

Implementation of national funding agreements

Introduction

- 3.1 This chapter examines the implementation of national funding agreements. A number of challenges to the implementation process that have detracted from the original intent of the IGA FFR are considered including: flexibility; an increased administrative burden; inadequate consideration of levels of risk; and micromanagement by the Commonwealth. The chapter then looks at how these challenges have manifested in the development of implementation plans for national agreements.
- 3.2 The Committee is aware that the implementation process is under review by the Heads of Treasuries (HoTs) and the Council of Australian Governments Reform Council (CRC) and acknowledges that these bodies have made a number of recommendations to address the issues identified in this chapter.

COAG Reform Council reports

- 3.1 The Committee notes that the CRC in the two annual reports it has so far delivered has identified issues with implementation planning and has made a number of recommendations in this regard. In its 2010 report the CRC specifically addressed issues around transparency and the reporting

framework.¹ It also asked that these issues be taken up in the terms of reference for the Heads of Treasuries Review (HoTs Review).²

- 3.2 In the 2011 report the CRC notes that a number of working groups have been set up to implement the recommendations from the HoTs Review and that these groups will address some of the concerns regarding implementation. The CRC again recommends further work on implementation issues, particularly with regard to National Partnerships (NPs).³

Heads of Treasuries Review

- 3.3 During the inquiry the Committee was made aware that the Council of Australian Governments (COAG) had commissioned the HoTs to review National Agreements (NA), National Partnerships (NP) and related Implementation Plans (IP) in December 2009. The Heads of Treasuries handed down the report in December 2010 and COAG considered it in February 2011.⁴ The HoTs were asked to determine whether the agreements:

- have clear objectives, outcomes and outputs;
- clearly specify roles and responsibilities, particularly in National Agreements;
- constitute the appropriate form for implementing a policy proposal;
- have the appropriate quantity and quality of performance indicators and benchmarks, including whether they meet the requirement that performance reporting contributes to public transparency; and
- are consistent with the Intergovernmental Agreement, in particular the extent to which they are aligned with the design principles set out in *Schedule D – Payment Arrangements* and *Schedule E – National Policy and Reform Objectives* of the Intergovernmental Agreement.⁵

- 3.4 Witnesses told the Committee that the HoTs Review had identified many of the problems surrounding the implementation of national funding agreements and that the HoTs Review had made 43 recommendations to
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1 COAG Reform Council (CRC), *COAG reform agenda: Report on progress 2010*, pp. xvi-xvii.

2 CRC, *COAG reform agenda: Report on progress 2010*, p. xvii.

3 CRC, *COAG reform agenda: Report on progress 2011*, pp. 11, 12 and 43.

4 *Australia's Federal Relations: Budget Paper No. 3 2011-12*, pp. 11-12.

5 *Australia's Federal Relations: Budget Paper No. 3 2011-12*, pp. 139-140.

address these problems.⁶ Witnesses made it clear that the full implementation of these recommendations would rectify the issues that were identified to the Committee.⁷

- 3.5 The HoTs Review has not been made public and the Committee was unable to confirm the extent to which it addressed the concerns raised in the evidence to the inquiry. Therefore, the Committee requests that the findings and recommendations of the Review be made public and urges COAG to ensure that its recommendations are fully implemented as quickly as possible.

Difficulties with implementation of national funding agreements

- 3.6 Notwithstanding the solid foundation provided by the IGA FFR and work of the CRC and the HoTs Review, the Committee heard that the implementation of national funding agreements had faced a number of challenges. These included:

- inflexibility;
- an increased administrative burden;
- inadequate risk management; and
- micromanagement by the Commonwealth.

Inflexibility

- 3.7 A significant underlying principle of the IGA FFR is the intention to provide the states and territories with the flexibility to deliver services by removing the prescriptive nature of previous arrangements.⁸ In its written submission the NSW Government detailed the advantages of providing this flexibility:

- Accommodating regional difference. Australia is a geographically large and diverse country. A one-size-fits-all

6 NSW Government, Treasurer, *Submission 10*, p. 8.

7 NSW Government, Treasurer, *Submission 10*, p. 8; Tasmanian Government, *Submission 8*, pp. 10–11; Queensland Government, *Submission 4*, p. [2].

8 COAG, *Intergovernmental Agreement on Federal Financial Relations (2008)*, COAG website <http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_federal_financial_relations.pdf> viewed 17 October 2011.

approach to service delivery would fail to meet local needs and priorities.

