it may apply to the NGO.
2. Investigate and develop practical guidelines and documentation such as simple flow charts and checklists to support adherence to regulatory requirements.
3. Consider a program of support for improving governance that is outside the core grant / service funding arrangements.
4. Consider creating a principal contact agency for NGOs that are in receipt of regular grants or grants from a number of agencies. This contact point would be the relationship manager if a service funding agreement exists for the NGO.

### 3.3 Consider the impact of multiple agreements and grants

Many NGOs obtain funding from a number of Agencies and programs, either as a Service Funding Agreements or as grants, and often for the same clients or closely related projects.

Inconsistent requirements for applications, reporting or acquittal cause considerable cost that is not accounted for within the funding obtained for projects. Areas of inconsistency include governance requirements, risk management undertakings and even simple reporting (e.g. financial reporting, acquittal of funds).

Grant application processes inappropriate to the level of funding, the complexity of the project, multiple sources of funding, etc create considerable additional cost. Issues include readability of the application. Application structures can also include repetitive selection criteria designed for ease of comparison rather than ease of application.

These issues are aggravated by planning and development limitations within NGOs, an area of cost which is not generally supported by funding bodies. This increases the pressure on NGO staff, often voluntary contributors, and limits the capacity of the NGO to frame projects fully, participate in the set-up and reporting process, and achieve planned outcomes.

Support is being provided in specific areas (e.g. the Australian Capital Territory Insurance Authority in framing risk management profiles), but this support is still highly focussed and tends to be project based, rather than business based.

There is, in many cases, poor infrastructure within NGOs to support the cost and resource allocation needed for applications, submission and project delivery. This aggravates the pressure and limitations on NGOs that rely on continuing sources of new project funding for survival of their core services to the community. An alternative argument is sometimes made that NGOs with infrastructure supported by government funding have an advantage over commercial competitors for similar work. However, these NGOs do not have access to capital and alternate sources of funding similar to that enjoyed by commercial enterprises. They generally participate in fields or projects that are unlikely to be sought by commercial competitors.

#### 3.3.1 The agency perspective

Agencies see a marked difference between the service funding agreements supported by Procurement Solutions (generally multiyear funding that may incorporate options for rollover of agreement following review) and the generally single year grants. The latter are subject to some increasing coordination within Agencies, albeit with considerable reporting and acquittal commitments attached.

These two fundamental sources of funding are subject to quite different regulatory underpinning, audit requirements, reporting needs, etc.

Agencies also see reporting for the two funding sources quite differently, with Service Funding Agreements more likely to include substantial data gathering in the form of reports. This data is often the base for informing policy development as well as service delivery output and outcomes reporting and accounting for the allocated funds. Both Service Funding Agreements and grants are also subject to significant scrutiny by the Auditor General to ensure proper documentation of the care of public funds.

#### 3.3.2 The NGO perspective

NGOs on the other hand do not attach the same significance to the differences between Service Funding Agreements and grants that Agencies and Government understand. To NGOs funding is much the same, regardless of its source. Multi-year funding is preferred, to reduce volatility and the cost of raising funds, but their focus is more on the potential impact of the funding arrangements on service delivery and sustainability of the service. They also see reporting for both types of funding as part of the regulatory task of the agency managing the funding agreement.

A program delivered by an NGO can involve a combination of ACT Service Funding Agreements, grants, interstate funding, Commonwealth funding, private sector funding and cash flow from semi-commercial supporting activities. Charitable fund raising activities and the mix of sources create complexity, especially when a variety of application processes, documentation, reporting and acquittal is involved.

These processes generally do not take account of the likelihood that funds have been obtained from multiple sources even though this distribution of sources may have been encouraged at the time of application. In addition, all the parties involved may assume that theirs is the only documentation involved.

### 3.3.3 Potential solutions

Whilst the centralisation of Service Funding Agreements within specific agencies to date is providing some benefits in process, NGOs are experiencing a reduction in the level of understanding of their particular position and circumstances in the case of Procurement Solutions and little perceived streamlining to date from the Grants Portal. Process centralisation within Agencies, or more broadly in Government that is focused on the source of funding and the regulation of that source also provides quite limited relief from the NGOs perspective, this is especially the case where the NGO is involved in multiple funding and reporting arrangements.

In comparing Commonwealth and ACT funding arrangements, there was a relatively common view that the Commonwealth is significantly more prescriptive and process-oriented, whilst the ACT is more flexible, but shows a significant degree of role confusion. This last comment seems to relate to the issue of dual roles referred to earlier (both provider of services and funding body for NGOs providing similar services).

## Recommendation

5. Produce a single set of policies covering both Service Funding Agreements and grants that relate the level of documentation required for grant applications, funding agreements, reporting and acquittal to the level of risk to Government inherent in each transaction.

## 3.4 Consider the size and complexity of funding arrangements

### 3.4.1 Unnecessary complexity not commensurate with size, risk or financial value of activities

The documentation and processes involved with smaller grant applications and the subsequent documentation is seen as a significant barrier to seeking funding. Both larger and small NGOs expressed the view that the process had stopped them from applying for smaller grants. For example, complex application structures, use of language the NGO staff or volunteers are not used to and complex, formal selection criteria that the NGO finds difficult to respond to add significant cost and burden to an NGO applying for a small grant.

One peak body has estimated that a \$6,000 grant costs over \$3,000 to apply for, accept, document and acquit – money that grants do not provide to the NGO.

Discussions with NGOs indicate that a cut-off of \$10,000 in total funding and project plans containing less than three activities might provide a reasonable basis for requiring a more simplified application and documentation process. This limit is based on the fact that:

- grant costs start to reduce below a third, making the financial structure more practical for the NGO where the application is for a grant / contract above \$10,000
- at \$10,000, the financial risk to Government from an incomplete project or poor outcome starts to become significant enough to provide for more detailed control and reporting
- even over \$10,000 (for example, for the purchase and distribution of a single high volume brochure for distribution through a proven channel, or the purchase of a small number of

commercially available items for a group of clients) the risk to Government of poor administration of the grant / contract or the non-delivery of agreed outcomes as a result of simplified applications, agreements, contract etc will be minimal.

The regular provision of similar but not identical information about the NGO to each body it applies to is also a considerable burden.

The level of documentation for grant applications, reporting and acquittal of government funds should directly reflect the level of risk to Government inherent in the specific transaction while complying with relevant legislation and administrative processes.

Simple grants of low value and low risk to accredited NGOs could be reflected in a simplified grant agreement, requiring less onerous reporting requirements. More complex programs involving multi-year funding and multiple activities could be subject to more detailed application structures detailing the justification for the project and work plan, as well as six-monthly reporting, focussed on achievement of outcomes for the project.

