



***Submission to the Department of Finance and
Deregulation***

**Commonwealth Financial Accountability Review
(CFAR)**

***This submission addresses the issues outlined in the: 'Is less more?
Towards Better Commonwealth Performance'.***

July 2012

Introduction

This submission briefly outlines some of the key issues for Australia's not-for-profit sector in response to the release by the Department of Finance and Deregulation of the "*Is less more? Towards Better Commonwealth Performance*" discussion paper (CFAR Discussion Paper) as part of the Commonwealth Financial Accountability Review.

This CCA submission has been prepared with CCA members (see listing of CCA members in Appendix 1) as well as other key organisations working in and with the not-for-profit sector. It is important to note that this submission does not over-ride any policy positions that may be outlined in any individual submissions from CCA members. In the interests of presenting a concise summary of the CCA position, this submission is divided into the following sub headings:

- Introduction
- About CCA
- Overview of key issues
- Highlighted CFAR Discussion Paper proposals
 - Performance management
 - Performance reporting
 - Risk management
 - Timing and length of contracts
- Conclusion

CCA welcomes this opportunity to comment on the CFAR Discussion Paper addressing the need for a more performance orientated approach to financial management and reporting. CCA is willing to engage in further discussion about any of the issues raised in this submission.

About CCA

CCA is an independent, non-political member-based organisation dedicated to building thriving communities by enhancing the extraordinary work and effort undertaken within the not-for-profit sector in Australia. CCA seeks to change the way governments, communities and the not-for-profit sector relate to one another. This includes establishing a regulatory environment that works for community organisations and not against them.

The mission of CCA is to lead (by being an effective voice) discussion on common and shared issues affecting the contribution, performance and viability of not-for-profit organisations in Australia through:

- providing thought and action leadership
- influencing and shaping sector policy agendas
- informing, educating, and assisting organisations in the sector to deal with change and build sustainable futures
- working in partnership with the government, the business sector, and the broader Australian community.

Overview of key issues

Support for reform

CCA strongly supports the overall directions for CFAR reform of the Commonwealth Financial Framework as outlined in the CFAR Discussion Paper.

'The financial Framework should support government operations to create public value. It should promote the efficient and effective achievement of outcomes and provide for high levels of transparency and accountability.' (Chapter 4, Directions for reform pg. 19)

Although there is little hard data available about the exact nature of contracts, grants and other funding arrangements individual Commonwealth agencies enter into, it is clear that the notion of real performance management and monitoring falls well outside most contracting and procurement processes as they apply to not-for-profit organisations. What passes as performance based contracting and funding in most instances is probably better described as Commonwealth agencies using financial penalties to ensure compliance with input and output milestones. This approach is, at best, somewhat disconnected from what are often entirely separate policy goals.

The Productivity Commission recently highlighted the failure of Australian governments to adopt a more measured, efficient and outcome focused approach to the outsourcing of services, contracting and funding of not-for-profit organisations. While there are many important findings in the Productivity Commission Report into the Contribution of the Not-for-Profit Sector, the following two recommendations are particularly pertinent when considering the issues outlined in the CFAR Discussion Paper:

Australian governments should urgently review and streamline their tendering, contracting, reporting and acquittal requirements in the provision of services to reduce compliance costs. This should seek to ensure that the compliance burden associated with these requirements is proportionate to the funding provided and risk involved. Further, to reduce the current need to verify the provider's corporate or financial health on multiple occasions, even within the same agency, reviews should include consideration of:

- ***development of Master Agreements that are fit-for-purpose, at least at a whole-of-agency level***
- ***use of pre-qualifying panels of service providers.***

(Recommendation 12.7 Contribution of the Not-for-Profit Sector, Productivity Commission, 2010)

The Department of Finance and Deregulation should develop a common set of core principles to underpin all government service agreements and contracts in the human services area. This should be done in consultation with relevant government departments and agencies and service providers.

