

Our Community

Best Practice in Grants Management
Conference 2008

29 February, 2008

Keynote Presentation: Reducing Red Tape

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Overview

- ❑ Political environment in Australia
- ❑ Policy context for regulatory reduction
- ❑ Definitional Issues & Nature of NFP sector
- ❑ Increases in regulatory burden & regulation of community, voluntary and NFP sector
- ❑ Improving funding and grants administration
- ❑ Issues for community, voluntary & NFP bodies

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Political Environment

- ❑ **Rudd Labor Government -> enhanced COAG, co-operative federalism**
- ❑ **Minister for Finance and Deregulation and priority in business regulation & competition**
- ❑ **Minister for Social Inclusion announces lift on advocacy for NFPs receiving government funding, and initiative to reduce red tape in agreements with sector**

Policy Context

- ❑ **Agreement that red tape reduction is needed for business (Banks Taskforce, COAG)**
- ❑ **Less prominence on difficulties in NFP sector (Vic only jurisdiction with comparable focus)**
- ❑ **Most jurisdictions with red tape reduction initiatives (APS, Vic Gov, SSA)**

Policy Context: Victoria

Reducing the Regulatory Burden: The Victorian Government's Plan to Reduce Red Tape (2006),

- ❑ cutting the existing administrative burden of regulation by 15 per cent over three years and 25 per cent over five years;
- ❑ ensuring the administrative burden of any new regulation is met by an 'offsetting simplification' in the same or related area; and
- ❑ undertaking a program of reviews to identify the necessary actions to reduce compliance burdens.

Policy Context: Victoria

- ❑ DTF's BRU: \$42m for WoG red tape reduction
- ❑ ***Victorian Guide to Regulation*** – use only when it can be demonstrated that a problem exists, that government action is justified and that regulation is the best option.
- ❑ Regulation should be effective, proportionate, flexible, transparent, consistent and predictable, developed co-operatively, accountable and subject to appeal (p3-2)
- ❑ VCEC oversight BIAs and RISs.

Definitional Issues

- ❑ *There are few more contested concepts in regulatory theory than the meaning of regulation itself.* (Freiberg, 2007,)
- ❑ The term 'regulation' applies to a wide range of legally enforceable obligations imposed by the state including primary legislation, statutory rules, mandatory codes, guidelines and so on. It refers broadly to intentional acts to alter the behaviour of others according to pre-specified standards upheld by government authority. Capital 'r' regulation is legislation, and small 'r' regulation includes subordinate regulation and Ministerial orders

Definitional Issues

- ❑ Occupational codes, some departmental guidelines and elements of funding and service agreements are also referred to as regulation. The latter group are the administrative regulations pejoratively known as *red tape* when excessively applied. The language used to describe efforts to reduce regulatory requirements shifts from 'administrative simplification' to 'red tape reduction' to 'easing the regulatory burden' and variations on all three.

Definitional Issues

- ❑ **Grants - short term, aligned to a specified program or policy objective and competitive**
- ❑ **Funding & service agreements - longer term govt service delivery objectives, theoretically negotiated rather than competitive tendering**
- ❑ **Confusion re legal status of agreements – contracts or partnerships?**
- ❑ **Wide variability in practice within and across jurisdictions**

UK Definitional Solution

- ❑ **Funders determine whether they are engaged in supporting a worthy cause ('giving'), procuring services ('shopping') or building capacity in the sector ('investing')**
- ❑ *A 'giving' approach might be more appropriate where the funder wishes to provide general support or a contribution, but does not define the expected outputs, allowing the recipient to decide on the best use of the funds;*

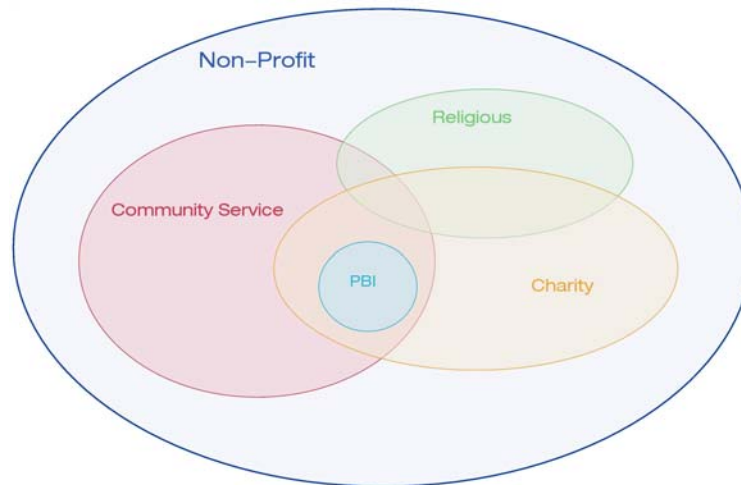
UK Definitional Solution

- ❑ *A funder 'shopping' for a supplier – for example to provide residential care services for the elderly – will be concerned with the cost and quality of the service, and might decide to use a competitive tendering process involving a range of private and third sector suppliers*
- ❑ *An 'investing' funder will be seeking a long-term outcome from the spending, such as policy change or developments in the organisation's or sector's capacity. (NAO, 2005)*