## Recommendation

6. Review and simplify applications, approval, reporting and acquittal processes for grant activities of low value and low risk

## 3.5 Reduce multiple demands for corporate information

### 3.5.1 Duplication of the same or similar requirements

This is seen particularly as a burden where applications, documentation or reporting requires similar, but necessarily the same information about the organisations, eg financial documentation, insurance details, information about strategies, activities etc.

The issue is particularly important for organisations that are required to report of the services provided to individuals with specific and complex needs. Funding for the support of these individuals also often comes from multiple sources that may cover more than one ACT agency, the Commonwealth and NSW governments.

Timing of reporting requirements aggravates the impact of this burden (refer 3.2.6 below).

The issues raised in the Australian Institute of Health and Welfare (AIHW) 2006 *Cutting the red tape: preliminary paper*, detailing the problem of multiple entry and reporting by service providers were also strongly expressed by participants in this review. Even those with their own IT-based information systems often have to transpose information from their system manually into a variety of reporting formats for funding bodies. No further recommendations on this issue are included in this review as they are being addressed at a national level.

NGOs also expressed concern about the poor feedback from Agencies about reports once submitted.

Some progress has been recognised, e.g. the structural changes in contracts involving HACC funding to have a single contract with multiple schedules. Some Agencies such as Arts ACT, where there was little representation amongst the interviews, have indicated extensive work in simplifying the grant and reporting process.

### 3.5.2 Submission of corporate data

Multiple requirements by Agencies for corporate details (financial and governance data, risk management assessments, insurance details, etc), impose considerable administrative burden on NGOs. Agencies also bear an administrative burden, due to the need for each Agency or section to assess, file and respond to information provided.

Government should consider investigating options to provide a single point of collection and approval for each NGO, including:

- NGOs funded by Government to provide details of their financial, risk management, insurance and governance compliance once each year and have this accessed, with their permission, by all funding bodies
- the extent of this information to be directly related to the maximum risk (financial, operational or personal) inherent in the organisation's overall operations, rather than the exposure of government to any single funding agreement
- the recognition to apply to the provision of funding by Government for whatever purpose to the NGO and could be administered centrally for the whole of government or held by the Agency holding the principal relationship with the NGO
- funding of this single point accreditation process to be achieved through savings made across the agency system in individually collecting, vetting, storing and responding to individual accreditation information from NGOs
- the accreditation process to clarify the delegation policy of the NGO and the authority of Chairs, Boards or Officers of the NGO to sign documents on behalf of the organisation.

The capacity for change is inhibited by existing procurement legislation and historical grant arrangements. However, the potential savings to both agencies and NGOs are considerable and should be reviewed with the aims of:

- reducing duplication
- improving consistency
- ensuring that only information required and subsequently used is collected
- minimising administrative requirements, within the need to ensure proper utilisation of public funds.

Whilst recognising the differing policy considerations behind the allocation of Service Funding Agreements and grants from the government point of view, these differences are not as important from a practical point of view to NGOs.

Whilst acknowledging that the administrative and other grants portals and service funding agreements will remain separate within government, there is a need for the conditions and process applied to NGOs to be reviewed and where possible made consistent, within the need to reduce the compliance cost where possible, rather than taking the path of increasing administrative certainty where this does not adequately account for risk, etc.

## Recommendation

7. Investigate a single point of collection and assessment by Government of core business data (eg financial, governance, risk management) relating to each NGO. It is suggested this be provided once each year by each NGO to a central location at an agreed time.

## 3.6 Enhance understanding and communication

### 3.6.1 Service Funding Agreements

The issue of trust was raised by a number of NGOs involved with Service Funding Agreements. This appeared to relate to a sense of inadequate understanding and clarity of roles and a sense of poor inclusion by government, specifically in the assessment of individual client needs. This appeared to particularly relate to the circumstances where the Agency with which the NGO has the contract operates as both funding body and direct provider of services to individual clients with complex needs. NGOs feel that their experience and their relationship with clients is not properly understood or used by the Agencies. This seems inconsistent with the Agencies' stated objective of operating in a partnership with NGOs.

Our response to this issue is that the solution lies in the area of improving communication and the value of the relationship to both parties. NGOs are trying to define their view of what a “partnership” with the Government entails.

As identified by participating Agencies, the fundamental issue brought to light by this review has been the need for improved effort in the development of effective communication and relationships on both sides.

High staff turnover, constantly changing reporting requirements and the policy imperatives requiring constant improvements in data quality that is reliant on NGO support and collection dictate a concerted effort to improve the quality of the core relationship between Agencies and NGOs.

Agencies involved with NGOs delivering ongoing multi-year services on behalf of Government should review the nature and effectiveness of current relationship to address:

- *Separation of roles:* If the Agency provides both direct services to clients and funding to NGOs that also service those clients, there should be clear, documented and communicated segmentation of roles with the agency. There should also be feedback mechanisms for the NGO to raise any perceived issues over the roles.
- *Clarity of roles:* Once roles are clearly delineated and agreed, communication with the NGO should reflect these distinctions. The roles should also be consistent as between NGOs and agency staff with proper training and the effectiveness of delineations monitored.
- *Communication:* NGOs involved in multi-year service delivery for Agencies should each have a simple, agreed communication strategy that clearly specifies how the agency and NGO will communicate and when. This plan can be simple, but needs to provide a single point of contact at both ends, a regular program of contact and a commitment to feedback in a timely fashion. A specific opportunity for clarification of reporting issues and concerns needs to be included.

Some agreements contain these commitments, but to many NGOs it seems that the arrangements are not effective or not in place for their area. There is also a recognition that the effectiveness of the process from an NGO point of view is highly dependant on the program manager within the Agency.

## Recommendations

8. Develop a communication strategy for funding relationships. This may include identifying an agency relationship manager for each NGO with service funding agreements, to provide the agency's primary point of contact with the NGO regarding program issues.
9. Provide shared professional development opportunities across sectors.
10. Develop mechanisms to clearly delineate the agency role where there exists funding and delivery of services to the community.

### 3.6.2 Grants

There is also evidence within the NGO sector that there is a need for the development of effective ongoing relationships between government and the smaller NGOs that rely on single year grants rather than service funding agreements for support.

- Although there is no commitment from government to continue funding, many NGOs in practise receive funding over some years, from one or a combination of agencies. The community issues supported by the NGO are often also clearly of importance to Government

- Effective delivery of grants requires good governance and adequate infrastructure, just as is needed with service funding agreements. Government thus needs to have processes in place to ensure that its interests and values are present in the funded bodies, keeping in mind the need to view reporting etc against the level of grants and associated risks involved.

## Recommendation

11. Institute a program to clarify and communicate the purpose of each piece of information required by agencies. This is to ensure that the agency and NGO both make effective use of the information being supplied to the agency. It will also minimise duplication and maximise consistency of requests for information across agencies.