(Recommendation 12.8 Contribution of the Not-for-Profit Sector, Productivity Commission, 2010)

The current situation

There is a dog's breakfast of approaches to human service contracting across Commonwealth agencies. It seems each agency has its own rationale and its own set of mandatory components and priority principles for its particular procurement practices and reporting requirements. Even within some agencies, there are high levels of inconsistency in approaches and processes.

As pointed out in the CFAR Discussion Paper:

'... over time there has been a shift in emphasis towards controls and compliance at the expense of flexibility and performance. There has been a tendency to respond to perceived risks and failure with more rules and tighter controls ... the framework should encourage users to focus on achieving results, not complying with rules.' (Executive Summary, pg. 2)

The trend towards increasing compliance and micro-management of not-for-profit organisations as a way of deflecting risk is not only counter-productive, but also displays a woeful lack of understanding about the importance of real risk management practices. There is very limited evidence to suggest that more detailed contracts containing more conditions, increased compliance and reporting requirements, more frequent reporting and shorter contract periods reduce risk or improve outcomes. In fact, there are many areas of government contracting where lengthier contracts and less compliance is a much better way to manage risk, including in critical areas such as indigenous health and wellbeing programs and services.

The achievement of important government priorities and policy objectives is not a risk free activity. Avoidance of risk is often a good way to ensure policy ineffectiveness.

Perhaps of equal importance is that in many areas of government activity there is a lack of understanding about the actual risks involved in the services being funded, the organisations being funded to accept those risks, and the best ways of managing those risks.

This current confusion over risks (discussed in more detail later) is one aspect of a larger problem. Governments are increasingly being asked to deliver sustained change rather than continuing to invest tax payer funds in supporting inadequate responses that have little or no real impact in addressing ongoing issues in Australian communities.

The push for increased engagement at a local level and greater control in how local issues are addressed is also driving reform in the way many governments around the world are approaching social and community issues. As highlighted in the CFAR Discussion Paper:

'Changes are occurring in the way government meets citizen expectations and policy challenges. Increasingly, the government collaborates with other jurisdictions and parties in designing and delivering services. Over time this is likely to include greater participation by citizens in service design and delivery as a means of developing more effective and personalised policies and programs. This will challenge historical concepts of accountability and transparency and bureaucratic control.' (Chapter 3, The Case For change, pg. 17)

Government accountability

The focus in any discussion about government performance and accountability needs to be on policy goals not inputs and outputs determined by officials with limited understanding of the area or the exact services being provided.

Performance management is about accountability because we know that what gets measured and reported gets done. As the CFAR Discussion Paper points out:

It is preferable to have fewer, more meaningful indicators that focus on what matters.

(Chapter 7, Improving performance, pg. 50)

Measurement of what matters (the policy goals and objectives) is good, but secret measurement is pointless if you are seeking to impact government performance. This is why government accountability through reporting of performance is so important.

'Even where good evaluation and review exists, this information is not readily available to inform government decision making, especially on cross-portfolio matters.... There is no point to evaluation if results are not used. *(Chapter 7, Improving performance pgs. 52 and 53)*

The fact that real performance measures are often not available within Commonwealth government agencies is unacceptable. Of even more concern is that where this information exists it is not more widely available to inform better investment and better practice. In practice this means where there is performance data, it is not always referred to in determining future funding arrangements. It seems each new procurement process operates largely in a vacuum with little use of past performance data to inform future contracting. This is particularly true where the performance information traverses a number of areas and government agencies.

Throughout the CFAR Discussion Paper there is also a lack of reference to the kinds of performance management and monitoring that we might expect to be central to decision making for both business investment and development of not-for-profit organisations. All too often the fundamental elements that drive performance – the competency and capacity of the individuals, management teams, organisations, their relationship with their customers and their communities, the capitalization, business plans, other investors, competitors, etc. – are simply not factored into either the performance management and reporting processes or the risk management framework. Governments need to make their investments in achieving policy outcomes work and they need to be able to say how they are going to address failure. How do governments do this without this fundamental information about performance and capacity?

