A submission to the Productivity Commission study of the Contribution of the Not for Profit sector

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Executive summary

The central concern of this submission is conceptual clarity, with a focus on the appropriate conceptual framework for assessing the contribution of the not for profit sector; the most suitable means by which its efficiency and effectiveness may be assessed; and the changing basis of the sector's relationship with government.

While the Inquiry's terms of reference require a broad definition of the not for profit sector, there are serious problems with the concept, especially in the form of the 'third sector'. This has practical implications, especially for appropriate representation of what is in practice a very disparate set of organisations. As argued in the British Parliament's 2008 report, *Public Services and the Third Sector: Rhetoric and Reality*, attempting to identify general characteristics is less useful than focusing on particular needs and particular services.

The Anglicare Australia network exemplifies both the diversity of organisations and activities in the putative sector, as well as the difficulties of gleaning evidence for the purpose of measuring their contribution.

The Commission's proposed conceptual framework requires a judicious combination of quantitative and qualitative information. It is proposed that the framework be integrated with an adaptation of the 'capabilities' approach pioneered by Amartya Sen, and informed by empirical indicators developed in recent research into disadvantage in present-day Australia.

The sector's efficiency and effectiveness have been undermined with the shift from a submissions-based grants to a competitive purchaser-provider model of government funding. This has had the effect of distracting agencies from their core business of enhancing welfare and encouraging governmental micro-management, leading to various forms of inflexibility and excessive regulation.

Among current trends, government's greater commitment to collaboration with not for profit services suggests the potential for a new form of collaborative relationship in which there would be more individualised negotiations and greater autonomy for service providers.

The non-profit sector as an overall coherent concept barely exists in this country. It hasn't really been invented yet.

Professor Mark Lyons 2009

My intuition and experience suggest that public services, and the governments they serve, still exercise their persuasive talents in an environment characterised by asymmetrical power. It is not yet, and perhaps cannot ever be, a partnership of equals. Community-based enterprises negotiate from a position of disadvantage. The obvious question is whether not-for-profit organisations should avoid entering into contractual relationships with governments, knowing that — no matter how politically protected they are by a compact or charter of civil engagement — they remain relatively weak when bargaining with the formidable strength of public service agencies speaking with the authority of government.

Professor Peter Shergold 2009

Introduction

Anglicare Australia welcomes the opportunity to make this submission to the Productivity Commission's study of the contribution of the not for profit sector. As a nationwide network of locally based Anglican agencies responding to the needs of some of the most disadvantaged people in our society, Anglicare Australia has a particular interest in addressing the study's objectives through the lens of the federal government's social inclusion agenda and the needs of the most vulnerable Australians.

While dealing with many of the particular question raised in the Commission's 'Issues Paper' (henceforth 'Paper'), this submission puts a general case that aligns with the arguments developed in our earlier submissions to the Senate Standing Committee on Economics Inquiry into the disclosure regimes for charities and not for profit organisations and the Henry Taxation Review (Anglicare Australia 2008b; 2009). Where appropriate, we shall summarise or reference arguments already put in those other documents; or else, for the sake of clarity, quote directly or repeat. This may therefore be read as both a document in its own right and as part of a compendium.

We shall also refrain from rehearsing evidence and arguments adequately covered elsewhere, limiting the submission to references in the literature, indicating agreement or disagreement as appropriate.

The general concern of this submission is the need for conceptual clarity, as a necessary condition for effective practical action. It has three main elements:

- The appropriate conceptual framework for identifying and assessing the contribution of the not for profit sector (specifically, that part which comprises the services provided by Anglicare agencies).

- In light of that, the most suitable means by which its efficiency and effectiveness may be judged. This will take particular account of the interplay and potential tension between quantitative and qualitative information.

- The changing basis of the sector's relations with government and business — especially the former in the provision of government-funded services. The particular focus here will be on the implications of the shift from submission-based grants to competitive tendering for government contracts and the potential for more collaborative partnerships.

Anglicare Australia submits that this approach, while not addressing all matters raised in the Issues Paper, does deal with a central concern of the Commission's study which also has wider application, not only with respect to current related inquiries but also public policy generally.

The 'not for profit sector': a classificatory chimera?

The Inquiry's terms of reference require the Commission to take 'a broad definition of the not for profit sector to encompass most categories of not for profit organisations' (Productivity Commission 2009, henceforth 'Paper': 43). At the same time, it rightly notes that 'given the breadth and diversity of the sector, and the complexity of its relationships with other sectors including government … a more focused approach may be required to deal with some specific elements of the terms of reference' (Paper: 9).

Without entering into undue theoretical discussion — the object of the exercise being to inform government policy with a view to improving working relations — it is worth noting that there is much scepticism about the validity of putting all not for profit organisations into a single category, especially in the form of the 'third sector' (as developed, for example, by Lyons 2001). There are two main reasons. First, the concept is designated in purely negative terms; there is a parallel here with the concepts of 'the Third World' and 'disability'. It is akin to saying that because large numbers of species in the animal world are neither birds nor mammals, they should all be classified together — say, as reptiles. Logically, this *can* be done, but it would not be very informative. We need to have solid empirical grounds and principles for any kind of taxonomy. The notion of the 'third' or 'not for profit' sector is a severe case of conceptual stretching.

Secondly, it is not altogether obvious there is a meaningful distinction between it and the first (state) and second (market) sectors. Indeed, one of the main criticisms levelled against some 'not for profits' is that they are often de facto businesses competing on a far from level playing field with 'for profits' (see e.g. Murray 2006: 51-6). Conversely, one of the more common complaints of community groups is that under the 'new public management' regimen of quasi-markets they have been forced to take on 'the characteristics of semi-state agencies' (Smyth 2008: 52); this reservation underlay the decision of many community agencies not to participate in the Job Network.

The point is not only one of definitional inexactitude. It has significant practical implications. One of these is the supposition that all not for profits share a common identity or, as Mark Lyons puts it (cited in Paper: 7): 'Collectively, they comprise a third organised sector.'