## 3.7 Review reporting

### 3.7.1 Use and understanding

Reporting instructions and guidelines could usefully include details of the purpose and uses of the information being supplied, any feedback commitments by Government and the purpose of deadlines. In particular, reporting formats should indicate the use to which the information will be put eg reporting to Government, audit confirmation of use of funds, policy development and monitoring, performance assessment of the NGO.

This information should be supplied each time reports are requested, to cover the lack of corporate history resulting from staff turnover in NGOs.

Reporting pro-formas should be reviewed with NGOs to confirm the quality, integrity and usefulness of the information being supplied for both parties.

Agencies should commit to confirming receipt of all reports and to providing at least brief verbal feedback within a set time eg two weeks

### 3.7.2 Timing

Report timing should be reviewed to spread the reporting load away from crucial times for both NGOs and Government. In particular Agencies should review the need for information to be supplied in July and January and the appropriate timing for reports that are dependant on customer, auditor or other external party confirmation.

July is a major reporting period and common financial balance date. A great deal of time is spent on financial reporting, auditing, Annual Meetings etc, and heavy program reporting at this time places immense pressure on limited resources. Pressure for leave both within NGOs and in Agencies with which they deal in January create a similar drain on available resources to comply with often urgent reporting requirements, whilst maintaining client services.

In many cases, extension of deadlines until financial data has been audited or at least into February / August would ease the bulk of the strain.

At the other end, common reporting deadlines for the same or similar information requirements across Agencies makes good sense, but to take the next step of requiring all reporting at the one time maximises the strain on the NGOs.

This timing issue reinforces the need for improved cooperation between Agencies to coordinate requests for information and to work with regulation and policy information needs to spread the load of data collection across time where possible.

## Recommendation

12. Review report timing and content and develop an agreed program of reporting with NGOs, with the aim of minimising reporting due dates in July and January.

### 3.8 Additional comments on regulation

The earlier sections of this report address the issues seen by NGOs as burdens in more detail, but following are brief comments on responses to the core administrative areas not otherwise covered in this report.

#### 3.8.1 Accountability requirements

Except for the reporting and funding-related requirements discussed earlier, broad accountability requirements did not rate highly in concerns expressed by NGOs.

Generally this was either because the issues had been addressed through structural solutions developed by the larger NGOs that are now part of the way the business is run, or are unknown to many smaller NGOs unless an organisation has had a negative experience with the individual issue following a specific event.

Morgan and Disney (Refer Attachment C) observed that "all organisations accepted that accountability and transparency around the use and benefit from grants funds was important and entirely reasonable. What they dispute is whether much of what is currently required actually assist governments or their governing bodies to manage risk, to assess what outcomes are being achieved, and therefore to account well...".

The comments from participants in the current review strongly reflect similar perceptions, reinforcing the perception that the underlying path to improved levels of administrative cost lies in improved communication and relationships.

#### 3.8.2 Registration and incorporation

This is an issue that rises in importance when an organisation commences or goes through voluntary or imposed structural change. However, it was not raised as an important ongoing issue by any of the organisations interviewed.

Whilst the best incorporation path and the financial and regulatory consequences are both complex and difficult to assess, this issue impacts only in minor ways on the day-to-day operations of the NGOs.

#### 3.8.3 Regulatory compliance costs

This area is one where there is a marked difference in impact and reaction from larger and small NGOs, in relation to the structural complexity, level of specialised expertise available and the relative impact of permanent staff versus volunteers or voluntary contribution by members.

- Larger organisations that have multi-year funding arrangements, stable income and provide services on behalf of government tend to have relatively more extensive infrastructure and the systems in place to ensure compliance with regulatory requirements such as OH&S, child protection, food handling etc.

In many cases that NGOs responded that they see the regulatory requirements as a minimum standard and in a number of areas they try to achieve higher standards than these through quality accreditation etc. Overall they do not regard the compliance costs as a burden, but as a necessary overhead that they are happy to comply with.

Only one NGO with significant multi-year funding expressed concerns about this area of cost. In this case the organisation did not appear to have a well developed infrastructure, was focussed entirely on a number of discrete funded activities that were each relatively smaller and thus found compliance more difficult. It may lack the governance and structural integrity of the other larger funded bodies.

An example of ad hoc regulatory issues even for larger NGOs is illustrated by the regulations relating to leasing and/or purchase of premises. This activity occurs infrequently for any NGO, but the need to obtain premises places a large cost and burden on an organisation for which there is no prior experience. There is no capacity in most NGOs to deal with the regulations and process involved. On the other hand,

obtaining professional assistance is difficult and costly, especially where external funding to support the move and internal resources are both limited.

- Regulatory compliance is a major, but largely hidden issue amongst smaller, more tightly focussed NGOs. The problem in this area is lack of exposure to many regulatory requirements. Unless the issue has been raised externally by an event that has impacted on the NGO, through word-of-mouth transmission of someone else's problem or the presence of a board member with prior experience of an event, these NGOs do not know and so may comply superficially or be unaware of the need to comply with entire regulations.

This lack of knowledge of issues is one of a number of reasons likely to be behind the difficulty in reaching these NGOs, their limited participation in this and other reviews and their poor involvement in training and information sessions.

### 3.8.4 Regulation of fundraising and expenditure activities

Larger NGOs have the systems and professional staff to comply with regulations in this area as a matter of course. Their issues are more with the proliferation of similar but not identical information requirements referred to earlier, timing confusion etc. Whether it be the *Charitable Collections Act*, or GST and tax-related regulations, the core systems cover the regulation need.

Small NGOs again suffer from poor knowledge of many requirements. Turnover of staff and volunteers aggravate the knowledge vacuum, e.g. where current board members do not recall the setting up of the *Charitable Collections Act*, have no experience of the need for food related licenses for some fund-raising activities, are unsure of obligations where there is occasional contact with children (eg Embroidery Guild volunteers sewing on buttons at a public event), the consequences of mandatory reporting obligations and the need for police checks etc.

The *Charitable Collections Act* raised some limited comment at the time of interviews, but generally only where this was mentioned by the interviewer. Developments after the interviews illustrate the issue. An email was broadcast from the responsible Department to all NGOs that were originally registered under the Act advising them that compliance would be enforced retrospectively before the end of 2007.

### 3.8.5 Range of legal entities

The review was asked to examine the range of legal entities and other structures under which NGOs may operate, and identify any inconsistencies in the application of definitions where entitlements such as tax concessions, land grants and other benefits are available.

Most NGOs interviewed are Incorporated Associations or are subsidiary branches or organisations for larger national bodies.

None of those interviewed indicated that the core legal or other structures under which they operate create administrative burden, or at least any ongoing burden. This appears to be the consequence of a settled environment following any initial difficulties experienced in determining the most appropriate structure. Subsequent issues are only likely to arise if changes are made to the structure, environment or regulations.