While CCA is very supportive of the CFAR process and sees it as consistent with the directions outlined in the National Compact between the government and not-for-profit organisations, at times it is difficult to see how the actual proposals put forward in the CFAR Discussion Paper reflect the need to achieve a greater emphasis on real performance management and accountability rather than compliance with rules. This is despite the acknowledgement that compliance with rules is not necessarily consistent with better performance management or monitoring.

There is however, a number of key proposals that CCA believes need to be strongly supported and implemented if the dysfunctional micro management of government funded not-for-profit activity is to be reduced. These are discussed in more detail below.

Highlighted CFAR Discussion Paper proposals

Performance management

CFAR Discussion Paper proposals:

- Develop a coherent and integrated performance management framework to give a clear and shared understanding of the government's priorities and strategic direction.
- Develop indicators that allow for performance to be measured and compared across the public service.

The major problem with most performance monitoring currently undertaken is that it is often disconnected from policy goals. The experience of not-for-profit organisations is that the compliance and reporting requirements for many of the contracts and funding grants they receive are not directly related to the actual policy goal under which the relevant program operates.

For example, the government policy goal might be to increase retention of indigenous students in school; the funded program may be a home visiting program within indigenous communities; what is measured might be expenditure on social workers conducting home visits. Whether the home visits actually increase retention is not measured. (In practice, there is a number of programs that have been found to significantly increase indigenous retention in schools including the promotion of inter-community sporting competitions where participation is dependent on students having attended school – but these programs often have to get separate support from outside agencies because they are not exclusively focused on school retention.)

In an outcome blind measurement system even the best policy goals can be lost in translation by government agencies because they focus on inputs and outputs within specific programs rather than achieving the desired policy outcomes.

There are many government funded systems that are largely (policy) outcome blind. Our health systems, for instance, rarely measure health outcomes or patient experiences of care. It is health consumers who use and pay for the system either through taxes or out of pocket payments, it is the experience of consumers that drives government health policy, but whether the services provided improve health remains largely unmeasured and unreported. If a program is outcome blind, what performance is being measured and how useful is that measurement?

Not-for-profit organisations are driven by purpose. They seek to achieve real outcomes for the communities they serve, but with most government funding, not-for-profit organisations are rarely allocated the tools, time or resources needed to provide the kind of performance reporting that might inform better government policy.

Developing this approach may require letting go of some of the existing rule driven approaches and investing in real measures of performance. It may also mean accepting that not all programs will be successful, that we need to learn from mistakes by sharing the information and using it to drive improvements in achieving important policy goals.

Performance reporting

CFAR Discussion Paper proposal:

- Align standards better for preparing appropriation bills, Portfolio Budget statements, annual reports and audited financial accounts to enable comparisons and a clear read between budgeted and actual expenditure and performance.

If we want to get better at meeting government policy goals, we need to get better at both measuring and reporting performance. Performance reporting must relate to the policy goal in some way and not just be about whether contracted organisations have complied with rules about inputs and outputs. Wherever possible, performance measurement and reporting should provide comparable (over time and over programs) indicators of actual performance.

Governments invest billions of dollars of public money in purchasing services to achieve policy goals. It is not unreasonable to expect that the outcomes of government investment to be reported transparently to the community which has a real stake in the policy outcomes.

Some Commonwealth agencies adopt a fortress approach to reports on performance. Any information that might be negatively interpreted or lead to potential questions by [?] the government or senior officials is seen as problematic. This siege mentality leads to ever higher walls around any performance information collected. At the same time, the pressure to increase the amount of information collected as a way of deflecting risk drives increased reporting and compliance requirements.

The outcome of these two pressures is that more (often irrelevant or unhelpful) [?] information is collected and less is actually reported or used. This is a situation that leads to enormous frustration within the organisations being asked to provide information to government agencies. Many not-for-profit organisations have repeatedly raised concerns about the level of detail being requested in areas related to inputs and outputs, while no outcome data is collected.