This is, to say the least, contestable. While parts of the putative sector may be highly organised, there is no organisational cohesion to underwrite or manifest the fact that what these several groups have in common is simply that they are neither government nor business. On the mistaken assumption that there is, governments and business are led to believe, for instance, that a single representative body may be competent to negotiate on behalf of such disparate associations as mosques and health services, pony clubs and credit unions.

One consequence can be unrealistic expectations and grandiose claims. The United Kingdom provides a sobering case-study. Its Compact between government and 'the voluntary and community sector' dates back to 1998 and has an impressive administrative and promotional structure (there is now a minister of state for the Third Sector). But what it has achieved is less obvious. Last year's government report, *Public Services and the Third Sector: Rhetoric and Reality*, merits attention (House of Commons Public Administration Select Committee 2008: 5):

> The central claim made by the Government, and by advocates of a greater role for the sector in service delivery, is that third sector organisations can deliver services in distinctive ways which will improve outcomes for service users. We were unable to corroborate that claim. Too much of the discussion is still hypothetical or anecdotal. Although we received a great volume of response to our call for evidence, much of it admitted that the evidence was simply not available by which to judge the merits of government policy.
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> As the initiator of a significant policy change, the onus is on the Government to demonstrate the evidence base supporting its actions. However, attempting to identify general distinctive characteristics of an entire sector is not necessarily the most constructive way forward. We suggest that the

> Government's priority ought to be understanding the needs of the users of particular services, and then working out what organisations might be best placed to meet those needs.

The Commission clearly recognises these and related difficulties, providing a useful filter through which to focus its study (Paper: 9, 11). For its part, Anglicare Australia proposes to consider only issues which pertain to the purpose and activities of its own membership, without prejudice to the status or operations of other not for profit agencies. That is, in relation to the International Classification of Non-Profit Organisations (Paper: 10) we shall be concerned with agencies involved in Social Services, Health, Development and Housing, and Civic and Advocacy Organisations.

To attempt anything more ambitious would, among other things, beg a question about the meaningfulness of the concept of a 'third sector'. In other words, it begs a question about what we are at one with the British Parliament in having questioned.

Anglicare Australia as exemplar of community services

Even within its own segment of the not for profit universe, the Anglicare network itself exemplifies the diversity of organisations and activities contained under the rubric of not for profit operations, as well as the difficulties associated with gleaning evidence for the purpose of measuring their contribution.

In 2007-08 Anglicare agencies served over 512,340 clients in rural, remote, regional and urban communities using the services of 12,000 staff and 21,000 volunteers and spending over $624 million. Individual members range from the very small (one or a handful of staff) to the very large (six or seven hundred staff), with corresponding variations in budget and clients.

Equally diverse is the range of services provided. While all agencies have the general purpose of helping the disadvantaged, the ways in which they do so vary widely. Among the more regular services are accommodation support, aged and community care, chaplaincies, children's services, community capacity building and business, disability support, disaster recovery, drought relief, drug and alcohol support, emergency housing and homeless services, emergency relief, employment placement and training, family support services, financial and gambling counselling, foster care, out-of-home care, Indigenous programs, recycled goods shops, refugee and migrant support, special education programs, suicide intervention, vocational training, youth programs and young carers' support. There are, in addition, certain very specialised services like computer refurbishment and training for the disadvantaged.

The network also has a significant advocacy and research capacity. As its peak body, Anglicare Australia seeks to influence social and economic policy at a

federal level, to advocate for a society where the contribution, dignity and participation of everyone are equally valued. But it does so not as representative of a monolithic entity. Indeed, any public statement always has the rider that it 'represents the views of Anglicare Australia, as the national peak body of the Anglicare network. It may not necessarily represent the views of the Anglican Church of Australia or the views of an individual member of the Anglicare Australia network.'

There are several lessons to be drawn from this (regarding the issues canvassed in Paper: 9, 18-21) which may have a general application to community services. The first is that the most useful criterion for differentiating or grouping not for profit community organisations is the *purpose* for which they exist. Even where that purpose is subdivided into more specific objectives, as with the Anglicare network, the groups' collective identity is best captured by indicating, in simple terms, what they are for. As argued in our submission to the Senate Economics Committee Inquiry, specifically about charities (Anglicare Australia 2008b: 3-4), 'it seems rational when identifying charities to focus on an organisation's *purpose* rather than its *reasons* for promoting that purpose … charitable purpose in turn should be identified in terms of specific outcomes or activities such as the prevention or relief of sickness and suffering or the prevention of poverty.' Structure, legal status, taxation treatment, financing sources and even the range of activities undertaken are, of course, important but do not in themselves differentiate the sector from others.

Secondly, it is difficult to specify *exactly* what makes these services 'different' from government or for-profit services, let alone 'unique'. As with services' purpose, the relevant language is necessarily fluid and the relevant empirical data largely qualitative, reflecting opinion. The Commission itself notes (Paper: 20) the results of the ABS General Social Survey for 2006 which indicate that not for profits generally are considered easier to access, communicate with and trust. Roy Morgan Research (2007) for ACOSS shows that a majority of Australians prefer community services to be delivered by either government or non-profit community providers. Smyth (2008: 51) pinpoints the traditionally crucial role of voluntary and values-based organisations in the 'Australian way'. Or as noted more generally in a 2001 survey (Australian Collaboration 2001: 50):

> Community services not only support individuals and families, but also build social cohesion, enhance equity, give voice to the needs of disadvantaged groups, mobilise voluntary effort and philanthropy and achieve systemic change They are one of the key mechanisms by which strong, effective communities are fostered and maintained.

Allied to this is the advantage, usually, of local knowledge, sensitivity and connections, even where there is a notional national body. (This is covered indirectly in the Paper's section [p. 20] on 'Connecting the community'.) As a result, standardised procedures and practices tend to be abjured — except when

compelled by rigid contracts (see below) — and, so far as possible, clients are treated according to individual and community needs.