In the absence of any indication from NGOs that the legal structures are creating ongoing burden, a comparison of various possible structures was not undertaken.

### 3.8.6 Engagement of volunteer staff, including police clearance checks

Larger NGOs that are regularly involved with the public do not see this as a substantial task, except that police checks are an expensive burden with limited practical value from the NGO's point of view.

Larger organisations, especially those involved in the care and protection of people with specific needs (eg children, elderly, people with disabilities) also feel that police checks are a very rough

tool and they need better, more extensive and focussed ways to assess suitability of volunteers and staff.

Issues with volunteers relate more broadly to the difficulty of reaching the right people, retaining volunteers once they start to help the NGO and managing their activities effectively.

Organisations that rely heavily on volunteers find police checks a large financial burden and express a fear that many good quality volunteers, especially older people, are lost directly because of their personal fears about police checks (with nothing to do with their personal history). Cost can be prohibitive if the activity itself is largely on a volunteer basis with small or no income available to cover costs.

### 3.8.7 Insurance requirements

Some smaller, more specialised NGOs have ceased operations altogether or withdrawn from some specific activities as a direct result of insurance issues.

These issues relate to

- availability of insurance, or perceived difficulty in arranging it
- cost, especially if required for a very occasional event (eg once a year public function)
- levels of insurance required by Government that the NGO does not understand or cannot be covered by the NGO's income or the level of grants provided
- fear about the liability consequences and whether or not the NGO has all the insurance it actually needs.

## 4. Conclusion

The NGOs consulted generally do not look at their relationship with Government in terms of regulation, process, reporting etc, but in terms of the broad impact of the relationship with Government on the organisation and the capacity of staff to support clients.

Overall, the review found that the administrative and regulatory requirements that create the greatest burden revolve around funding and the subsequent reporting to administrative Agencies. NGOs allocate a substantial portion of unfunded, often unpaid time and effort to seek, use and acquit funds from Government.

The anticipated regulatory aspects of registration, incorporation, taxation etc., whilst involving considerable work and resource, are accepted as necessary or, in the case of smaller NGOs, are dealt with when they become visible and the NGO perceives a need to respond to them.

The review also found that there is a lack of knowledge about regulations that arise infrequently or seem extraneous to an NGO's core relationship with its clients. This can result in significant issues, both in terms of administrative burden and disruption, particularly for smaller NGOs.

# Attachment A Project Plan

## Revised Project Plan at 31 July 2007

Stage	Task	Days to be worked	Weeks	Dates
1. Project initiation	• preliminary briefing with Project Management Group	2	1	9 – 13 July
	• confirm consultation strategy and obtain list of key contacts			
	• finalise methodology, work plan and timetable in discussion with Project Management Group			
	• identify stakeholders			
	• develop structured interview format and review with Project Management Group			
	• set fortnightly meeting times with Project Management Group			
<b>Deliverables: finalised project plan, consultation strategy, stakeholders, interview format and meeting times</b>				
2. Stakeholder Consultation	• desk research to confirm scope of Non-Profit organisation activities and relationships with Government (.5 day)	15	2-10	16 July – 14 September
	• literature review and write up of key documents referred by DHCS (2 days)			
	• develop and discuss approach and structure for one on one interviews and focus groups with Project Management Group (.5 day)			
	• interview the 20 top-funded ACT bodies to see and report on stakeholder views on the administrative and regulatory requirements imposed by the Territory on the Non-Profit sector. Approximately 2.25 hours has been allowed for each structured interview and summary write up. (6.5 days)			
	• facilitate and summarise outcomes from 5 x 2 hr stakeholder focus groups (based on the community and health services groups at Pearce and Griffin Centres, the Environmental groups at Chifley, the Arts Groups at the Gorman Centre and the Sports Groups at Hackett). We suggest these be held at a meeting room in the Centres to reduce time commitment by participants. (2.5 days)			
	• call for written submissions from peak bodies including phone calls to invite submissions, chasing up submissions, read, analyse and summarise responses (3 days)			
	• the interviews and focus groups will cover all the items listed in items 3.3 Scope of the RFT, as well as: <ul style="list-style-type: none"> <li>• agreeing and maintaining multiple service standards</li> <li>• impact of “paper compliance”</li> <li>• impact of red tape on other issues including</li> </ul>			

infrastructure and governance limitations

- we will also facilitate email responses from organisations unable to attend the interviews or focus groups

#### **Deliverables: verbal report to Project Management Group on outcomes of interviews and focus groups**

<b>3. Review and Analysis</b>	<ul style="list-style-type: none"> <li>• review and analyse feedback from all consultations</li> <li>• develop draft model of the current environment, including evidence of complexity, duplication and poor access</li> <li>• prepare high level summary of outcomes and develop draft recommendations to reduce areas of administrative burden</li> <li>• review preliminary findings with Project Management Group and then circulate issues paper to ACT Agencies</li> <li>• facilitate a 4 hour session with key government Agencies to summarise outcomes to date, obtain feedback on areas where administrative burden is essential, supported by regulatory / policy need or misunderstood, etc and seek views on ways to minimise the burden in a balanced way</li> </ul>	5	11-13	17 September – 5 October
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#### **Deliverables: draft recommendations and options for discussion**

<b>4. Draft Report</b>	<ul style="list-style-type: none"> <li>• draft a report based on the review findings</li> <li>• agree structure with Project Management Group so that the report to serve as a model for other Australian jurisdictions</li> <li>• circulate draft report on 15 October for review by Project Management Group</li> </ul>	4	14-16	8 October – 26 October
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#### **Deliverables: Draft report**

<b>5. Final Report</b>	<ul style="list-style-type: none"> <li>• workshop draft report with Project Management Group</li> <li>• finalise report incorporating all feedback by 23 November</li> <li>• provide PDF and word versions of report and 5 hard copies</li> </ul>	2	17-20	29 October – 23 November
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#### **Deliverables: Final report**

<b>Total</b>		<b>28</b>	<b>20</b>	<b>9 July – 23 November 2007</b>
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## Attachment B Summary of Issues Community Consultations

This outline sets out an initial summary of the key issues raised by NGOs during interviews grouped to distil the core of each issue into principal causes.

The outline is aimed at informing Agencies of what NGOs have said and to provide the basis for discussions about where practical improvements might be achieved whilst not significantly increasing risk to the government's key policy and administrative needs and objectives.

### 3.1 General findings

- Commonwealth Agencies (most commonly FaCSIA) are seen as having a clear idea of the relative roles of the Agency and NGOs, but are also seen as over-focused on process and detailed reporting of process outputs, rather than service outcomes.

Data collection is a greater issue for Commonwealth funded activities than for ACT supported contracts. The Commonwealth also tends to become pedantic – eg \$48.00 to be given back for a project with a small residual amount not acquitted.