- Leveraging implementation expertise. As the primary service providers, the States bring a wealth of knowledge and experience to reform planning and rollout.
- Minimising risk. The innovation and experimentation required to make quantum leaps forward carries inherent risk. This risk is minimised if individual States 'trial' reforms before they are implemented by others.
- Encouraging innovation. Competition and comparison among States supports continuous improvement.
- Avoids lengthy 'contract' negotiations. Prescriptive agreements tend to be lengthy documents which take longer to negotiate.⁹

3.8 Contrary to the intention of the IGA FFR, the Committee heard that the implementation process has impeded the ability of states and territories to maintain their flexibility. Witnesses repeatedly spoke of the return to a prescriptive approach by the Commonwealth, particularly through the proliferation of the NP payments.¹⁰ The Business Council of Australia (BCA) warned that the 'continuing proliferation of new national partnership agreements' is 'effectively reintroducing a specific purpose payment approach'.¹¹ The Centre of Public Law reiterated:

...the proliferation of the more prescriptive National Partnership Payments has increased Commonwealth influence at the expense of State flexibility, contrary to the spirit of the National Agreements.¹²

3.9 In contrast to the concerns of states and territories over their own flexibility, other witnesses warned that curtailing Commonwealth control over funding could cause difficulties. The Australian Parents Council Inc. submitted that:

The national partnerships regime significantly diminishes the Commonwealth's capacity to be a driver of reform and innovation in the development and delivery of programs aimed at addressing national policy issues.¹³

9 NSW Government, Treasurer, *Submission 10*, p. 10.

10 Queensland Government, *Submission 4*, p. [2]; Tasmanian Government, *Submission 8*, p. 8.

11 Business Council of Australia, *Submission 9*, p. 1.

12 Gilbert + Tobin Centre of Public Law, the University of New South Wales, Faculty of Law, *Submission 2*, p. [1].

13 Australian Parents Council Inc., *Submission 5*, p. [1].

3.10 The Independent Schools Council of Australia (ISCA) was critical of NP models that 'did not make specific provision for non-government sectors'.¹⁴ In the experience of ISCA members direct funding provided by the Commonwealth to non-government school authorities was more effective and efficient.¹⁵ The ISCA contrasted the Smarter Schools National Partnerships model and the Building the Education Revolution (BER) initiative. The ISCA claimed that the Smarter Schools NP had experienced ongoing problems and delays because it was channelled through state and territory governments whereas the BER had been implemented promptly:

Funding under the BER National Partnership was provided directly by the Commonwealth to non-government education authorities. This enabled the BER to be implemented in the non-government sectors quickly and efficiently. As a goal of the BER was economic stimulus, fast implementation was critical to achieving its goal. The Commonwealth, in implementing the BER, recognised that providing funding directly to the non-government sectors was the only way to guarantee fast and efficient implementation.¹⁶

3.11 TAFE Directors Australia acknowledged the need for flexibility but argued that there is also a need for consistency across jurisdictions.¹⁷ They explained to the Committee that many TAFE institutions and their clients deal across jurisdictions and accommodating differing demands is seriously jeopardising the achievement of national outcomes:

The issue of the inconsistency between jurisdictions creates a great headache both for the enterprises and the organisations, because we deliver across every state and territory. For the enterprise to negotiate the arrangements with each of those jurisdictions is a nightmare and for us, as the training provider, to seek funding from each of those states and territories to provide the training on behalf of the company or organisation in that jurisdiction it has got to the point where the companies are saying, 'We don't want to do this anymore. We will either just withdraw or we will fund it ourselves.'¹⁸

14 The Independent Schools Council of Australia (ISCA), *Submission 3*, p. 13.

15 ISCA, *Submission 3*, p. 13.

16 ISCA, *Submission 3*, p. 13.

17 TAFE Directors Australia, *Submission 16*, p. 3.

18 Mr Michael O'Loughlin, Member Representative (also Chief Executive Officer, Wodonga Institute of TAFE), TAFE Directors Australia, *Committee Hansard*, Canberra, 16 September 2011, p. 20.