Despite the lack of real performance information, government agencies are usually reluctant to provide the tools, time or resources necessary to enable not-for-profit organisations to collect outcome and impact data. For example, knowing how many beds have been used overnight in a residential drug treatment agency does not tell you if you are reducing drug related issues. To follow up clients of drug treatment agencies requires a real investment in skilled interviewers and sound research approaches. Most not-for-profit agencies lack the resources to undertake these kinds of measures, and yet this information is critical to knowing whether the investment in a particular drug treatment program is beneficial or effective in achieving policy aims.

Ideally a percentage of all government allocated funding would be directed towards follow up and performance measurement, but this is clearly the exception rather than normal practice. And so government agencies go on funding programs and services without knowing about their real outcomes, their impact on the community, or whether they are achieving government policy priorities.

Performance reporting is critical to performance management. You cannot have one without the other. Transparent performance reporting will drive real improvements in performance, but not unless governments actually commit to collecting and making public this level of outcome and impact reporting.

Risk Management

CFAR Discussion Paper proposals:

- Develop an overarching risk management framework for the Commonwealth to set the context for entities' risk practices.
- Simplify and better align financial framework rules for grants and procurement and base their requirements on the level of risk.
- Develop a risk-based approach to reporting allowing for tiered reporting based on an entity's risk exposure.
- Adopt a more risk-based approach to imposing requirements within the financial framework, reporting compliance against those requirements and addressing non-compliance.

There are real questions to be asked about the capacity of Commonwealth procurement officers to understand the complexity of risk management, particularly in the context of the need for risk taking as part of good contract management.

When we think about whether to invest in a business we tend to think in terms of levels of risk against possible return. Generally it is understood that the nature of the people involved in the management of a company, the level of expertise, competence and experience, the past track record of the management team, the past track record of the company, the existing level of capitalization, who else has invested, the proposed business plan, cash flows, potential competitors, market share, etc. are all factored into judging the risk and the likely return.

There is no evidence that risk management frameworks are being applied in the way governments choose to invest in, fund, contract or grant money to not-for-profit organisations. It is much more likely that there will be some form of tender process in which relatively inexperienced government officers will make a decision based on predetermined criteria relating almost exclusively to the work to be undertaken – not the organisation that might undertake it. What is of even more concern is that such tender processes tend to operate with little or no real engagement with prospective tenderers, little real risk analysis, and the process operates in a vacuum with no reference to history, content knowledge, performance information or real market analysis. As recommended by the Productivity Commission:

When entering into service agreements and contracts for the delivery of services, government agencies should develop an explicit risk management framework in consultation with providers through the use of appropriately trained staff. This should include:

- ***allocating risk to the party best able to bear the risk,***
- ***establishing agreed protocols for managing risk over the life of the contract.***

(Recommendation 12.6 Contribution of the Not-for-Profit Sector, Productivity Commission, 2010)

The CFAR Discussion Paper acknowledges implementing this approach requires culture change:

Leaders must also support innovation by fostering creativity and ideas – a culture of risk aversion may prevail if innovation is not rewarded. ... Risk management is not about eliminating all risks.

(Chapter 8, Engaging with risk, pg. 60)

Timing and length of contracts

CFAR Discussion Paper proposal:

- Consider introducing multi-year appropriations, especially for major programs and projects.

One of the major obstacles to good management of government programs and services is the issue of capacity to work to timelines that allow real change to be both measured and achieved.

In areas such as human service delivery, it is almost inconceivable that there is any place for a 12 month contract. Simply establishing a program or services, employing staff, obtaining office space, communications, transport and other infrastructure require time and resources. Yet some government agencies expect not-for-profit organisations to be able to turn program delivery on and off like a tap.

The issue of timing becomes critical when talking about employment, future planning, building of capacity, measurement of performance and improvement of outcomes.

While there is a place for shorter term pilot programs and one-off grants, these should be the exception, not the norm. There should be a three year minimum for most ongoing contracts for services provided by not-for-profit organisations that involve the employment of staff.

As part of this approach, there should also be a minimum six monthly notice period to enable staff entitlements and infrastructure leasing to be properly managed.

