

The Accountability Round Table

Submission to the Joint Committee of Public Accounts and Audit Inquiry into Commonwealth Grants Administration

The Accountability Round Table (ART) is a non-partisan group of citizens with diverse backgrounds (journalists, lawyers, academics, policy analysts, former politicians, public servants and judges) and extensive experience in parliament, government, and the courts. It is dedicated to improving standards of accountability, integrity, transparency, ethical behaviour, and democratic practice in Commonwealth and State parliaments and governments across Australia.

ART takes the view that the integrity of and trust in government can best be assured if a range of interlocking measures are taken to boost transparency and accountability. That is why last year it released **Integrity Now!**, 21 reforms to restore the rule of law, accountability and public trust, available on our website at <https://www.accountabilityrt.org/current-projects/>. In that paper we comment that allocation of public funds for political profit (commonly called rorting or pork barrelling) is 'a misuse of public funds that involves the expenditure of government funds to increase votes in marginal electorates rather than according to general transparent principles of general application (as expected in good policy making). This involves an abuse of entrusted power (and the people's money) to a party-political benefit'.

ART is making this submission to the Joint Committee of Public Accounts and Audit's inquiry into Commonwealth Grants administration because despite the number of inquiries, reviews and guidelines which have been undertaken or implemented over the past decade or so, there is little evidence of any improvement in the integrity of grants administration at least in relation to decisions made about the allocation of grants.

This submission therefore focusses on this aspect of grants administration, which is fundamental to public confidence in government and its stewardship of public funds. Government is a trust, and the officers of government, whether elected or appointed, are trustees for the people and as such are accountable to them. Issues of public trust are not merely theoretical concerns. If governments are believed to breach that trust the public will have recourse at the ballot box.

The Committee examined the general question of government grants just two years ago, resulting in a December 2020 report¹ that made several recommendations directed at improving administration and accountability. ART supports the recommendations made then, in particular those directed at improving:

- compliance with the Commonwealth Grants Rules and Guidelines last issued in 2017²;
- record-keeping; and
- open and consistent processes.

¹https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Accounts_and_Audit/AdminGovGrants/Report

² <https://www.finance.gov.au/government/commonwealth-grants/commonwealth-grants-rules-and-guidelines>

It also recommended that the Department of Finance review the operation of the Guidelines two years after the report to ensure they remain effective – this means that such a report is just about due now.

Despite these recommendations there is every indication that the state of Commonwealth grants administration remains at the very least contentious, and quite possibly deeply tainted, given public controversy about such matters over the last few years. The Department of Finance Guidelines contain many excellent prescriptions and proscriptions, and the Committee's recommendations if accepted should have provided the basis for significant improvement. But still there are deep problems.

Undoubtedly an effective National Anti-Corruption Commission, as is currently being considered by the Parliament, can examine cases of egregious misuse of grants to see whether they amount to corruption, but even if this occurs, it is happening after the event. A full solution must include change to practices up front. In other words, the **Integrity Now!** approach of taking a range of measures and not relying on one such as strengthening rules.

ART believes the failure of previous reform attempts is because the Finance Guidelines and the previous committee recommendations do not get to the heart of the issue leading to a lack of trust in community grants programs, and that is Ministerial control of decision-making on the allocation of individual grants.

Examining what the Guidelines say about decision-making by ministers on grant allocation, it is notable that they accept a lack of public transparency:

- In relation to a decision made to allocate a grant to a project that was not recommended, the Guidelines provide for the Minister to advise the Minister for Finance accordingly, but make no provision for public reporting (Guideline 4.12).
- In relation to provision of a competitive merit-based process for assessing grants, the Guidelines allow for the process to be set aside by the Minister, again with no public reporting (Guidelines 11.5).

Such an acceptance of a lack of transparency and public accountability is a deep flaw in the Guidelines. But even if these decisions were made public, it still is after the event and does not get to the core issue.

In a democracy, it is understandable that governments would wish to determine the purpose and direction of grants programs, and to this end give power to elected over appointed officials. For a government, one of the key purposes of being in office is to be able to determine, subject to parliamentary appropriation, priorities for public expenditure, both at the broad level of overall fiscal policy, and the allocation of funds to particular programs, including programs allocating grants to community organisations in areas such as community welfare, transport, communications infrastructure, or cultural or sporting development. Governments will be judged by decisions they make in these areas and comparisons made with approaches and priorities of alternative parties.

It is therefore understandable that Ministers will wish to maintain control over the direction and priorities of such programs. However, such control does not have to include decision-

making over the allocation of individual grants, carrying with it the seemingly inevitable controversies about whether decisions are made in the public interest or the political interest of the decision-maker, controversy that has in recent times deeply compromised any advantage possibly gained.

If a government were to delegate responsibility for individual decisions to representative or expert bodies, the government still could properly claim credit for devising the program, allocating resources in the budget, and selecting the best people to make the decisions. Local members can still be given the role of announcing the outcomes. But public trust in the integrity of decision-making would be restored, and community grants programs not tainted by the suspicion that decisions are being made for political more than community advantage.

The Accountability Round Table therefore recommends that the Department of Finance Guidelines be amended to reflect the principle that while Ministers have responsibility for devising grants programs, allocating (subject to parliamentary approval) funds to them, and settling guidelines as to purposes, priorities and outcomes sought, decisions in relation to individual grants following a competitive and public process should be made by expert panels following community consultation as deemed appropriate under the relevant program guidelines.

We make no recommendation for who should make the allocation decisions, believing that this should reflect the specific nature of the grant program. But options, some of which are set out in **Integrity Now!** (p. 45), can include an independent expert committee appointed by government but operating separately, or a panel representing the range of interests affected by the grants having an advisory or determinative role. The essential feature of our model is to separate the development, design and financing of grant programs, properly under the control of Ministers, from individual allocation decisions, which should be at arm's length.