- ACT Agencies were seen as more receptive and understanding of the NGOs' and clients' needs, but exhibit less clarity about relative roles – there is significant role confusion, especially related to funding support for individuals with complex and multiple needs.

NGOs consider there is not enough understanding of the environment in which community organisations work and the relationship itself. This is an area where a sense of inadequate understanding of the role played by NGOs and a perceived lack of trust were most commonly expressed. A number of organisations stated that the ACT Government talked of partnerships, but the actual delivery of the relationship exhibits limited trust between the government Agencies and providers.

The idea of collaboration is seen as very different – drawing ideas together (NGOs perception of what should happen) vs. commenting on already developed policies with limited time (seen by some NGOs as reality).

There are two distinct groups of NGOs:

1. Larger NGOs based on the provision of ongoing services and with significant internal infrastructure in place to support their operations
2. Smaller NGOs based on tightly focussed objectives, with limited resources and significant volunteer input, with a greater proportion of Government support in the form of competitive single year grants, or no Government support at all.

The key issues outlined below are attributed to larger and smaller groups wherever relevant.

Issue	Description
1	<p>For small and medium/specialised NGOs the greatest regulatory issue is lack of knowledge.</p> <p>Often the NGO does not know of its obligations, or if it has been told, as the corporate memory has gone with the exit of the person (often a volunteer) who was involved in initial discussions or with the last set of changes.</p> <p>Examples include changes to health and safety obligations, the need for food licenses, implications of child protection policies for NGOs that sometimes or incidentally come in contact with children, or where donations are sought occasionally or activities indirectly bring an NGO under the Charitable Collections Act.</p> <p>In other cases there is poor understanding of the need for some regulations and</p>

	therefore unlikely adherence to them. For example, "We sew on buttons occasionally for children, but then have to have a child protection policy – why?"
2	Police checks provide a specific area of difficulty, especially for largely volunteer sourced NGOs. Problems include cost and the potential impact on the continuing sourcing of volunteers.
3	Larger NGOs that have specific obligations anyway (eg with children at risk, people with disabilities etc) generally do not see the regulatory burden as an important issue, relative to the sourcing and reporting issues dealt with below. The view is that these regulations are necessary anyway, the regulations are seen as a minimum standard, and the NGOs have in place the infrastructure to deal with the consequences of the regulations.
4	Cross border differences in reporting are aggravated for NGOs dealing in both ACT and NSW. This can often occur with individual clients and situations. One NGO withdrew from community housing because of difficulties with cross border accreditation – the framework in ACT is stronger and reporting differences significant.
5	Situations in which Departments act as both provider of services direct to consumers and regulator / provider of funds for NGOs that deliver similar services can create difficult relationships and a perception of potential conflict of interest. This exacerbates the issue of trust referred to below.
6	For smaller NGOs issues such as public liability requirements, OHS regulations, child protection policies, police checks and health regulations become quite onerous when they are recognised, largely because of the high volunteer base, lack of infrastructure and infrequent exposure to individual regulations. Some commented that Raising the Standards has helped but does not solve the core problems.
7	<p>The <i>Charitable Collections Act</i> provides a specific area of difficulty, in terms of both its applicability and the value of reporting obligations associated with it.</p> <ul style="list-style-type: none"> <li>• NGOs question its purpose and value</li> <li>• The administrative cost is significant for little outcome</li> <li>• Many are not aware of the need and thus do not comply with the regulations.</li> </ul> <p>An immediate example of administrative burden in this area has arisen since the interviews. In late September the relevant Department sent out papers requiring compliance details for activities over the last three years, some three years after the legislation was put in place. This included a number of new forms to help NGOs comply.</p>
8	Leasing of buildings creates difficulties – the simple mechanics of lease contracts and minor new works create significant burden administratively. Involvement with ACTPLA and LDA is also seen as difficult. These issues arise rarely and there is no capacity in most NGOs to deal with the regulations and process involved.
9	Regulations are seen as lacking strategic structure and inadequately cover the consequential systemic effects. NGOs see many of them as being set up to address political or administrative needs or issues with the Commonwealth or ACT Government / Agencies. NGOs behave differently to other organisations.
10	NGOs commented that documentation is not appropriate to the size of grant, especially for smaller grants. Areas such as audit requirements, child protection policies, ethical supplier statements, charitable collections, insurance, complexity of grant documentation, etc all have an impact. For smaller grants some of this documentation is seen as "hitting a nail with a mallet". For example, a \$10,000 application was reduced to \$7,000 by the committee that reviewed it and the NGO was then required to attend an orientation meeting, despite being a regular recipient of similar grants over many years with stable staffing.

11	NGOs identified problems with multiple, similar but not identical, requests for comparable information, both about the NGO and in some cases about their individual clients. NGOs are happy to be accountable, but do not always see the benefit of providing the information they do provide, especially in reports. Some NGOs believe the Government does not value much of the information provided.
12	<p>Timing also creates problems, especially the tight deadlines for report and financial statements around January/February and July/August and the related poor level of feedback on reports etc. For example:</p> <ul style="list-style-type: none"> <li>• One NGO received no feedback on some extensive reports for 8 years, to then respond to detailed questions from the current year's returns.</li> <li>• Another has 13 days between close of books and the deadline for a complex report, or others where clients are required to sign acknowledgments within a two week timeframe.</li> </ul>
13	Programs supported by multiple contracts / grants from multiple sources (ACT, Commonwealth, NSW, Private sector) can end in complex juggling of resources, accounting and reporting, especially when each source wants different reporting structures. One organisation has 43 programs covering both ACT and part of NSW – some are multi-scheduled and some not.
14	The Program focus of Government can lead to poor coherence and difficulties in delivery by NGOs. NGOs can be caught by multiple processes, whilst not reporting on quality of delivery to the end client. To the NGO there seems to be little interface between Agencies at the program level. A mixture of monthly, three monthly, half yearly and annual reporting impacts on capacity at this grass roots level.
15	Cost of applying for funding from some sources now effectively excludes some smaller NGOs and encourages larger NGOs to limit their involvement in one-off small grants.
16	Lack of consistency between funding bodies (eg core requirements, level of comprehension by some NGOs of what is being asked, size and complexity of the application and assessment process, etc) and inconsistent governance requirements (eg Risk Management) adds significant time and seniority to the commitment needed by the NGO to complete and submit applications.
17	Cost is aggravated by poor readability – use of jargon and complex application formats for relatively simple and small grants. Structure is often difficult for community organisations to use, eg use of relatively repetitive selection criteria or policy-based descriptions that do not relate to the NGOs business (eg the need to address Ottawa Charter requirements for health promotion for a sports organisation application).
18	<p>NGOs' difficulties in effectively planning and developing infrastructure are aggravated by:</p> <ul style="list-style-type: none"> <li>• Difficulties in distinguishing the treatment of new initiatives, vs pilot programs vs sustainable services</li> <li>• Volatility of funding, especially where a significant portion of funding comes from single year grants. The burden of reporting, acquittal and applications is also relatively greater because of the lack of infrastructure support for these tasks.</li> </ul>
19	<p>To some NGOs there appear to be a lack of trust on the part of Agencies. This appears to be an issue in particular for NGOs providing partial services for individuals with complex needs. Relationship depends strongly on both quality and experience of project managers in the Departments.</p> <p>This seems to be focused in particular on relationships involving individual ISP's and results in inconsistencies over time, lack of involvement of NGOs that deliver the services in setting of funding and service levels etc. The Process is not culturally</p>