Another general characteristic is the willingness of professional staff to work for community groups at less than the prevailing 'market rate'. This is evidenced by the significant differences in rates of pay and conditions between community and comparable public service — and, even more so, private sector — jobs; with long-term consequences for such matters as superannuation. Just as the rationale of the organisation is not to make money, financial self-interest is less important for individual employees than their decision to make a contribution to some conception of social benefit. This adds to the overall goodwill the community sector enjoys, while also accounting for the relatively high turnover of staff.

Third, returning to the earlier point about the ambiguity of the concept of a 'third sector', not for profit operations, though different from businesses insofar as their raison d'être is not to make profits, work under many of the same conditions and with many of the same objectives (like efficiency and accountability). They also, generally, seek to make a surplus, not to be distributed to shareholders as dividends, but used to benefit stakeholders: that is, their clients.[1] The blurring of lines is especially noticeable in the case of the new species of 'social enterprises' (UTS Business, Centre for Australian Community Organisations and Management 2006).

Fourth, the very variety of services and activities in play makes quantitative data collection complicated and comparative analysis potentially misleading. In some cases (like aged care or child accommodation) the identification and numbers of clients can be readily done. In others (such as counselling or emergency relief) a number of contacts or interventions might be with the same individual or family. In other words, while there might be an accurate figure for the number of interventions, it may not give an informative picture of the number of clients actually involved.

Having said which, there is one area in which quantitative measurement *can* be achieved: in the Commission's own annual report on government services, in which the non-government sector is shown consistently to be more effective and financially efficient than government in providing services. This may be put more generally in a counterfactual proposition: that the contribution of the community sector may be gauged by considering what would be the social and economic cost to government and business (especially government) if the sector did not exist.

[1] 'Stakeholder' is, admittedly, a quintessential 'weasel word' (Watson 2004: 305), no more so than in calls for a 'stakeholder society' (e.g. Mathews 1999). Its connotation in the present context should, however, be clear.

In sum, the experience of the Anglicare network indicates the need for considerable vigilance in making generalisations. Other than an association with the Anglican Church and a commitment to helping the disadvantaged, it is necessary to be very particular about agencies' contribution and the means by which it may be identified and assessed. This holds true for most, if not all, not for profit community services.

Conceptual framework

Reflecting the broad view it has to take, the Commission's proposed conceptual framework (Paper: 21-5) is necessarily pitched at a high level of generalisation. For the majority of community organisations — as distinct from, say, non-profit manufacturers or cemetery operators — comprehensive quantitative evidence is primarily available at the level of inputs, less so at the level of outputs, and very difficult at the levels of outcomes and impacts. Even some crucial inputs, notably the contribution of volunteers or treating clients with respect, are problematical.

While government has an understandable preference for quantitative evidence, there is also ever-growing recognition of the critical importance of intangibles, especially the still ambiguous but ultimately measurable notion of 'social capital' (ABS 2004; World Bank 2005). In evaluating their work, Anglicare agencies tend to use even more abstract, yet meaningful, concepts like 'self-worth', 'dignity' and 'resilience'.

The underlying problem is with the term 'measurement'. It implies 'hard' data and quantitative precision. A better term might be 'assessment'.[2] In other words, a comprehensive approach to assessing the sector's contribution would take account of the appropriateness of both quantitative and qualitative evidence, especially where one is readily available but not self-evidently suitable. With social services (or, indeed, teaching, medical practice or police work) it is far easier to deal with data that can be counted or otherwise empirically specified — like 'throughput' or paperwork — rather than more amorphous but fitting information about the effectiveness of what has been documented. The Commission (Paper 22) gives the examples of 'participation in events' or 'research' as representative instances of outputs. Yet numbers alone will tell us nothing about the quality of such participation or research. The potentially supererogatory effects of the 'publish or perish' syndrome extend well beyond academia, especially where the subject-matter is Key Performance Indicators or Benchmarks.

[2] We might consider a broad analogy with the academic assessment of 'hard' subjects like mathematics and natural science on the one hand and the humanities on the other. One of the problems with social studies is that many practitioners feel the need to demonstrate their 'scientific' credentials by using quantitative techniques that are totally unsuited to the subjects being investigated.

In any case, the two kinds of evidence are complementary. We are able, as noted, to be empirically precise about the number of children or aged people being accommodated. On a wider canvas, if with less precision, we can map the increase or decrease in homelessness nationally or in a given area; as well as rehabilitation or relapses in cases of addiction. But in the case of the ultimately moral value of outcomes and, even more so, impacts, we have to more or less abandon quantitative evidence; or, at a great remove, rely on tenuous proxies.

This raises the important question of precisely what we are seeking to assess. While the answer may seem more or less obvious — and taken for granted — we should appreciate the impact a means of measurement has on what is considered suitable *for* measurement. Some things simply cannot be measured in any ordinary understanding of the term: we have just mentioned 'self-worth', 'dignity' and 'resilience'. Even in economics, as Simon Kuznets, originator of the US national accounts, was at pains to stress, quantitative precision does not equal objectivity. As he himself told the U.S. Congress in the 1930s, 'the welfare of a nation can scarcely be inferred from a measure of national income as defined by the GDP' (cited in Roberts 2007). When we are dealing with matters of human development and our final criteria are psychological, social and moral, we must tread very carefully indeed.

To say this is not to embrace arbitrary subjectivity. Ethics, for instance, can be as objective and empirical as economics can be a matter of guesswork and abstraction divorced from reality. Indeed, moral argument — especially since the global financial and economic breakdown — is having a significant impact on most forms of policy debate (e.g. Barber 2009; Furedi 2008; Skidelsky 2009). Even the Treasury Secretary has recently announced that 'today equity is central to Treasury's mission and policy advice' (Henry 2009).

Indeed, in our submissions to his eponymous review of the tax and transfer system, Anglicare Australia has followed Dr Henry's own lead (e.g. Henry 2007, 2009) in proposing that the 'capabilities approach' pioneered by Amartya Sen provides arguably the most useful conceptual framework for dealing with matters of equity in public policy (Anglicare Australia 2009: 6-10). As Adam Smith first noted in the eighteenth century, not being 'ashamed to appear in public' should be a major aim of economic activity, specifically in the context of taxation. It is a self-evidently qualitative (and subjective, but not arbitrary) criterion.

