



Review of Not-For-Profit Regulation
State Services Authority
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Following please find a submission from the National Roundtable of Nonprofit Organisations on the above Review.

The submission supplements input to the Review provided by members of the Board of the Roundtable at the consultations held by the Authority during March and April and comments and suggestions provided to The Hon John Brumby, Treasurer of Victoria, by the Roundtable in September 2006 and also relating to reducing the regulatory burden on nonprofit organisations in Victoria. A copy of the Roundtable's relevant correspondence to the Treasurer is attached to this submission.

As we noted in our letter to the Treasurer of 27 September 2007, the Victorian government is to be congratulated for initiating a review of regulation of the non-profit organisations in Victoria. The Roundtable hopes that the Review will ultimately result in a significant and lasting reduction on the compliance burden on the sector. Achieving more accessibility, transparency and accountability of sector organisations and better integration and consistency across legal frameworks affecting the sector should serve to enhance and strengthen its significant contribution to the Victorian economy and to Victorian communities.

We also observe that the lead being taken by the Victorian government in regulatory reform of the nonprofit sector may well provide an exemplar for similar reforms to be undertaken in other States and Territories. The Review may well also identify directions for pursuing necessary and desirable reforms at the federal government level which might be pursued through the Council of Australian Governments as well as by other means. A major area of interest of the Roundtable in that context is the need for modernisation of Australian charity tax law and better and more effective regulation of charities than that which currently operates in Australia.

The Roundtable will be pleased to provide any additional information which might assist the State Services Authority in its conduct of the Review and to provide any additional assistance or advice which might be required.

Yours sincerely

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Chair
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National Roundtable of Nonprofit
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Together for the common good

National Roundtable of Nonprofit Organisations

Submission to

Review of Not-For-Profit Regulation in Victoria

May 2007



Financial Reporting, Accounting and Taxation Arrangements

Many and indeed most nonprofit organisations which receive government funding report onerous and often growing levels of compliance and administrative requirements which divert scarce resources away from service provision and which don't enhance and improve levels of accountability and transparency and which don't focus sufficiently on performance in terms of achievement of outcomes.

This is exacerbated in many instances, by the imposition of different levels and types of reporting and accountability mechanism and processes by different government agencies and within different government agencies operating as funders and those operating as regulators – including, in the context of this Review, corporate regulation of associations by Consumer Affairs Victoria, of companies limited by guarantee by the Australian Securities and Investments Commission and of charities and other types of non-profit organisations by the Australian Taxation Office, regulation of state tax exemptions by state revenue offices and of fund-raising by relevant state authorities.

There is a widespread belief in the sector that much of the information required by and submitted to funders and regulators is neither necessary or indeed utilised or useful in the management and development of nonprofit organisations and that funders and regulators provide little and insufficient feedback on information and data which is supplied to them. The Roundtable welcomes the research being undertaken on some of these issues as part of the Review and expects that that research will shed some light on actual practices of funding and regulators in the Victorian jurisdiction and provide some pointers for directions for reform in the context of the Review.

Some of the steps which need to be taken to improve accountability and transparency of nonprofit organisations and of government agencies acting as funders and regulators include:

- moving towards more proportional regulatory and accountability frameworks and arrangements which take better account of widely differing levels of risk in terms of levels of financial turnover and the impacts of organisations on individual citizens and communities more generally. This should involve only the lightest touch regulation for those local organisations which serve only their members and have small levels of financial turnover and be graduated and segmented to provide for and require higher levels of accountability and stricter and more detailed reporting for medium and larger organisations which receive more public funds and which provide services to the general public as opposed to their members.