Right at this moment there are CCA members who have extensive human service programs still awaiting the outcome of government decisions to determine whether some of their programs will be funded in the current financial year. By any measure, this is deplorable program management.

If there is one short term easy to implement strategy that could significantly reduce risk and improve performance, it is adopting a more realistic approach to the length of contracts and timing of notices for the renewal or cessation of program funding. Such a measure should be a very high priority.

Conclusion

CCA could have given many anecdotal examples about dysfunctional program management by government agencies. The reality is that despite many attempts to improve these processes over the years, there are some government agencies where the culture and practice of government contracting with not-for-profit organisations is counter-productive to the achievement of government policy. Perhaps of equal concern is that concepts such as performance management, performance reporting, and risk management have been deconstructed and reassembled in forms that disguise their original purpose.

CCA strongly supports the need for reform, particularly with the ongoing engagement between not-for-profit organisations and Commonwealth agencies. The level of counter-productive compliance activity and lack of performance based management is having a negative impact on not-for-profit organisations, governments and the broader community. It cannot continue.

Current Membership – Community Council for Australia (June 2012)

Appendix 1

1. Aboriginal Employment Strategy Ltd – Danny Lester
2. Access Community Group – Samantha Hill
3. Alcohol and other Drugs Council of Australia – David Templeman
4. Alcohol Tobacco and Other Drugs Association ACT – Carrie Fowlie
5. Associations Forum Pty Ltd – John Peacock
6. Australian Charities Fund – Edward Kerr
7. Australian Indigenous Leadership Centre – Rachele Towart
8. Australian Institute of Superannuation Trustees – Fiona Reynolds
9. Australian Major Performing Arts Group – Bethwyn Serow
10. Catholic Social Services Australia – Paul O’Callaghan
11. Church Communities Australia – Chris Voll
12. Connecting Up Australia – Doug Jacquier
13. Consumers Health Forum of Australia – Carol Bennett
- 14. Drug-Arm Australia – Dennis Young (CCA Board Director)**
15. Foundation for Alcohol Research and Education – Michael Thorn
16. Fundraising Institute of Australia – Rob Edwards
17. Good Start Childcare – Julia Davison
- 18. Good Beginnings Australia – Jayne Meyer Tucker (CCA Board Director)**
- 19. HammondCare – Stephen Judd (CCA Board Director)**
20. HETA Incorporated – Sue Lea
21. Hillsong Church – George Aghajanian
22. Illawarra Retirement Trust – Nieves Murray
23. Lifeline Australia – Dr Maggie Jamieson
24. Maroba Lodge Ltd – Viv Allanson
25. Mental Health Council of Australia – Frank Quinlan
- 26. Mission Australia – Toby Hall (CCA Board Director)**
- 27. Musica Viva Australia – Mary Jo Capps (CCA Board Director)**
28. Opportunity International Australia – Rob Dunn
29. Philanthropy Australia – Deborah Seifert
30. Principals Australia – Liz Furler
- 31. RSPCA Australia – Heather Neil (CCA Board Director)**
32. St John Ambulance Australia – Peter Lecornu
33. Social Ventures Australia – Michael Traill
- 34. Surf Life Saving Australia – Brett Williamson (CCA Board Director)**
35. The ANZCA Foundation – Ian Higgins
- 36. The Benevolent Society – Anne Hollands (CCA Board Director)**
- 37. The Big Issue – Steven Persson (CCA Board Director)**
38. The Centre for Social Impact – Peter Shergold
- 39. The Smith Family – Lisa O’Brien (CCA Board Director)**
40. The Ted Noffs Foundation – Wesley Noffs
41. Volunteering Australia Inc. – Cary Pedicini
- 42. Wesley Mission – Rev. Keith Garner (CCA Board Director)**
43. WorkVentures Ltd – Arsenio Alegre
- 44. World Vision Australia – Rev. Tim Costello (CCA Chair of Board)**
45. YMCA Australia – Ron Mell
46. Youth Off The Streets – Fr Chris Riley
47. YWCA - Dr Caroline Lambert