This suggests a way in which the qualitative and quantitative elements of the Commission's assessment of the sector's contribution might be blended.

Sen (1993: 31) makes a basic distinction between functionings and capability: '*Functioning* represent parts of the state of a person — in particular the various things that he or she manages to do in leading a life. The *capability* of a person reflects the alternative combinations of functionings the person can achieve and from which he or she can choose one collection.' Certain functionings are basic

and universal; they are the essentials of life like adequate sustenance, shelter, health, a basic education. Others are more complex and involve higher faculties, such as achieving self-respect or participating in the life of the community. Clearly, the detail of these complex functionings will be relative to prevailing social norms and capacities.

The aim of social and economic policy, on this view, should be to maximize people's capabilities and thus the range of functionings from which they can choose. The approach is 'deeply evaluative'. This means combining quantitative and qualitative assessments, while being open about the principles and underlying objectives. As Sen puts it: (ibid: 32): 'The need for selection and discrimination is neither an embarrassment, nor a unique difficulty, for the conceptualisation of functioning and capability.' It is important to note that while the beneficiaries of capability enhancement are individuals, the intended outcomes and impacts have an inescapable societal dimension: 'The capability of a person depends on a variety of factors, including personal characteristics and social arrangements … individual evaluations feed directly into social assessment' (ibid: 33, 49).

This provides empirical teeth to what the Commission calls (Paper: 24) the 'partial' information of the output, outcome and impact layers of its conceptual framework. In his own applied work, Sen has focused primarily on issues in development, with a central focus on basic poverty alleviation. In the Australian context, ensuring the essentials of life is also, unfortunately, a major concern for welfare services — while acknowledging that what it means to be 'most disadvantaged' in Sydney or Melbourne is not of the same order as it means in Brazzaville or Harare. But dire poverty is not the only marker of deprivation. Recent work by the University of NSW's Social Policy Research Centre, with Anglicare members and others, gives empirical substance to the capabilities approach by providing new indicators of disadvantage in 21st century Australia. This was done by identifying the absence of items or experiences which enable one to 'live without shame'; that is, by developing new empirical and quantitative indicators of disadvantage and social exclusion 'grounded in the actual living standards and experiences of people in poverty' (Saunders et al. 2007: vii). Thus, apart from having a substantial meal at least once a day and a secure home, there should also be the ability, for instance, to buy prescribed medicines and school books and clothes for children (see Appendix for details). On this basis, Anglicare Victoria conducts an annual 'Hardship Survey' (Anglicare Victoria 2009). The approach accords with the concerns of classical liberal political economy, notably Smith's, if not those of recent neoclassical theory and practice. It also allows greater conceptual and empirical precision in determining outcomes, as specifying disadvantage tends to produce a finite enumeration, while devising positive indicators of 'inclusion' — which easily conflates 'needs' with 'wants' and 'desires' — can encourage an open-ended wish-list.

However, having established the viability of providing a quantitative expression of capabilities or their deprivation, we must still insist on the equal importance of purely qualitative evidence: that dealing, for instance, with the health of civil society, agencies' ability to harness goodwill, encourage autonomy, human 'flourishing' or a good life. These are the main 'significant gaps' (Paper: 18) in the mainstream literature to date — providing 'deeply rich content' rather than statistical thoroughness. As explained by Sen's long-time colleague Martha Nussbaum (2006):

> The basic moral intuition behind [the capabilities] approach concerns the dignity of a form of life that possesses both deep needs and abilities. Its basic goal is to take into account the rich plurality of activities that sentient beings need … for a life with dignity … I argue that it is a waste and a tragedy when a living creature has an innate capability for some functions that are evaluated as important and good, but never gets the opportunity to perform those functions. Failures to educate women, failures to promote adequate health care, failures to extend the freedoms of speech and conscience to all citizens — all those are treated as causing a kind of premature death, the death of a form of flourishing that has been judged to be essential for a life with dignity. Political principles concerning basic entitlements are to be framed with those ideas in view.

This evidence, too, is empirical in that it is grounded in observation and interpretation. But though descriptive, it is primarily concerned with meaning, understanding and, finally, moral value which cannot be reduced to predetermined outputs or benchmarks. This is not to say there are no specific social and economic objectives; only that they are of their nature more diffuse and 'fuzzy'. As a general rule, the more vulnerable the client, the more qualitatively-based and assessable the service and outcome.

Naturally, there will be many disagreements at the edges about which functionings and capabilities qualify as 'basic' as well as the extent of inequality that is compatible with a broader conception of equity or social justice. Beyond the highest level of generalisation, and the satisfaction of truly absolute needs, there will never be full agreement. But that does not matter. The point is that we can and should have this kind of conversation — as a central element of economic as well as social, moral and political debate.

In practical terms, the form and format in which this type of evidence is most effectively researched and presented vary much more than do those for quantitative data. It can be conveyed, among other ways, in narratives, case-studies, in-depth interviews or focus groups; and across a range of media, such as the 2008 film on homeless young people, 'The Oasis' (Salvation Army 2008). This is the general approach Anglicare Australia's adopts for its annual 'State of the Family' reports (e.g. Anglicare Australia 2008a).

In short, we contend that for the community sector the conceptual framework suggested by the Commission should be integrated with an appropriate variant of the capabilities approach developed by Sen and quantitative and qualitative indicators of the sort elaborated by the Social Policy Research Centre and like research bodies.

Enhancing efficiency and effectiveness

As with the evidence base, there are both quantitative and qualitative aspects of efficiency and effectiveness, especially when these have the potential to come into conflict. Quantitative evidence is, however, more plentiful in this area.