UK Definitional Solution

- ❑ *The 'shopping' approach is closest to "public service delivery" and is more likely to require a tightly-specified contract and procurement process, in which the sector may compete with in-house or private sector providers. In contrast, 'investing' and 'giving' are more likely to require conventional grant-making approaches. It is important to note here that while some government departments thought the concepts of 'giving', 'shopping' and 'investing' were useful distinctions, others felt that the concepts were not easy to apply in practice and would require further elaboration.' (UK National Audit Office, 2005. p27-28)*

NFP, Community and Voluntary Bodies



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Third Sector

- ❑ **Estimated 500,000 – 700,000 NFPs in Australia**
- ❑ **NFPs in Victoria which have sought a legal persona:-**
- ❑ 32,522 entities registered as incorporated associations with Consumer Affairs Victoria (CAV);
- ❑ 1645 entities registered as Companies Limited by Guarantee or Shares with the Australian Securities and Investment Commission (ASIC);
- ❑ 748 entities registered as Co-operatives with CAV; and
- ❑ An estimated 20 entities with their own Acts of Parliament (such as churches)
- ❑ Estimated 120,000 community organisations in Victoria, one third in legal form .

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Third Sector in Victoria

- ❑ **90% have revenue under \$200k pa**
- ❑ **25% have fewer than 20 members & 25% have more than 100 members**
- ❑ **76% do not employ paid staff**
- ❑ **Initial regulation relates to establishment of body, then most ongoing regulation of NFPs relates to taxation and fundraising activities, annual reporting obligations, & interface with government if they apply for funding.**

Increase in Regulatory Burden

- ❑ **Fuelled by complexity of contemporary life (eg internet fraud, biotechnology & international treaties -> local legislation)**
- ❑ **hypersensitivity to risk & expectations that govts will regulate to limit or remove risk, fuelled by sensationalist media reporting, and hyper-vigilant political minders protecting Ministers**
- ❑ **high expectations from well educated citizenry that govts will address all safety, quality and sustainability matters and**
- ❑ **a 'regulate first, ask questions later' mentality in many bureaucracies**
- ❑ **Compounded by three layers of federal system**

Regulation of the Third Sector

- ❑ **Evidence of increase in regulatory burden:**
- ❑ a one-size fits all approach
- ❑ 'command and control' rather than co-regulatory approaches
- ❑ lack of clarity of the purposes of the grant (*giving vs shopping vs investing*)
- ❑ short term funding and registration and licensing periods
- ❑ lack of consistency and co-ordination across government departments in matters as varied as financial definitions and reporting requirements

Regulation of the Third Sector cont

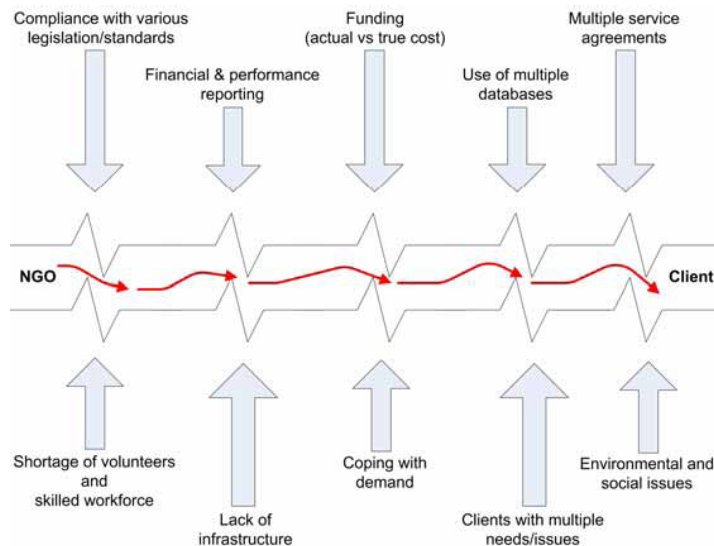
- ❑ duplicative requirements across departments and levels of government
- ❑ funding agreements which mirror principal-agent relationships rather than partnerships, despite government commitments
- ❑ gaps between government policies and bureaucratic responses
- ❑ lack of oversight across government on the impact of changes, such as new legislation or machinery of government changes, on the NFP sector
- ❑ one way communication between government and the NFP sector

