
The Parliament of the Commonwealth of Australia

Report 427 - Inquiry into National Funding Agreements

Joint Committee of Public Accounts and Audit

November 2011
Canberra

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Contents

Foreword	vi
Membership of the Committee	ix
Terms of reference	xi
List of abbreviations	xii
List of recommendations	xiv
1 Introduction	1
Background	1
Purpose of the inquiry	1
Conduct of the inquiry	3
Structure of the report	4
2 The Framework.....	5
Introduction	5
The Intergovernmental Agreement on Federal Financial Relations	5
Goods and Services Tax and general revenue	7
National Agreements.....	8
National Partnership agreements and payments	8
Governance and accountability	9
Council of Australian Governments.....	9
Ministerial Council for Federal Financial Relations.....	10
COAG Reform Council.....	10
Productivity Commission.....	10
Perspectives on the overall reforms	11
The significance of the reforms	11
Changing dynamics.....	13

Benefits of the new framework	15
Issues with national funding agreements	17
Goods and Services Tax revenue	19
Changes to improve the framework	20
Committee comment.....	21
3 Implementation of national funding agreements	25
Introduction	25
COAG Reform Council reports	25
Heads of Treasuries Review.....	26
Difficulties with implementation of national funding agreements	27
Inflexibility	27
Administrative burden	30
Risk Management	32
Micromanagement	33
Development of implementation plans.....	34
An inclusive approach	36
Clear and consistent definitions	38
Committee comment.....	40
4 Performance reporting for national funding agreements	45
Introduction	45
Accountability and performance reporting.....	45
Cultural change.....	47
Setting reporting objectives.....	49
Clearly defined outcomes.....	49
Key performance indicators.....	50
Data quality and collection.....	52
Timeliness.....	53
Comparability	54
Generic data collections.....	55
Meaningful interpretation	56
Improvements underway	58

<i>Conceptual Framework for Performance Reporting</i>	58
Whole-of-government data integration project	59
COAG Reform Council reports and recommendations	59
Steering Committee for the Review of Government Service Provision.....	62
Committee comment.....	64
5 Scrutiny of National Funding Agreements	69
Introduction	69
Accountability and transparency.....	70
High level accountability and transparency mechanisms	70
State perspectives on accountability and transparency mechanisms	72
Other perspectives on accountability and transparency mechanisms.....	75
Parliamentary scrutiny	78
Commonwealth perspectives on parliamentary scrutiny	78
State perspectives on parliamentary scrutiny.....	78
Other perspectives on parliamentary scrutiny	81
COAG Reform Council.....	84
The Auditor-General's role	86
Constitutional, legal and operational implications.....	89
Collaborative audits.....	90
Committee comment.....	92
Appendix A — Submissions	99
Appendix B — Public hearing	101



Foreword

Transfer of Commonwealth funds to the states and territories has always been an area of contention within Australia's federal financial relations, with the states/territories and the Commonwealth often holding contrasting perspectives. However, developing and implementing a framework which provides for the effective operation of Australia's federal financial relations is essential to ensure that the Australian people are best served.

For 2011-12 the Commonwealth dedicated a significant proportion of its funding to the states/territories, with \$45.5 billion to payments supporting National Agreements and National Partnerships. This Committee has an ongoing interest in achieving value for money for the Australian taxpayer and believed the arrangements to distribute this amount deserved parliamentary scrutiny. With the introduction of the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) in 2009, the Committee thought it timely to investigate the implementation of national funding agreements under this new approach.

The Committee found there was overall support for the new framework. Witnesses identified that the underlying principles and intent of the new framework address previous issues concerning federal financial relations. These reforms undoubtedly mark a significant milestone in federal financial relations. The JCPAA agrees the underlying principles provide a robust framework for the future and assist in alleviating some of the historical confusion and discontent within Commonwealth-state relations.