A changing relationship with government

A framework for dealing with the question is suggested by the Commission's question on the sector's capacity for innovation (Paper: 30).[3] This primarily relates to the changing nature of the relationship between the sector and government. That relationship has changed in recent years and may be in the process of changing further. The fundamental shift (from the 1990s) has been from submission-based grants for mutually agreed community goals to competitive contracts for the delivery of specific government programs on the purchaser-provider or 'industry' model.

As the former Secretary of the Department of Prime Minister and Cabinet has argued (Shergold 2008: 15; 2009: 3-4), while the rationale of the resulting system was 'to harness market competition' and secure cost savings, with somewhat less concern for service quality, this arrangement did have the potential 'to generate social innovation'. That potential, however, has not been realised as 'well-intentioned public servants have felt the need to get themselves involved in the internal management of the providers':

> [T]he problem is a lack of imagination, insufficient courage and too great an abundance of caution. Too many good things have happened to the delivery of government services only for their beneficial potential to be stymied by being argued for the wrong reasons and/or undermined by a failure of political nerve or bureaucratic inflexibility.

Otherwise put — and with more general application — a serious fault of current arrangements is what sociologists call 'isomorphism' in the relationship between

[3] *Comments are invited on the incentives (such as community attitudes and views of donors) on not for profit organizations to operate efficiently and effectively and to take innovative approaches. To what extent do these incentives differ as a result of the funding arrangements faced by an organisation? Are the incentives currently faced by not for profit organisations sufficient to ensure they operate in an efficient and effective manner and, if not, what changes are needed to increase those incentives? Are there constraints on innovation, and if so what can be done to remove them?*

the community sector and government: that is, the tendency of the sector, whether consciously or not, to adopt the image and practices of its 'partners'. This can be the direct result of contractual obligations, as happened especially under the former Coalition Government, and exemplified by the Job Network and Disability Employment Network. In Smyth's (2008: 52-3) summary:

> The broad aim of social development based on citizenship entitlement [in the 1970s and 1980s Keynesian-style welfare state] was replaced by 'conditional welfare for the few'. In a climate of fiscal austerity, governments turned to contracting out public services via the mechanism of quasi-markets with the aim of achieving greater 'value for money'. Collaboration in the sector was replaced by competition and, for many welfare agencies, growing 'market share' became the central organisational driver ... The community sector found itself constrained by excessive centralisation and regulation and less and less able to respond to human and local complexity.

Consequences of the industry model

The net effect of this system — the main features of which remain in place — has been to distract agencies from their core business of enhancing welfare, towards an entrepreneurial model of social services designed around pre-packaged models and compliance arrangements. Little if any benefit has been gained from local knowledge and connections (though the system does take advantage of the contribution of volunteers and below-market wage workers in getting better 'value for money'). As a result, agencies not only compete against each other but spend much of their time on such activities as tendering for (usually short-term) contracts, and fulfilling frequently burdensome compliance and reporting requirements.

Aged care provides a telling example. In some service delivery areas, providers are required to re-negotiate their arrangements with the Department of Health and Ageing as frequently as every six months. These negotiations are not simple matters. They require business plans and projections, key performance indicators and considerable supporting documentation — the gathering of which detracts significantly from the time and funds available for actual service delivery.

While it is clear that publicly funded entities should be accountable for the financing they receive, the compliance costs to service providers can frequently be disproportionate to the level of funding involved.[4] The core of the problem appears to be that government has applied a 'one size fits all' reporting and compliance model to contracts and grants. These requirements may be achievable for larger organisations — although often with some difficulty — but can represent an insuperable burden to smaller agencies and providers.

[4] Examples include the requirement for audited financial statements on completion of a project which attracted a $1500 one-off grant.

This reinforces the tendency to micro-management. An example is the Youthlinx program run by Anglicare agency the Samaritans in Newcastle. At one point, the agency was short staffed, so underspent on wages for a short time. In the same period it was running a very successful aerosol arts program, spending $300 more than had initially been budgeted. This was noticed by the Department of Families, Housing, Community Services and Indigenous Affairs in the mid-year report. The department reminded the agency of the funding agreement requirement that permission had to be requested in advance for such a change. The agency was required to spend exactly what had been budgeted for in each line item, even though the 'bottom line' was still balanced. The result was that the agency had to cut back on programs for young people and return unspent wages to the department.

Accreditation requirements for residential aged care homes further illustrate this point. Accreditation by the Department of Health and Ageing (through the Aged Care Standards and Accreditation Agency) is mandatory if a home is to receive Commonwealth funding. This applies equally to not for profit and commercial operators.

There are four accreditation standards, with a total of 44 'expected outcomes'. Some of these have only a nodding acquaintance with quality of care, and the imposition of financial sanctions for non-compliance with any of them can actually diminish it. Government itself is aware of the problem. A Department of Health and Ageing-commissioned report notes (Department of Health and Ageing 2007: 31-2; emphasis in the original):

> The tensions created when an approved provider who is judged to have not complied with their responsibilities is denied access to a portion of their funding, and the potential 'spiralling' effect on quality of care, also has been the subject of comment by the Administrative Appeals Tribunal.
>
> *'There are instances in which there may be a tension between an approved provider's accountability and the Act's object of protecting the health and well-being of the recipients of the aged care services and that tension is as a result of the approved provider's financial position. That tension may arise in instances in which a sanction is imposed and the outcome of that sanction is effectively to reduce the total amount of subsidy payable to an approved provider… there must be a very real possibility that the health and well-being of the recipients of aged care services may be compromised.'*

Nine 'expected outcomes' relate to management systems, staffing and organisational development. Some of these are directly related to good quality care, while others might be seen as inimical to it. One requirement, for example, is that there be ongoing education and staff development. A worthy goal in itself,

this may nonetheless place an intolerable burden on facilities already struggling to find sufficient staff, let alone cover absences for training and development. A significant factor influencing service providers' ability to attract staff is the preference by government for short-term funding agreements. High-quality staff are unlikely to be keen to apply for positions which may be funded for only six months. Victoria's Department of Human Services has recognised this problem and moved to three-year contracts, but the federal government has yet to make a similar move.