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	friendly and becomes costly. NGOs' are also concerned that fragile and vulnerable clients "are bombarded with paper" and the NGO then has to contend with the consequences.
20	NGOs pointed to staff turnover in Agencies and lack of history creating significant additional work in developing relationships, re-developing knowledge, explaining circumstances. This is aggravated by inadequate acceptance of existing knowledge outside Government and heightens a feeling that Government does not listen and does not trust NGOs that have been key and major providers for a considerable time.
21	Inadequate support for overhead and infrastructure adds cost, risk and pressure on NGOs. Many grants specifically exclude this type of funding. In particular there is no support for the effort involved in bidding for grants – NGOs often rely on volunteer effort with limited experience or knowledge of the policy-focussed documentation that supports the grant process.
22	Providing identical or similar information (eg risk management, financial, etc) to government about the NGO is both time consuming and costly. Accreditation of each NGO at one source was raised by NGOs as part of the answer. They considered that an NGO should only have to supply information to Government once and Government as a whole should then recognise the NGOs capability and history.
23	<p>NGOs do not see practical differences between the portal (for grants) and BASIS (for procurement and multi-year contracts). Some NGOs have started to see some benefit emerging from the single administrative grant and service funding unit within the Department (eg. single contracts with individual Agencies supported by multiple schedules), but also recognise the need for this process to be taken further</p> <p>However, to date the grants and service funding unit is seen to have a number of practical difficulties, including:</p> <ul style="list-style-type: none"><li>• Continuing need for multiple responses to same/similar requests</li><li>• Lack of understanding of individual contract components</li><li>• Apparently poor understanding between the contract oversight and responsible agency</li></ul>

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## Attachment C Document Review

### Purpose

This document review is part of the Review of Administrative Requirements of Non-Profit Organisations in the ACT. It is a focussed review of documents provided by the Department and any other relevant documents brought to light during discussions.

The purpose of the document review is to provide support and broader background to the issues raised by both stakeholders and Agencies during the project. With this purpose in mind, the Document Review focussed on clarifying and enhancing the issues developed from discussion with both NGOs and Agencies during the project

### Structure

For each document reviewed a summary of its purpose and content is followed by a summary of implications for the issues raised in discussions during the project.

### Commentary

#### ***Cutting the red tape – National Community Services Data Committee – November 2006***

This paper outlines in some detail the problems experienced by NGOs in collecting and reporting data, specifically for individual clients requiring support from multiple programs/governments.

The key recommendation from the report was for “investigation of the extent to which adoption of national data standards will actually reduce this burden and that resources be allocated” for the establishment of a Working Group comprising both “community services funding providers and service providers to investigate options for reducing data collection and reporting burden in community service provision”.

The research identified up to 13 different categories of care and support for the types of clients in the brief survey, from the health, welfare and housing categories of support. Sources of funding included the Commonwealth, State and Territory Governments, Local Government, the business sector and households.

In describing the processes involved for a client and the clusters of data collection, the report notes that “the complexity of presenting, underlying and/or undefined issues and the capacity of clients presenting to community services often results in clients only marginally entering into or completing case management”.

The report goes on to identify the underlying issues as lying “not so much in the differences between programs, but rather to each program that makes up a community services model requiring service personnel to record responses against variables *using separate, program provided data collection forms and/or software*”. “The extent of duplication of effort is considerable for both clients and service personnel”.

As two simple examples of the problem, one case study documented in the report notes that a client’s name “is recorded 14 times by the same case manager. We can also see that the client’s ‘name’ and cultural identity “are recorded, varies from form to form, that is, these variables are not standardised across programs provided by the same agency”.

In looking at the risk and benefits of streamlining data collection, the report identified three important risks that have broader implications for NGOs – privacy issues, design that is driven by IT / communication sections of Agencies with inadequate understanding of grass roots issues, and inappropriate data standardisation.

This paper documents evidence supporting the considerable problems expressed by ACT NGOs that deal with individuals requiring multiple services. They also have difficulties where funding is received from different Departments in the ACT, from both ACT and Commonwealth governments and across borders with NSW. This can be a particular issue for the larger

providers, who have their own need for effective electronic recording of client information, but very complex and varying reporting needs that do not equate to any single recording system. Program provided software does not help the problem.

### ***Review of ACT business regulation – Business Regulation Review Committee - Sept, 2002***

In undertaking a review of any unnecessary regulatory processes affecting business in the ACT, this review also examined the progress that had been made since an earlier review in 1995.

Whilst not reviewing the non-profit sector specifically, the review findings seem consistent with the responses provided in interviews during the current project.

The Review found that there had been a maturing of the regulatory framework and of the business community. In particular the perception of burden had changed from "concerns about the sheer volume of regulation to a focus on

- The accessibility of information about regulatory instruments and associated administrative requirements;
- The quality of regulatory instruments and associated administrative arrangements; and
- The consistency and equity of enforcement of existing regulatory instruments".

The key recommendations relate to the need for "ready access to a full range of explanatory materials to assist them in meeting their compliance obligations" and "processes that ensure enforcement of regulation is consistent and equitable".

Three recommendations in particular relate to the comments made by NGOs in interviews:

1. "the Government build on existing arrangements and establish a mechanism to assist business to comply with regulatory requirements";
2. "the Government continue to give priority to the development of small and micro business and require BusinessACT to regularly review its programs and services to ensure they continue to meet the needs of that sector";
3. "the Government require Agencies to review the continued application and enforcement of all unofficial (non-legislative based) codes of practice, guidelines, protocols and standards with a view to either formalising their status under legislation, discontinuing their use or allowing them to operate as purely voluntary private sector arrangements with no related Government enforcement activity".

The Committee also noted "its disappointment with the relatively low response from ACT business to its many offers to consult. This may simply indicate that ACT businesses are generally satisfied with the nature and level of business regulation".