- 3.12 TAFE Directors Australia also reminded the Committee that consideration must be given to providing the flexibility to accommodate varying conditions across regional and remote areas, not only state and territory areas.¹⁹ Professor Brown from Griffith University was another strong advocate for expanding the IGA FFR to cover regional needs as well as local government, telling the Committee that Commonwealth and state and territory relations were only a 'fraction' of the overall federal financial relations system.²⁰

Administrative burden

- 3.13 Apart from the compromise of flexibility, the primary concern over the proliferation of NP payments is the increased administrative burden placed on states and territories. This concern is also tied to reporting requirements for the other forms of national funding agreements. Early in the inquiry the Commonwealth Auditor-General warned that the Commonwealth would have to be careful not to add to the 'administrative load' incurred by recipients of national funding agreements.²¹ The BCA also cautioned that the proliferation of NP agreements had imposed 'additional processes and governance layers' that have placed a 'considerable administrative burden on governments'.²²
- 3.14 The states and territories confirmed the increased administrative burden and were critical of the diversion of funds and resources to cover 'unnecessary administrative effort'.²³ The Queensland Government told the Committee that 'optimal outcomes will be achieved under Commonwealth-State funding agreements' when 'States are not required to divert scarce resources to high levels of reporting and administrative effort'.²⁴ Likewise the NSW Government spoke of the 'unnecessary administrative burden' and advised:

19 Mr Martin Riordan, Chief Executive Officer, TAFE Directors Australia, *Committee Hansard*, Canberra, 16 September 2011, p. 19; TAFE Directors Australia, *Submission 16*, pp. 3-4.

20 Professor Alexander Jonathan Brown, Professor of Public Law, Griffith University, *Committee Hansard*, Brisbane, 19 July 2011, p. 16.

21 Mr Ian McPhee, Auditor-General, Australian National Audit Office (ANAO), *Committee Hansard*, Canberra, 24 June 2011, p. 7.

22 Business Council of Australia (BCA), *Submission 9*, p. 3.

23 Tasmanian Government, *Submission 8*, p. 9.

24 Queensland Government, *Submission 4*, p. [2].

Excessive administration and reporting risks diverting resources from service and reform delivery.²⁵

3.15 As with the states and territories, non-government stakeholders were severely critical of the increased bureaucracy and administrative burden associated with national funding agreements and concerned at the diversion of funds and resources from core activities. The Australian Parents Council Inc. urged the Committee to investigate 'how much of the money allocated by governments to schooling actually reaches classrooms' and 'how much is diverted into other areas such as bureaucracies'.²⁶

3.16 The ISCA expressed similar concerns, citing the example of over \$16 million allocated to evaluate a NP program. Over half of the funds had been drawn from Commonwealth funds.²⁷ The Association of Independent Schools of NSW maintained that these funds were 'excessive and disproportionate to the amount of funding available overall'.²⁸ Further, the evaluations have added considerably to the administrative burden for independent schools. The evaluation:

...has resulted in significant intrusions in schools (i.e. too much evaluation in relation to the work being carried out), requiring a significant amount of administration and support to be provided by the sector peak body, and an inordinate amount of time spent on committee work to manage the evaluations.²⁹

3.17 Summarising the problems with the new funding arrangements for the National Education Agreement (NEA), the ISCA identified the bureaucratic and administrative demands as a major issue:

...the issues relate to increased bureaucracy, resulting from the overlay of Commonwealth and state and territory bureaucracies, both in the initial implementation and ongoing administration of the partnerships; the consequential unrecognised and unfunded administrative demands on state and territory associations of independent schools, which are voluntary organisations not funded by government; [and] the significant delays and extremely

25 NSW Government, Treasurer, *Submission 10*, pp. 5 and 7.

26 Australian Parents Council Inc., *Submission 5*, p. [2].

27 Dr Geoff Newcombe, Executive Director, The Association of Independent Schools of NSW Ltd. Independent Schools Council of Australia (ISCA), *Committee Hansard*, Canberra, 24 June 2011, p. 11; ISCA, *Submission 3.1*, p. [2].