A further difficulty providers find with reporting requirements is that results and quality in welfare services provision are difficult to quantify. One upshot of this is that measurement is applied to processes rather than to effectiveness. Another is that measuring the unquantifiable takes the form of proxies. Aged care quality, for example, is partly gauged for reporting purposes by the number of pressure sores reported. While these can be easily enumerated, the measurement thus obtained is influenced by so many unavoidable variables — such as the general condition of individuals' skin — as to verge on the misleading.

Inflexibility is another consequence of the standard purchaser-provider model. Once a workplan has been developed there is little scope for change, except by confronting considerable red tape. As a result, means can become confused with ends, and particular circumstances ignored in favour of adherence to general rules or templates. An example of the former is the experience of an agency which was contracted to provide meals for its clients. A local meat works offered to provide a weekly free supply of fresh meat. The agency, unfortunately, did not have an appropriate freezer to store the produce. It therefore asked government if it might use the sum allocated for purchasing food to buy a freezer instead — at much lower overall cost. But because the contractual provision was for purchasing food, the request was refused and the free meat never delivered. Needless to say, this had an impact on the agency's reputation and community regard.

An illustration of the latter type of inflexibility is the insistence in the Northern Territory on providing exactly the same resources to three agencies — in Darwin, Katherine and Arnhem Land — facing completely different demands and conditions. Taking only an obvious example: the costs of travel to meet clients in Darwin and Arnhem Land, and the availability of complementary services, are simply incomparable. Yet government funding is the same to achieve the same outcomes. One implication is that the criteria for determining remoteness indicators should be made more sophisticated.

This might be extended to a broader point about the lack of sensitivity to — or even awareness of — locational differences. The relative disadvantage of many regional and remote areas is well documented (as are the higher living costs of those in the main capital cities). But there are also important differences within remote communities. The presence of a mining operation, for instance, can make

it very difficult for community agencies to attract staff at all levels, given the huge discrepancy with income to be gained in the main industry (no matter how dedicated the staff may otherwise be) and the inflated cost of accommodation.

Financial inflexibility and inadequacy also has a significant impact on operations. The overwhelming majority of contracts do not have provision for funding adjustments in line with increases in the CPI (let alone a more appropriate index) despite the fact that wages and other costs increase. This erodes the buying power of government funding which has to be accommodated by drawing resources from other areas (like donations) or cutting services.

Summary
Efficiency, effectiveness and innovation in the sector have been undermined by an unimaginative political philosophy and several resultant dysfunctional aspects of the relationship between government and agencies. The philosophical problem has been well summarised by former Philanthropy Australia chair Elizabeth Cham (2009):

> What has happened in the last 25 years with the neo-liberal philosophy around everything, it's certainly permeated the non-profit sector, it's permeated the language, it's permeating the modelling, it's permeated the paradigm in which we work. And I've always felt that it's wrong, it doesn't suit us, because how do you actually measure human endeavour? It takes much longer than anything that happens in business, and if you're not measuring human endeavour, you're measuring social change which is also very, very slow. So I feel that for the last 25 years, we have actually, the whole non-profit sector has been in a straitjacket. It's not as though anyone has put it in the straightjacket, it's almost put it on itself. And for me, the critical issue is that in doing that, it's lost its independent voice, it's lost its language, and it's really lost its values. I mean it hasn't totally done that of course, but there's been such emphasis put on the measuring and the business model, and government has increasingly not understood what the sector does, and has offered vast amounts of money for service delivery, where with the new job network or other service delivery, and it's said, 'You're service delivery providers for us.' Now that's one element of what the sector has done, and it really has swamped the entire workings of the sector, certainly the debate.

Among the main dysfunctional elements of the system are the following (see also Murray 2006; Senate Standing Committee on Economics 2008: chs 6-7):

- The regulatory burden is excessive, with inefficiencies stemming largely from a prescriptive, standardised reporting system and concomitant red tape. (Having comparable standards does not entail standardisaton.) This is inconsistent with governments' (i.e. COAG's) own policy on increasing business efficiency in general.

- Overlapping federal and state/territory jurisdictions generate unnecessary administrative requirements — with, for example, 93 state, territory and Commonwealth bodies able to make a determination about an organisation's charitable status. This is particularly onerous in the matter of compliance duties and costs.

- Government fails to appreciate the practical implications of the often great discrepancy in administrative, financial and other resources among communities agencies themselves. This has several consequences, particularly (for smaller agencies) for what should constitute realistic compliance and other regulatory responsibilities.

- Agencies themselves have various organisational structures. These include defined corporate structures, small incorporated associations, trusts and loose alliances of individuals. Supervision ranges from regulation under the Australian Securities and Investments Commission to no effective regulation at all. While (like the purchaser-provider model) this has the potential to recognise the diversity of services, in practice it makes for confusion, especially given governments' predilection for homogeneity.

- The sector's workforce is under-valued, not only in a financial sense but also in respect of status. One consequence is that it is difficult to attract and retain appropriate staff. This situation will be exacerbated as the population ages and, among other things, the numbers of volunteers and carers diminish.

The more positive conclusion to which this leads is that, consistent with the capabilities approach, a much more flexible, qualitatively-based means of accountability is desirable. The 'industry model' is unsuited to most community work, serving only to reduce both efficiency and effectiveness. For government contracts, what may be lost in statistical precision (or merely detail) would be more than compensated by greater accuracy in identifying the relevant outcomes and impact, both of which would be facilitated by a reduction in administrative density and the need to conform to standardised reporting.

Trends and developments

- One trend that had been remarked on widely even before the current financial and economic downturn has been the changing nature of the sector's clientele (e.g. Anglicare Australia 2008a: ch. 1). In addition to the 'normally' disadvantaged, agencies have begun to see increasing numbers of people who might be characterised as low to mid-stream wage earners: people who are formally employed but coming under growing financial stress. The most common source of this stress is meeting housing needs, whether in mortgage repayments or rent, especially when working hours have been reduced. As noted above, the relevant indicators of disadvantage in contemporary Australia cover far more than long-established and indices

like homelessness, mental illness and outright penury (though these remain very serious problems for many). While it is to be hoped that the emergence of this new cohort will be a relatively short-term development — that those now receiving 'acute' care should not join the ranks of those with 'chronic' needs — it would be foolish to underestimate the possibility of new forms of entrenched disadvantage, especially given the tight (and therefore expensive) state of the housing market and the lag between any economic recovery and a fall in the unemployment level.