- moving to the standard chart of accounts for nonprofit organisations developed by the Queensland University of Technology, which has already been adopted or is in the process of adoption in other states and which is under consideration by at least one federal government agency.
- addressing and resolving conflicting requirements in terms of general and special purpose financial reporting in different context and for different purposes and to introduce consistent standards for financial reporting and acquittals which will reduce the need for individual organisations to maintain and produce multiple forms of accounts and reports and perhaps also reduce costs associated with auditing and multiple reporting.
- moving towards more standardised and consistent forms of service and program contracting across different government agencies and programs – which would enable nonprofit provider agencies to streamline and standardise their own administrative and reporting frameworks, not only to improve efficiency but also to improve compliance. More standardised and consistent contracting would also facilitate more effective and efficient provision of management, governance and service delivery support on a cross funding agency or whole of government basis.
- extending, developing and enhancing the approach already taken to some extent by the Victorian Department of Human Services on harmonised and consolidated reporting and acquittal for agencies delivering services and programs under multiple contracts. More need to be done in this regard to extend this practice across agencies and to the extent possible to reduce differing requirements and increase consistency of reporting modes and terminologies required for different programs. This would be of considerable benefit not just to very large nonprofit organisations but also to the significant number of smaller and medium organisation which now struggle with and devote significant administrative and other resources to multiple data entry and reporting to different program managers and funders.
- in the medium to longer term, the government should also examine the feasibility of moving to common information technology platforms and approaches across its own agencies and the nonprofit sector which would enable common data entry and exchange and flows of information between agencies and service providers.

In the event that the Victorian government adopts some or all of these approaches, it would move closer to achieving a whole of government framework of more coherent, consistent and efficient arrangements for financial and other service data entry, financial and performance reporting, compliance and accounting. This, in turn, would give the government the ability to more effectively and efficiently enable strategies for capacity strengthening and provision of information and guidance for relevant nonprofit agencies and should result in higher and better levels of transparency, accountability and compliance and net reductions in costs of compliance.



Legislation affecting non-profit organisations

Many sector organisations report concerns and confusion about delays in the implementation of the findings of the Review of Associations Incorporation legislation conducted in Victoria in 2004 and 2005. These delays have prevented rectification of deficiencies and anomalies in the current legislation and the resolution and clarification of the position of those organisations with substantial annual financial turnover and trading activity which might be required to migrate to companies limited by guarantee under the federal Corporations Act and the consequences and implications of such migration. Many Victorian organisations report that Consumer Affairs Victoria provides little assistance or guidance and support to them and no feedback about the annual returns and reports they are required to submit. In this context, the Roundtable believes that it is desirable that organisations receive feedback and perceive there is value in terms of the resources they apply to regulatory compliance to their organisational management and development.

As noted above, the Roundtable believes that the degree and level of corporate and other regulation of nonprofit organisations should be proportional to their size and risk – ranging from the lightest touch for those small and member-serving organisations who do not serve or substantially interact with the general public and increasing in depth and rigour for organisations with higher levels of public and other external funding and more interaction through service delivery to the general public. This could be achieved by creating a new statutory framework for the smaller organisations, leaving the medium sized organisations in the Incorporated Associations regime and requiring larger organisations to migrate to the Corporations Act. There are also arguments for creation of a new statutory framework to facilitate and regulate the creation of social enterprises such has been implemented in the United Kingdom for community interest companies.

Alternatively, and ultimately more desirably, a completely new regulatory framework for the majority of nonprofit organisations, which encompasses corporate and taxation regulation for each of a number of different types and sizes of organisations - along the lines of Charities Commissions in the UK and elsewhere (and recommended by the 2001 Charities Definitions Inquiry in Australia – www.cdi.gov.au) - could also be considered if there were agreement between federal and state governments to do so. While this is presumed to be outside the terms of reference of the present Review, there are merits in considering steps which could be taken initially in Victoria (and perhaps later in other states) towards this goal.



As noted in oral submissions already made by National Nonprofit Roundtable personnel in Review consultations, the Roundtable is of the view that the sector itself should assume a major role in and significant responsibility for capability and capacity strengthening within the sector. The collective and considerable knowledge and resources of the sector which can be applied to capacity strengthening in a wide variety of areas should be supplemented and complemented with financial and other resources provided by government and perhaps business and philanthropic sources. The Roundtable will more comprehensively address the relevant issues in the input it provides to the Victorian government's Strengthening Community Organisations Project over the coming months.

As noted in the covering letter to this submission, the Victorian government should also consider what steps might be taken to encourage and assist other states and the federal government to adopt similar arrangements and approaches – not only to promote regulatory reform for the nonprofit sector at national level, but also to address the needs of the many Victorian organisations which operate to varying extents at national level and/or which receive funds from federal government agencies or which are regulated by federal bodies.