28 ISCA, *Submission 3.1*, p. [2].

29 ISCA, *Submission 3.1*, p. [2].

slow pace of administration before any funding was actually delivered to schools or for these initiatives...³⁰

Risk Management

- 3.18 The Committee raised concerns that the move to greater flexibility for the states and territories could jeopardise effective risk management associated with delivery under the various agreements. The Committee asked the Queensland Government what consideration had been given to the changed responsibilities for risk management under the new arrangements. The Queensland Government assured the Committee that risk management mechanisms were in place to mitigate the risk associated with each agreement:

We certainly look at that, both from a fiscal perspective and from a reporting perspective. So, yes, that certainly would be part of our thinking in terms of how we would approach the implementation of a particular agreement and progress towards a particular reform.³¹

- 3.19 The Committee received conflicting evidence regarding the ultimate responsibility for risk management under the new arrangements. The Commonwealth Auditor-General considered that the Commonwealth was ultimately responsible:

...if one of the partners fails to deliver, the risk will almost certainly be carried by the Australian Government in some manner.³²

- 3.20 In contrast, the Tasmanian Government submitted that 'the states bear the risk of any under-achievement'.³³

- 3.21 Regardless of who is finally held responsible, witnesses maintained that the key to handling risk was to ensure that the roles and responsibilities of the various parties were clearly identified and understood.³⁴ The NSW Government advised:

30 Mr William Daniels, Executive Director, Independent Schools Council of Australia (ISCA), Canberra, *Committee Hansard*, 24 June 2011, p. 9.

31 Dr Gary Ward, Assistant Under Treasurer and Government Statistician, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 5.

32 Australian National Audit Office (ANAO), *Submission 1*, p. 2.

33 Tasmanian Government, *Submission 8*, p. 11.

34 ANAO, *Submission 1*, p. 2.

Without clear roles and responsibilities, both levels of government will be concerned about accountability and seek to manage risks accordingly (including via requirements for detailed reporting requirements acquitting activity).³⁵

Micromanagement

3.22 Another concern linked to flexibility and the clear delineation of roles and responsibilities is the threat of the return of Commonwealth micromanagement of national funding agreements. Witnesses reminded the Committee that micromanagement by the Commonwealth was a characteristic of previous federal financial arrangements, particularly specific purpose payments, but that the intent of the new framework was to move away from this prescription and constraint.³⁶

3.23 The states and territories contend that the original intention of the IGA FFR has not been fully achieved, as the Tasmanian Government informed the Committee:

In some cases, the agreements remain highly prescriptive and continue the practice of Commonwealth micro-management of state service delivery.³⁷

3.24 Professor Brown reiterated what many witnesses told the Committee:

There is a big difference between simply saying that the Commonwealth needs to make sure that these resources are spent accountably and for the purposes for which they are dedicated et cetera and when that crosses over into the Commonwealth actually reasserting control over the way in which those resources are spent in a way which interferes with the objective of flexibility or responsiveness.³⁸

3.25 The Auditor-General linked micromanagement to the lack of clarity around roles and responsibilities and identified this difficulty as one of the implementation challenges facing the Commonwealth government, speaking of:

...instances where Commonwealth officials have assumed key jurisdiction-based management and implementation positions.

35 NSW Government, Treasurer, *Submission 10*, p. 6.

36 Legislative Assembly for the Australian Capital Territory Standing Committee on Public Accounts, *Submission 14*, p. 13.

37 Tasmanian Government, *Submission 8*, p. 8.

38 Professor Brown, Griffith University, *Committee Hansard*, Brisbane, 19 July 2011, p. 17.

Such arrangements have the potential to blur, rather than clarify, the responsibilities.³⁹

- 3.26 Witnesses provided specific examples of micromanagement by the Commonwealth. Several witnesses identified the National Partnership Agreement for the Funding of Fort Street High School Noise Insulation as an example of an inappropriate and prescriptive funding agreement.⁴⁰ The Committee was told that, not only was this agreement not concerned with an issue of 'national importance', it 'goes so far as telling you about how you need insulation seals around your doors and window'.⁴¹
- 3.27 It was made clear to the Committee that Commonwealth micromanagement extended beyond prescriptive reporting requirements to the development of the implementation plans. Asked to explain a suggestion that the Commonwealth had micromanaged the Smarter Schools program, Dr Newcombe from the ISCA told the Committee:

I recall attending a number of meetings where we felt that, in the [State] department as well as in the non-government sector, there were very experienced educators who had been involved in this game for a long time working on the implementation plans, and we had what we considered fairly young and inexperienced people from the Commonwealth meeting with us and not pulling it to pieces but certainly being quite critical of some of the implementation plans. That made me think, 'This is probably inappropriate micromanagement, particularly from people who perhaps don't have the experience to do it.'⁴²

Development of implementation plans

- 3.28 Evidence to the Committee suggests that many of the difficulties associated with the implementation of national funding agreements can be traced to problems with the development of Implementation Plans (IPs) for the agreements. IPs are usually bilateral agreements between the Commonwealth and one state or territory which are negotiated between

39 ANAO, *Submission 1*, p. 3.

40 Mr Bryan Pape, *Committee Hansard*, Sydney, 19 August 2011, p. 21; Associate Professor Anne Twomey, *Committee Hansard*, Sydney, 19 August 2011, p. 10.