Whilst the Committee noted 140 pieces of principal legislation focussed on business regulation (compared with 348 in NSW), it commented on the "proliferation of codes of practice and guidelines" called under many names, but treated by business as "government rules" that have to be followed' and "agency officials seek to enforce compliance or penalties based on requirements which have no legal status".

The Committee also confirmed the difficulty of differentiating between costs "solely driven by regulatory requirements and those which also confer real business investment opportunities and returns". This difficulty relates directly to the response by the majority of larger NGOs in the current review that the core regulatory requirements do not appear a burden to them – they cover areas that the organisation would need to deal with anyway.

### ***Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business, January 2006***

This Productivity Commission paper prepared for the Commonwealth Government considers the impact of regulation generally on the Australian economy and business.

The Taskforce concludes that there is a significant and rising regulatory burden on business and the community. It in particular focuses on the expanding volume of regulation, its variable quality and the cost, both direct (to government and Business) and to the community.

Whilst recognising the effect of rising affluence and increased scientific knowledge on society's changing needs and expectations, the Taskforce sees that "a more problematic influence has been increasing 'risk aversion' in many spheres of life".

Priority reforms were seen to have one or more of the following features – a good check list for our current review

- Excessive coverage, including 'regulatory creep'
- Overlapping and inconsistent regulatory requirements
- Regulation that is redundant or not justified by policy intent
- Excessive reporting or recording burdens
- Variations in definitions and reporting requirements

The Taskforce also sets down six principles of good regulatory process

- 'Problems' should only be addressed through regulation if there is a clearly established case for action
- Assess a range of feasible policy options – including self-regulation and co-regulation
- Consider all impacts and only choose the greatest net benefit to the community
- Provide effective guidance to regulators and regulated parties
- Build in sunset clauses or periodic reviews
- Ensure effective consultation with regulated parties at the key stages of regulation-making and administration.

Whilst the extensive paper does not refer to the NGO sector in particular, it provides a variety of process and examples that may be of use to looking at how best to address the issues raised in the current review.

### ***Eighth Round Table Discussion – FaCSIA-funded services operating in the ACT on Red Tape Issues – 23 May 2006***

This paper documents the outputs from one of eight round table discussions held by FaCSIA with its funded services around Australia to obtain feedback on Red Tape related issues.

In making comments, participants were asked to take into account that changes must

- Ensure accountability for the use of Government funds
- Provide transparency around processes
- Not transfer a problem elsewhere or provide imposition on other parts of the system
- Further government outcomes

The paper provides a set of useful ideas for consideration around 14 issues raised by participants covering

- Funding
  - Time consuming and complex funding application processes
  - Timelines for expending funding
  - Funding insufficient to meet program needs
  - Funding linked to performance indicators or milestones

- Complex requirements for programs with multiple funding sources
- Complex funding approval process for Indigenous programs
- Reporting
  - KPIs considered to be poor indicators of performance
  - Frequency and extend of reporting
  - Inconsistent and unclear reporting frameworks
- Review and evaluation
  - High frequency and lack of (or delay in) feedback on evaluations
  - Review process do not accurately reflect outcomes achieved from funding
  - Efficacy of forms required under performance framework
  - Demands of Quality Assurance
- Stakeholder Relations
  - Provider challenges in adopting FaCSIA programs

The issues raised and ideas provided for consideration will be reviewed in detailed against the comments made by participants and Agencies in the current review when developing the final report and recommendations.

#### ***Strengthening Non-government Organisations – Queensland Community Services Act 2007 and Regulations***

This legislation and associated regulations are part of a broader strategy of the Qld Government focussed on improving the capacity of NGOs that are funded by the Government.

It comprises nine key initiatives covering areas such as bookkeeping, business systems, funding policy, standards and workforce development. As such, the initiatives do not impact directly on the issues being considered in this review, although the strategy will impact on the capacity of NGOs to manage themselves and their relationship with Government.

#### ***National Roundtable of Nonprofit Organisations – Media release May 2004 and Fact Sheet***

The Roundtable's core focus is on achieving "significant reform and streamlining of Australia's nonprofit law and regulation". It sees tax law as the greatest cause of confusion, as there is no set of underlying principles underpinning tax legislation that designates tax concessions. There are also not clear links between concessions and public disclosure requirements.

In the roundtable members' views the reform process should include national law and regulation; fundraising and capital raising; corporate structures; accounting standards; and taxation. The Roundtable believes "the complexity and rigidity of Australia's current nonprofit laws place a costly compliance burden whilst failing to adequately protect funders and donors and other stakeholders such as volunteers and beneficiaries".

The sector is quite broad, comprising 6.8% of Australians in employment and an income of \$33.5 billion. Income sources were 58% from sale of goods and services, 30% from government grants and contracts and 9% from household transfers.

Sector structure overall is as follows – Social Services 26%; Education & research 24%; Culture and Recreation 21%; Health 15%; business and Professional associations and Unions 2.5% and Other 11.5%.

Volunteering is a core aspect of the sector, with 4.4 million Australians contributing 704.1 million hours of labour with an additional \$8.9 billions worth of income to the sector.

This paper illustrates the important limitations of the current review's scope and the need to take care before extending the findings and recommendations to parts of the non profit sector not included in the review. The project analysis stage will also address the apparent gap between the Roundtable priorities on structural and strategic issues and NGO priorities as expressed in interviews.

### ***A Red Tape Evaluation in Selected Indigenous Communities – May 2006***

This extensive study of indigenous community NGOs was conducted over six months.

Its findings are consistent with the views expressed in the current review. Two findings in particular illustrate the focus provided by interviewees in the current review

"It is our assessment that **actual** red tape is less than **perceived** red tape, and that many of the issues raised as examples of red tape, are in fact about relationships, program management practices, and capacity of government Agencies, ICCs and funded organisations. We have therefore concluded that red tape or unreasonable burden is created primarily at the operational level in how the accountability framework is translated into departmental and local practices". (Page 6)

"In examining the nature of the red tape or administrative burden on Indigenous organisations, we found that all organisations accepted that accountability and transparency around the use and benefits from grants funds was important and entirely reasonable. What they did dispute is whether much of what is currently required actually assists governments or their governing bodies to manage risk, to assess what outcomes are being achieved, and therefore to account well (including to communities) for the use of funds. The evaluation team also began to question the usefulness and impact of using the term 'red tape' in the public administration discourse, given how poorly understood and misused the term appears to be as a concept and in practice". (Page 6)

The consultants suggest a dual approach to achieving significant improvements, taken from three possible options considered in the report.

- "the Secretaries' Group needs to examine the current paradigm of compliance that drives much current practice in accountability regimes, and consider how this paradigm contributes to the real and perceived burden on Indigenous organisations, reduces an emphasis on community outcomes as the major desired result of the funding
- OIPC needs to examine practices within the ICCs and work with other departments to achieve a number of actions designed to make some improvements in the mechanisms and processes around grant funding" (Page 9).