- A related (and worrying) development is the re-emergence of a rhetorical and practical division between those regarded as the 'deserving' and 'undeserving' poor. Those terms are not openly used, but are inherent in the distinction between, say, people who are 'retrenched through no fault of their own' and those who, by implication, are responsible for their unemployment. Complicating the picture is the significant number of former school and college students who will not be able to enter the workforce in the immediate term and who run the risk of long-term unemployment, if not permanent exclusion.

- A more general societal trend that has had a significant negative impact on the community sector is the spread of risk aversion. This is manifested in several ways, both formally — as in increases in public liability insurance or police checks on individuals who come into contact with children — and informally, in the reluctance of organisations to undertake activities which might expose them to litigation. Given the sector's considerable reliance on the contribution of volunteers, the trend is undermining one of its traditional strengths.

- A related issue is the general move away from centre-based to community care — especially in aged care. This is having a significant impact on costs, notably in the case of insurance.

- A more positive development is the federal government's commitment to greater collaboration with the community sector — as a central part of the broader not for profit sector — in order to provide various community-building services. As Smyth (2008: 54-5) observes, this may represent a move away from a generalised commitment to 'social capital' to more specific social and economic objectives: 'the development of a new kind of local network of government, business and third-sector agencies, which could create an institutional environment with the capacity to tap into local aspirations and exercise the autonomy necessary for effective responses.' This would fit in with the federal government's promotion of small-scale, bottom-up community projects, intermediate labour markets and social enterprises (DEEWR 2008: 13). An example is Anglicare agency the Brotherhood of St Laurence's services in gardening, energy retrofitting, street cleaning, commercial cleaning and security (Mestan and Scutella 2007). At the very

least, such work opportunities can provide a means of transition from unemployment to full-time work on a more sustained basis. In line with this there has been growing appreciation of the potential of 'consumer directed care' programs and individualised funding, particularly in employment and disability services. That potential may, of course, give rise to several different, perhaps contradictory, modes of service delivery.

A collaborative model?

This last development has a wider resonance, possibly signalling a 'collaborative turn' in overall public policy and the governance arrangements affecting relations between the sector and government (O'Flynn 2008). As explained by perhaps its most influential advocate (Shergold 2008: 13):

> The provision of policy advice is now becoming more contested. The views of officials now compete with those of political advisers, advocacy organizations and policy think tanks … At the same time — and significantly extending these developments — broader networks of policy influence are emerging. They demand new ways of doing things and new forms of leadership behaviour. At the heart of these changes lies the growing importance of collaboration — across government agencies and jurisdictions and between the public, private and not-for-profit sectors.

The ideal consequence of collaboration is 'co-production': that is (Shergold 2009: 5),

> the opportunity for those outside the formal structures of governance (individual citizens, community groups and contracted providers) to help design and deliver publicly funded programs and services. Instead of being recognised merely as 'stakeholders', to be informed and consulted on government policy, there is the possibility for non-government players and third-party agents to work together in the construction and implementation of public good.

In optimistic mode, Professor Shergold sees this as the foundation on which a fully 'participatory democracy' should be built. Its most concrete expression to date is the proposed National Compact and attendant changes in governance arrangements (Paper: 7). An essential element of any such agreement would be legal entrenchment of the removal of 'gag clauses' from government contracts with not for profit organizations.

It is, of course, necessary to be wary of intellectual and political fashion. Talk of a 'network society' — or a 'wired' society — goes back at least to 1978 and even Shergold himself (who prefers to talk of a 'centreless society' with an 'enabling state') admits that for all the 'exciting' new developments there is 'no indication of a diminution in the government's desire to shape society'. Indeed, government

interventions, if anything, are increasing, over such private areas as the use of alcohol, sexual conduct, obesity and respect for the right of others (Shergold 2008: 18). Even in its ideal form, a collaborative model of governance would see the state retaining 'positional authority', with the bureaucracy continuing to dominate decision-making (Shergold 2009: 6).

Nonetheless, there is, he claims, a discernible evolution in both policy debate and implementation, which he characterises thus (2008: 20):

Command	The process of centralised control — with clear lines of hierarchical authority
Coordination	The process of collective decision making — imposed on participating institutions
Cooperation	The process of sharing ideas and resources — for mutual benefit
Collaboration	The process of shared creation — brokered between autonomous institutions

The optimistic outcome would be a move from command or coordination (the current arrangement) towards cooperation or, ideally, collaboration. As he puts it (2008: 16):

> A contractual relationship, based initially on compliance, has the potential to be transformed by collaboration. Third-party delivery has the capacity to evolve into a partnership in which public and private goals and values become ever more similar.

Put another way, the relationship would be a synthesis of the submission-based grants and provider-purchaser models. One specific and realisable way in which this transformation might manifest itself is a shift to what the House of Commons Select Committee (2008: 5) calls 'intelligent commissioning' as a means of 'understanding the needs of the users of particular services, and then working out what organisations might be best placed to meet those needs (pp. 4-5 above):

> Our understanding of intelligent commissioning is that it should be based on a knowledge of potential providers and of desired outcomes, based on user needs. Intelligent commissioners should be able to make judgements such as whether contracts or grants are the right way to fund a service, how important price should be in determining who wins a contract, and whether there is scope for innovative methods of delivery. The persistence of perverse practices, like unnecessarily short-term contracts, suggests that a culture change is still needed if the potential benefits of commissioning are to be realised.