41 Associate Professor Twomey, *Committee Hansard*, Sydney, 19 August 2011.

42 Dr Geoff Newcombe, The Association of Independent Schools of NSW Ltd., *Committee Hansard*, Canberra, 24 June 2011, p. 15.

the state or territory portfolio Minister and the Commonwealth portfolio Minister.⁴³

- 3.29 As noted in Chapter 2, while the underlying principles and intent of the IGA FFR have been acknowledged as providing an excellent foundation for federal financial relations, in practice the implementation has not fulfilled the promised potential of the framework. To ensure that potential is realised, the Auditor-General stressed that there must be a shift to an outcomes focus, the development of suitable accountability mechanisms and clear delineation of roles and responsibilities.⁴⁴ These factors will need to be clearly developed and articulated in IPs to avoid confusion.
- 3.30 The Committee heard that, in reality, this has not been the case. The Tasmanian Government told the Committee that IPs are 'often in conflict with IGA principles because of the use of input or financial controls, prescription around how programs are delivered and onerous reporting requirements'.⁴⁵
- 3.31 The NSW Government identified another implementation difficulty, claiming that in some instances the Commonwealth 'unilaterally' changes conditions after agreements have been signed.⁴⁶ The NSW Government indicated that uncertainties arise with how to proceed with implementation when, for example:
- ...milestones have been changed during the life of the agreement, funding has been withheld for reasons outside the agreement; or funding has been significantly delayed.⁴⁷
- 3.32 The Committee received a range of suggestions for improving the development of implementation plans and addressing the underlying problems, including:
- a more inclusive approach to developing implementation plans; and
 - ensuring clear and consistent definitions across agreements and implementation plans.

43 COAG, *Intergovernmental Agreement on Federal Financial Relations* (2008), COAG website <http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_federal_financial_relations.pdf> viewed 17 October 2011.

44 ANAO, *Submission 1*, p. 2.

45 Tasmanian Government, *Submission 8*, p. 9.

46 NSW Government, Treasurer, *Submission 10*, p. 7.

47 NSW Government, Treasurer, *Submission 10*, p. 7.

An inclusive approach

3.33 The states and territories advocated for NPs and IPs to be developed in tandem, with the Commonwealth and states and territories working together, so that IPs can better reflect the expectations and requirements of the NPs. Speaking of operational changes that could improve implementation, the Queensland Government called for the process:

...to require that implementation plans are developed in parallel with national partnership agreements as far as possible so that the Commonwealth and the states have a better understanding of the detail underpinning the agreements when the NPs are actually signed.⁴⁸

3.34 The Committee was concerned that such a process may impose tighter Commonwealth control around implementation and impede the states and territories flexibility. On the contrary, the Queensland Government told the Committee that the current process impeded flexibility:

In other words, the NP has been signed by first ministers and then the implementation plan follows and, when the implementation plan gets to see the light of day, there are things in there that arguably do not sit well with the spirit and intent of the broader intergovernmental agreement and indeed the particular national partnership that COAG has already signed off at an earlier point in time.⁴⁹

3.35 The Queensland Auditor-General, Mr Poole, supported the need for NPs and IPs to be developed together. Citing the BER agreement and the reconstruction agreements developed in response to natural disasters in Queensland, Mr Poole identified possible inconsistencies that could develop when NPs and IPs are developed separately:

It seemed that there was an agreement between the Commonwealth and the state at a fairly high level and then the detail was done somewhere else. ...If the two are done together, the chances are that the people who are doing the broad agreement will be in the tent when the detail is being developed and will have some capacity to monitor and ensure that we do not get into a level of detail that was not intended.⁵⁰

48 Dr Ward, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 2.

49 Dr Ward, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 5.

50 Mr Glenn Poole, Auditor-General Queensland, *Committee Hansard*, Brisbane, 19 July 2011, p. 15.

3.36 Highlighting the need for parallel development of NPs and IPs, the Queensland Auditor-General explained how differences can develop between the original intergovernmental agreement and the final implementation requirements. Again using the BER program as an example, he suggested that:

...once it got into the Department of Education, Employment and Workplace Relations, they were not quite in tune with the spirit of the original agreement. From my discussion with state officials, the comment that came back was: 'We signed up for this, but once it got off to the department we found that we were signing up for something entirely different'.⁵¹

3.37 Similarly, the NSW Government told the Committee that currently NPs and IPs are 'developed and largely finalised within the Commonwealth prior to consultation with the States' and that a 'more inclusive process would allow for agreements to better reflect State contexts and priorities'.⁵²

3.38 Non-government stakeholders were also extremely concerned by the lack of consultation. The ISCA told the Committee that the non-government sector educates 'more than 30 per cent of Australian schools students' and is expected to meet the goals and targets of the NEA.⁵³ However, the non-government school sectors were 'effectively locked out of the decision-making' process for the development of the NEA:

The non-government sectors are not represented on the Ministerial Council for Education, Early Childhood Development and Youth Affairs (MCEECDYA) nor has access to MCEECDYA papers. Likewise the relevant senior education officials' committee, Australian Education, Early Childhood Development and Youth Affairs Senior Official Committee (AEEYSOC) does not have non-government school representation, nor do the non-government sectors have access to papers.⁵⁴

3.39 According to the ISCA, the lack of consultation has flow on effects for implementation. With regard to the Smarter Schools National Partnership, the ISCA explained:

The majority of [Associations of Independent Schools] reported that they had little or no opportunity to influence the strategies

51 Mr Poole, Auditor-General Queensland, *Committee Hansard*, Brisbane, 19 July 2011, p. 11.

52 NSW Government, Treasurer, *Submission 10*, p. 9.

53 ISCA, *Submission 3*, p. 10.

54 ISCA, *Submission 3*, p. 10.

developed under the Partnerships as these had been predetermined prior to consultation with the sector, often resulting in initiatives that did not recognise the needs or context of independent schools.⁵⁵

Clear and consistent definitions

3.40 The Committee heard that a lack of clarity and consistency of language across agreements and IPs was hampering implementation. Two areas were particularly singled out as needing attention:

- value for money; and
- assurance requirements.

Value for money

3.41 The Australian National Audit Office (ANAO) reiterated concerns it has brought to the Committee's attention in previous inquiries regarding the definition of value for money. The ANAO identified the need for a common understanding of what represents value for money as an ongoing challenge for the IGA FFR reforms.⁵⁶ The ANAO reminded the Committee that there has been insufficient consideration given to articulating value for money.⁵⁷

3.42 The ANAO advised that the development of IPs presented an opportunity for Commonwealth departments in the 'early stages' of negotiation to 'clearly put forward what represents value for money' with agreement from all parties and an understanding by all parties as to how it will be measured.⁵⁸

3.43 Asked by the Committee if the ANAO would be willing to contribute to developing a common definition of value for money, the Commonwealth Auditor-General cautioned that his office could not be involved in any form of decision making regarding the development of IPs.⁵⁹ However, he advised that, along with the Department of the Prime Minister and Cabinet (PM&C) and the Department of Finance and Deregulation (Finance), the ANAO could, and did, make a contribution to make to

55 ISCA, *Submission 3*, p. 14.

56 Mr Nathan Williamson, Executive Director, Australian National Audit Office (ANAO), *Committee Hansard*, Canberra, 24 June 2011, p. 7.

57 Mr Williamson, ANAO, *Committee Hansard*, Canberra, 24 June 2011, p. 7.

58 Mr Williamson, ANAO, *Committee Hansard*, Canberra, 24 June 2011, p. 7.

59 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 24 June 2011, p. 8.

ensuring value for money is clearly defined across national funding agreements.⁶⁰ The Commonwealth Auditor-General suggested that the ANAO already makes a substantial contribution through its better practice guides, its audit report recommendations and involvement in a range of forums.⁶¹

Assurance requirements

3.44 The other area where consistent definitions were needed was in regard to assurance requirements. Auditors-General explained that they were being asked to review or monitor activities under various agreements but that the expectations across agencies could differ, even when the same language was used. For example, the NSW Auditor-General told the Committee that he had been asked to 'certify' an agreement but it was unclear what was required:

Does it mean I have to certify that money was spent on widgets?
Or does it mean I have to certify that accounting standards were met? Or do I have to certify that the widgets were effective?⁶²

3.45 The Queensland Auditor-General suggested that the confusion arose because agencies were not clear about what assurance they were expecting. He used the BER agreement to demonstrate the problem:

As an example of the difficulties that have been experienced, it took state auditors-general many months to gain clarity from the Commonwealth Department of Education, Employment and Workplace Relations as to the form and content of the audit certificate required for expenditure under the Building the Education Revolution program. All the state audit offices acted together to gain a consistent audit approach and audit opinion—that is, the form of the opinion—but the Commonwealth department appeared to have difficulty in determining what was required for their purposes.⁶³

3.46 The NSW Auditor-General suggested that the solution lay in developing consistent definitions to be used across agencies both at Commonwealth and state and territory level:

60 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 24 June 2011, p. 8.

61 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 24 June 2011, p. 8.

62 Mr Peter Achterstraat, Auditor-General, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, pp. 1-2.

63 Mr Poole, Auditor-General Queensland, *Committee Hansard*, Brisbane, 19 July 2011, p. 9.

Instead of the Commonwealth department X saying there would be a certification and the department of Y saying there should be an acquittal, it would be very helpful, I think, in the interests of transparency for all of those donors to have a common understanding as to what they want the reviewer or the auditor to do.⁶⁴

- 3.47 The Committee asked if Auditors-General would be prepared to contribute to establishing consistent definitions for use across NAs and IPs. The NSW Auditor-General echoed the comments of the Commonwealth Auditor-General, warning the Committee that his office could not set the outcomes for these agreements.⁶⁵ The Committee suggested that perhaps outside expertise could be engaged to provide relevant advice. The NSW Auditor-General conceded this would be appropriate.⁶⁶ As with the Commonwealth Auditor-General, the NSW Auditor-General suggested that the PM&C and Finance could provide assistance in this regard.⁶⁷

Committee comment

- 3.48 The Committee notes the HoTs Review and accepts that it may have identified many of the issues discussed in this chapter. The Committee is disappointed that this important review has not been tabled in the Parliament or made public which would have substantially contributed to transparency and accountability. It would also have offered assurance that many of the issues of concern raised by witnesses to this inquiry are being addressed. The Committee acknowledges that there may be limitations on releasing the whole HoTs Review, however, the Committee recommends that a summary of the findings and recommendations from the Review be made public along with the Government's response and implementation strategy. Further, the Committee urges the Commonwealth Government

64 Mr Achterstraat, Auditor-General, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 4.

65 Mr Achterstraat, Auditor-General, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 8.

66 Mr Achterstraat, Auditor-General, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 8-9.

67 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 24 June 2011, p. 8; Mr Achterstraat, Auditor-General, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 9.

to ensure that the Review's recommendations are fully implemented as quickly as possible.

- 3.49 While the Committee acknowledges that Commonwealth micromanagement is against the principle and intent of the IGA FFR, it maintains that the Commonwealth needs to ensure the accountability of Commonwealth funds. Ways to accommodate the tension between Commonwealth control and states' /territories' flexibility must be found both within the implementation process and the reporting framework, as discussed in the following chapter.
- 3.50 The Committee notes with concern the increased bureaucracy and administrative burden developing under the IGA FFR, both with regard to an increasing workload, particularly for small delivery agencies, and the possible waste of resources. The Committee is aware that this issue has also been identified by the CRC and that it has recommended that COAG address these concerns.⁶⁸ The issue of the administrative burden will be addressed more fully in Chapter 4.
- 3.51 Regarding risk management and allocation, the Committee recognises that despite formal allocation of risks to the states/territories in some national agreements, in reality the public often holds the Commonwealth accountable for the effective expenditure of taxpayers' money. To minimise misplaced blame for poor performance, where risks are agreed to be borne by the states/territories the Commonwealth should seek to ensure this arrangement is well understood (including by the public) and strictly maintained within administrations. The states/territories for their part should take full and public responsibility for the risks that they have agreed to manage.
- 3.52 Through the course of the Inquiry a reoccurring theme emerged that implementation often fell short of the principles set within the IGA FFR, and that this disconnect should be a major point for concern. Although guidelines were either available or were being developed to assist line agencies implement agreements following the principles under the IGA FFR, these did not seem to be having a comprehensive impact amongst line agencies. Several examples of this are given below. The disconnect between principles and practical implementation is also discussed in Chapter 4 on performance reporting.
- 3.53 The Committee agrees that there would be benefits of NPs and IPs being developed in tandem to ensure that IPs better reflect the expectations and requirements of the NPs and better reflect state/territory contexts and