A number of specific observations and recommendations from the report will be considered in the analysis phase of the current review.

### ***The Social Compact – May 2004***

The Social compact was developed as a complement to The Canberra Social Plan, in recognition of the role that the community sector has within the ACT society and Government's capacity to meet the needs and aspirations of Canberrans. It is a "statement of understanding about the relationship between the ACT Government and the community sector" and is thus crucial to putting the current review and its recommendations into context.

In setting out the relative roles and contribution of Government and the community sector, the Compact describes the attributes needed of both parties. This includes recognition of the need for good, motivated management and staff in NGOs, use of the community's strengths and expertise by government, relationships that are resilient and capable of sustainability through times of disagreement and tension.

The nine principles of working together as outlined in the Compact are largely based on effective development of effective relationship and understanding of the other party's needs and limitations. Most importantly there is a need for shared commitments and recognition that the

community will “take ownership and responsibility for decisions that are agreed as a result of joint planning or policy processes”.

A number of specific undertakings included in the Compact relate directly to some of the issues being considered in this review. For example:

- The need for the community sector to “seek and understand the roles and responsibilities of government” and to “understand and acknowledge the limitations faced by people in government Agencies”
- Government to be “realistic about the resource capacity of community organisations and groups, to respect the right of organisations to work through both political and agency channels and to acknowledge the value, autonomy and contribution made by the sector”.
- Active and honest participation by the sector in policy review, development and planning and the provision of information and experiences into the process
- Government needs to take account of the “distinctive needs and interests of small community groups that rely on the efforts of members and volunteers” and to respect the right of organisations to challenge policies and programs.
- At a governance level, the community sector commits to improving its governance and capacity of delivering contractual, reporting and governance commitments, whilst Government commits to effective communication across programs, ensure fairness and transparency in funding and achieve greater consistency in funding across Agencies
- Both parties commit to ongoing development of the sector’s capacities, improvement in the quality of service provided to the community and investment in training and development.

#### Appendix: List of Documents

- Australian Institute of Health and Welfare (AIHW) 2006. Cutting the red tape: preliminary paper detailing the problem of multiple entry and reporting by service providers. Cat. No. HWI 92. Canberra: AIHW.
- Business Regulation Review Committee. Review of ACT Business Regulation September 2002. Publication No 02/1686 Produced for ACT Treasury by Publishing Services.
- Regulation Taskforce 2006, Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business, Report to the Prime Minister and the Treasurer, Canberra, January.
- Notes from the Eighth Round Table Discussion – FaCSIA-funded services operating in the ACT on Red Tape Issues – 23 May 2006
- ([www.facs.gov.au/internet/facsinternet.nsf/aboutfacs/red\\_tape\\_reduction.htm](http://www.facs.gov.au/internet/facsinternet.nsf/aboutfacs/red_tape_reduction.htm))
- Strengthening Non-government Organisations – Qld Community Services Act 2007 and Regulations
- National Roundtable of Nonprofit Organisations – Media release May 2004 and Fact Sheet – [www.nonprofitroundtable.org.au](http://www.nonprofitroundtable.org.au)
- A Red Tape Evaluation in Selected Indigenous Communities - Final Report for the Office of Indigenous Policy Coordination – Morgan Disney & Associates - May 2006
- The Social Compact – A partnership between the community sector and the ACT Government – ACT Government – May 2004

## Attachment D Consultations

### Individual interviews

Anglicare Canberra and Goulburn  
Barnardos Australia  
Belconnen Community Services  
Centacare  
Communities@work  
Community Connections Inc  
Community Options  
Galilee inc  
Inanna  
Koomarri Association  
Life Without Barriers  
Marymead Family Centre  
Northside Community Services  
Premier Youthworks  
Richmond Fellowship Australia  
St Vincent De Paul Society  
Toora Women Inc  
Winnunga Nimmityjah - Aboriginal Health Services  
Woden Community Services  
YWCA

### Group meetings

#### **Pearce Community Centre**

12 community organisations invited

6 attended

#### **Gorman House**

All tenants and users invited (by Gorman House)

Gorman House and one tenant attended

#### **Griffin Centre**

All tenants invited

One tenant attended

#### **Canberra Environment and Sustainability Resource Centre**

Associated organisations were not invited by the Centre

Interview was with Centre itself

#### **ACT Sports House**

17 organisations invited, including Netball ACT, Tennis ACT, Brumbies, Royal Canberra, Cycling ACT,

Three attended.

### **Peak Bodies**

9 bodies invited to submit written comments.

One body submitted a written submission. Five attended a group discussion convened at the peak bodies' request.

### **ACT Government Agencies**

Finance and Budget Department of Disability, Housing and Community Services

Contract and Grants Unit, Department of Disability, Housing and Community Services

Office for Women, Ageing and Community Development Services, Department of Disability, Housing and Community Services Social Housing Policy and Implementation Department of Disability, Housing and Community Services Home and Community Care/Aged Care, ACT Health

Community Health Policy, ACT Health

Population Health Policy ACT Health

Mental Health Policy and Planning Unit ACT Health

Arts Development, Chief Ministers Department

Key Arts Organisations, Arts Development, Chief Ministers Department

## Attachment E Terms of Reference

The Review will:

- (1) Consult with relevant ACT Government Agencies, peak bodies and a cross-section of non-profit organisations, to seek and report on stakeholder views on the administrative and regulatory requirements imposed by the Territory on the non-profit sector.
- (2) Analyse the nature and extent of administrative requirements imposed by the Territory on non-profit organisations in the ACT, relating to:
  - (a) accountability requirements;
  - (b) registration and incorporation;
  - (c) regulatory compliance costs;
  - (d) regulation of fundraising and expenditure activities;
  - (e) insurance requirements;
  - (f) engagement of volunteer staff, including police clearance checks; and
  - (g) any other issue.
- (3) Identify impediments to the efficient operation and long-term viability of non-profit organisations generated by regulatory and administrative requirements imposed by the Territory, including, but not limited to:
  - (a) unnecessary complexity that is not commensurate with the size, risk, or financial value of activities;
  - (b) duplication, especially relating to similar requirements imposed by multiple government Agencies or legislation; and
  - (c) access to ACT Government funding and subsequent reporting and compliance requirements.
- (4) Examine the range of legal entities and other structures under which non-profit organisations may operate, and identify any inconsistencies in the application of definitions where entitlements such as tax concessions, land grants and other benefits are available.
- (5) Recommend modification, reduction or removal of areas of administrative burden that will assist the efficiency, viability and sustainability of the non-profit sector in the ACT, whilst maintaining appropriate levels of governance, accountability and risk management. Recommendations should make a clear distinction between non-profit organisations providing human services in the ACT, and other non-profit organisations such as those relating to arts, recreation, or the environment.