This would of course entail far more individualised negotiations which might be considered to increase complexity and add to overall costs. (More generally, there could well be an even greater proliferation of coordinating bodies, task forces and sundry committees that would increase the prospect of stasis.) Against that, it would strengthen what is generally regarded as the desirable shift towards decentralised, locally responsive initiatives and partnerships. As with the recent reform of employment services — including those for people with

disabilities — the aim is to tailor operations to individual needs. In this light, it should be no more onerous to negotiate commissions with individual agencies than it is to negotiate training and work experience packages with individual jobseekers. Properly approached, the net effect would be less regulation and more local discretion

Most importantly, the greater flexibility which 'intelligent commissioning' implies is not only consistent with, but gives practical expression to, the capabilities approach which increasingly underwrites both government and non-government thinking on social and economic policy. While there is always the danger that 'collaborative governance' may, like 'social inclusion', turn out to have less empirical than rhetorical substance, this is a matter for the participants themselves — notably through the terms and detail of any compact between government and the sector.

We might, in other words, have cautious optimism about the prospects for collaboration between government, the community sector and business while recognising that government will always have the upper hand. But at least there is room for some improvement. As Smyth remarks (2008: 55-6):

> [T]he negative views about the role of governments characteristic of the 1990s need to give way to a view of government as the strategic agency responsible for overall outcomes but working through relevant networks. Governments need to develop this role in ways that include facilitating information sharing, research, development and innovation within relevant networks.

Given the advantages of its local knowledge and connections, as well as the high esteem in which is members are held it is clear that the community sector has an important, though not central, role to play in what we must hope is the new age of collaboration.

Conclusion

Our aim in this submission has been to argue for general clarification and to suggest a sense of purpose for the Commission's inquiry; to attempt to demonstrate *why* as much as *how* the current situation might be improved. From the foregoing argument, we draw three main conclusions which may also serve as general recommendations.

- First, it is imperative that there be a more accurate depiction of the putative 'not for profit' or 'third' sector — not merely for the sake of definitional exactitude, but also for practical reasons such as appropriate representation in the mooted compact and the forms which government contracts will take. To return to our analogy (p. 3 above), non-mammals and non-birds are not all usefully classified together, but as distinctive classes in their own right, as

reptiles, amphibians and fish. We need something comparable in the case of non-government and non-business organisations. Our comments in this submission are intended to cover only the community sector. Others — such as educational and religious groups — would require different consideration.

- Secondly, we recommend that the conceptual framework proposed by the Commission be integrated with an appropriate variant of the capabilities approach developed by Sen; along with quantitative and qualitative indicators of the sort elaborated by the Social Policy Research Centre and like research bodies. Measurement, though necessary (and crucial) to overall assessment, is not sufficient to comprise it — especially in the field of human services.

- And third, we propose that the relationship between government and the community sector — especially, though by no means exclusively, in any National Compact — be founded on the principles of collaboration and the practice of 'intelligent commissioning', in which agencies actively participate in the design as well as the delivery of government services.

Anglicare Australia looks forward to continuing this conversation with the Productivity Commission and other stakeholders in helping to build what we trust will be a stronger and socially more productive relation between government and the community sector.

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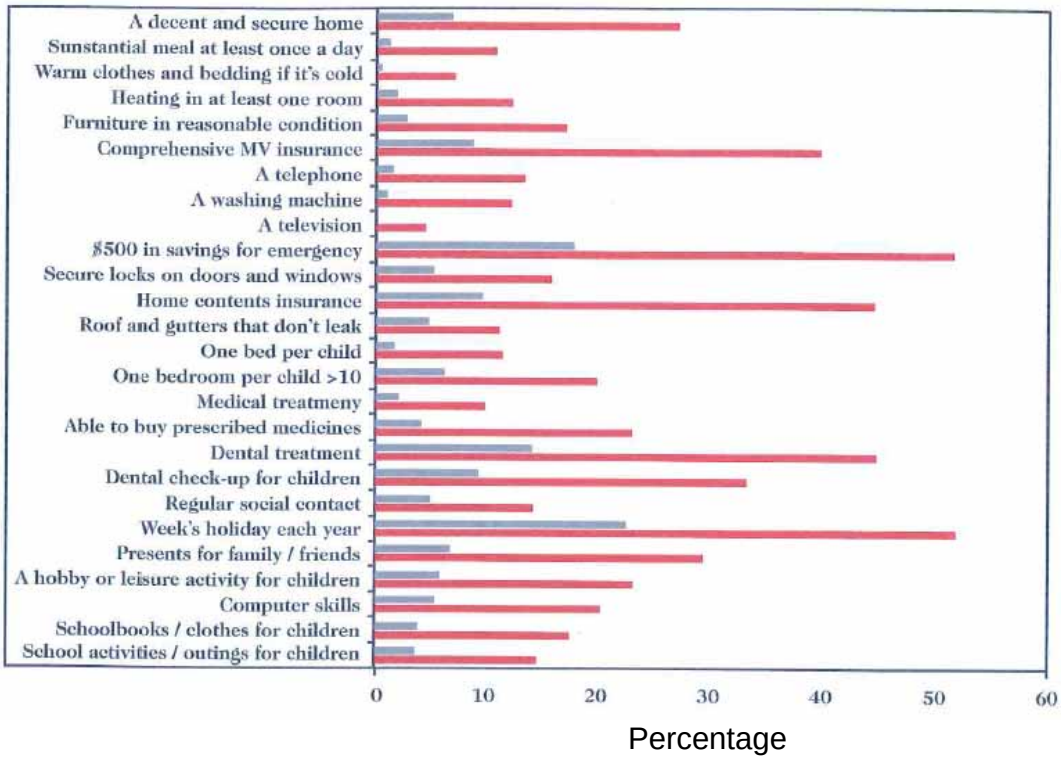
Appendix

Incidence of deprivation (2006 survey)



Grey bar indicates responses from a national postal survey of 6000 adults drawn at random from the electoral rolls.

Red bar indicates responses from recipients of welfare services provided by Anglicare Sydney, the Brotherhood of St Laurence and Mission Australia.

Source: SPRC Newsletter, No. 96, May 2007, p.8.