68 CRC, *COAG reform agenda: Report on progress 2011*, p. 43.

priorities. The Committee notes that in Federal Finance Circular 2010/1, The Treasury (Treasury) has suggested that the Commonwealth and states/territories should collaborate on the drafting of implementation plans and that plans 'may be drafted concurrently with National Partnerships'.⁶⁹ The Committee encourages departments to ensure that this advice is followed.

- 3.54 The Committee notes the difficulties experienced by major stakeholders due to the lack of consultation during the development of NPs and IPs. The Committee again notes that in Federal Finance Circular 2010/1 Treasury has suggested that prospective stakeholders, including those responsible for service delivery, should be consulted in the development process.⁷⁰ The Committee encourages both the Commonwealth and states/territories to develop mechanisms that ensure consultation with relevant stakeholders wherever possible.
- 3.55 The Committee notes that a Federal Finances Circular covering the preparation of Implementation Plans is set for future release by Treasury. While the Committee encourages the development and dissemination of these guidelines in order to help address the problems with the implementation of the IGA FFR, it considers that more steps need to be taken to ensure such guidelines are followed.
- 3.56 The Committee believes that additional measures warrant consideration to further encourage or enforce the application of the IGA FFR principles. For example, it may be necessary to institute some form of quality control advice from central agencies on implementation plans under development by line agencies so the minister responsible is fully informed and accountable for deviations from the IGA FFR principles. Therefore, the Committee recommends that PM&C, Finance and Treasury investigate mechanisms to better ensure that guidelines such as the Federal Finances Circulars, the *Conceptual Framework for Performance Reporting* and the *Drafters' Toolkit* are appropriately considered and applied.⁷¹
- 3.57 The Committee is aware of ongoing concerns over the definition of value for money across government programs, not just with regard to national funding agreements. The Commonwealth Auditor-General has continually brought this issue to the attention of successive governments. A single generic definition of value for money is not possible, but
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69 The Treasury, 'Developing National Partnerships', *Federal Finances Circular No. 2010/1*, p. 6.

70 The Treasury, 'Developing National Partnerships', *Federal Finances Circular No 2010/1*, p. 14.

71 The *Conceptual Framework for Performance Reporting* was endorsed by COAG in February 2011 and will be discussed further in Chapter 4. The *Drafters' Toolkit* is being produced in response to the HoTs Review. (See the CRC COAG reform agenda: *Report on progress 2011*, p. 12.)

clarifying what value for money means for each agreement is essential. The Committee believes that it is critical that value for money be clearly defined during the early negotiation stages of national funding agreements and IPs. This process needs to include all parties arriving at a common understanding of what value for money means – and ensuring this can be clearly articulated and documented. The process needs to also include agreement on how value for money will be measured. If this is not achieved at the outset problems will continue to plague implementation and meaningful evaluation.

- 3.58 The Committee recognises the need for clear definitions for assurance requirements to enable consistent auditing arrangements across jurisdictions. The Committee recommends that PM&C, Finance and Treasury, in consultation with appropriate experts, develop a set of agreed definitions for assurance requirements to be used in NAs, NPs and IPs.
- 3.59 The Committee is aware that the following recommendations may overlap recommendations already suggested by the HoTs Review, however as those recommendations have not been made public the Committee is of the view that given the evidence presented these issues must be addressed through this inquiry.

Recommendation 2

- 3.60 **The Committee recommends that the Commonwealth Government makes the recommendations and a summary of the findings of the Heads of Treasuries Review public, along with the associated Government response and implementation strategies.**

Recommendation 3

- 3.61 **The Committee recommends that the Department of the Prime Minister and Cabinet and central agencies investigate whether additional measures are needed to encourage and enforce the application of the Intergovernmental Agreement on Federal Financial Relations' principles and associated guidelines, and that the findings of the investigation be publicly released and provided to the Committee.**

Recommendation 4

- 3.62 **The Committee recommends that the Department of the Prime Minister and Cabinet and central agencies, in consultation with appropriate experts, develop a set of agreed definitions for assurance requirements to be used in National Agreements, National Partnerships and Implementation Plans.**