Regulatory Concerns in Third Sector

- ❑ the innovative capacity of the third sector for innovation is being undermined by regulatory requirements
- ❑ chasing government dollars can cause 'mission drift' ie deviation for the core purpose of the organisation
- ❑ increasing red tape is believed to transfer risk from the government to the NFP service provider
- ❑ inconsistency between levels of government means increased costs in information technology, data management, human resource and financial management
- ❑ many church and community agencies are embedded in local areas but have their capacity to respond rapidly to crisis constrained by government
- ❑ competitive tendering for grants has resulted in some NFPs not fully covering infrastructure costs and the costs of service delivery

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Challenges faced by NFPs delivering Government Services: Qld A-G



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Regulatory Concerns in Third Sector

- ❑ the negotiation of funding and service agreements is not on a business-like footing and the legal status of the agreements is unclear
- ❑ grant application processes and reporting obligations are not tailored to the size of grants and often contain onerous data collection, reporting and auditing requirements
- ❑ data is collected by NFPs for government for discretionary research purposes as well as compulsory monitoring for quality and value for money
- ❑ data collection for government is often of limited value to the NFP internally
- ❑ the requirement in some grants programs for NFPs to tender collectively adds to the administrative burden
- ❑ the reliance on volunteers by many NFPs is not always recognised in relationships with government

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Improving Funding and Service Agreements and Grants Administration

- ❑ develop joined up approaches including common financial definitions, agreed templates for streamlined grant applications and service agreements, agreed common minimum data requirements across units and departments within a jurisdiction and across levels of government
- ❑ involve NFPs in the design phase of new programs so that funding and delivery issues can be ironed out and regulation reduced
- ❑ allow NFPs to 'earn autonomy' ie lighter touch accountability for NFPs with a record of compliance and performance
- ❑ use electronic portals for electronic transactions (such as applying for grants and uploading required data) and to improve access to up-to-date information
- ❑ canvass support for whole of government data repositories with agreed access protocols as a means of reducing data storage and entry requirements

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Improving Funding and Service Agreements and Grants Administration

- ❑ close the feedback loop between government and the NFP sector, particularly relating to returning analysed data which could help with planning
- ❑ maintain common expectations of governance, but differential expectations of tendering and reporting based on a risk assessment of the size of a grant or agreement and the nature of the activity
- ❑ streamline quality standards across government and levels of government
- ❑ promote and recognise good practice in grants administration and regulatory oversight more broadly and provide advice on good funding practice, as a simple reference point for both funders and providers
- ❑ formalise delegations so that managers can sign off on small grants

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Improving Funding and Service Agreements and Grants Administration

- ❑ improve knowledge management so that staff turnover does not result in inconsistent or interrupted grants administration
- ❑ require 'reverse accountability' so that departments have to justify requirements in grants and agreements
- ❑ where appropriate adopt service agreements with a proportion of the funding discretionary across the agreement to retain local responsiveness and innovative capacity
- ❑ determine who is responsible for the gathering of data for accountability, research and sector-wide planning and the purposes to which the data is put
- ❑ rationalise audit requirements so that there are more consistent requirements across government and audit costs are proportionate to the size of the grant

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NZ Integrated Contracts

- ❑ **Trialled after NZ Treasury set clear consistent guidelines for contracting govt services**
- ❑ **Negotiation with potential contractors and cross-dept teams -> move from outputs to outcomes & tackling complex problems**
- ❑ **Compliance costs reduced and reduction from 205 individual to 40 integrated contracts**
- ❑ **Ongoing biannual roundtable monitoring of progress during contract period (Pomeroy, 2007)**

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Issues for Third Sector

- ❑ **Potential 'mission drift' with govt services**
- ❑ **Many SME NFPs more reliant on volunteers; more likely to have workforce planning difficulties, eg a high staff turnover & reliance on graduates; more prone to diseconomies in corporate services areas; more likely to have difficulties accessing capital; and more likely to be reliant on donor or member-based contributions, therefore need to consider capacity to deliver govt service**
- ❑ **Potential erosion of innovative capacity & community connectedness with govt policy & red tape compliance**

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Conclusion

- ❑ **Reducing red tape will require a range of systemic and grassroots approaches within and across levels of govt:**
- ❑ **WoG initiatives emphasising simplified, streamlined, consistent approaches and greater use of electronic capability**
- ❑ **Clarification of relationships in agreements**
- ❑ **Risk assessment -> differentiated reporting**
- ❑ **Change in work practice and work culture**