While the Committee is pleased that the fundamentals of the new framework have been well received by key stakeholders, evidence presented throughout the inquiry highlighted some separation between these principles and what is occurring in practice. In particular the Committee was concerned with the:

- shortcomings in the performance reporting framework;
- slow pace of necessary cultural change across the public service; and
- adequacy of parliamentary oversight.

Performance reporting is critical to gain insight and understanding of the success or otherwise of national funding agreements against the objectives of the wider reform agenda. Due to the shortcomings and complexities described by key witnesses, the Committee believes that enhancements to performance reporting are required. To achieve this, valid key performance indicators (KPI) must be developed, better quality data collected, and meaningful interpretation of the data ensured. It is essential that KPIs are measurable, relevant and directly related to outcomes. In support of this, the widespread problems with data quality and collection must be fully addressed as quickly as possible. The Committee acknowledges that many initiatives are underway to improve performance reporting. However, more action needs to be taken to ensure they are speedily implemented. The Committee has therefore recommended that efforts are made to streamline reporting by developing a single report for the use of multiple agencies and establishing a core set of standard data requirements across key areas.

The need for cultural change is another crucial element to drive the reform agenda and ensure the full adoption and implementation of the framework's principles. The Committee acknowledges the marked conceptual shift required by the IGA FFR in moving from an inputs based to outcomes based framework. Measuring outcomes is more challenging than measuring inputs. Although the Committee is aware that it will take time for this cultural change to permeate all layers of the public service, it is urgent that the change is actively promoted and encouraged. Accordingly, the Committee has put-forward recommendations to encourage and enforce the application of the underlying principles of the IGA FFR, including a more structured approach to training relevant staff. The delivery of this training is an important step towards achieving the cultural change needed for the reforms to be fully reflected in practice.

Parliamentary scrutiny is essential to ensure value for money for the Australian taxpayer. National funding agreements are typically negotiated at an executive-to-executive level, only sometimes receiving parliamentary oversight after signing. This inquiry therefore focussed on establishing whether current parliamentary scrutiny is sufficient to foster adequate accountability and transparency of the \$45.5 billion transferred through national funding agreements. The Committee was made aware of high level mechanisms for the parliament and public to gain insight into the operation and progress of the reform agenda. These mechanisms do not however provide an adequate picture of national funding agreements to either the Parliament or the public and the Committee believes increased parliamentary scrutiny is warranted. The Committee has made a range of recommendations to enhance scrutiny of the overall process, including the tabling of key reviews and reports in Parliament along with Government statements in reply. These reports should include COAG Reform Council Reports, the Productivity Commission reports. Additionally the Committee has

recommended that the Prime Minister make an annual statement to the Parliament outlining the contribution of national funding agreements to the wellbeing of all Australians. The Committee also recommends that these reports should be referred to a proposed new Joint Standing Committee for review.


If the issues identified in this report are not addressed, the likelihood of the reform agenda reaching its full potential and firmly embedding long-term change in Australian public administration will be significantly compromised. The Committee has therefore made a total of 15 recommendations. These recommendations focus on delivering long-lasting improvements to ensure the benefits of the framework are fully realised in practice.

The Committee is conscious that work is underway to address many of these issues and that reform to the framework is ongoing. The Committee acknowledges and welcomes the ongoing work of the COAG Reform Council and the Productivity Commission in addition to current work being undertaken by central agencies to refine and improve the IGA FFR. Importantly the Heads of Treasury have undertaken a review with many of its recommendations responding to these areas of concern. The Committee has recommended this review's findings and recommendations are made public. This will raise greater awareness and provide greater transparency to the Parliament and the public as to what remedial actions have been suggested and to track what is occurring.

This report is one of a number of recent reports on the IGA FFR. The Committee is aware that there are a number of further reports due for release over the coming months. The Committee urges the Commonwealth Government to take the opportunity to consolidate its efforts and correct the identified problems with the framework ensuring that it reaches its full potential.

With these changes Australia will be well positioned to continue on the reform pathway in the coming decade.

Rob Oakeshott
Chair



Membership of the Committee

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Members Hon Dick Adams MP

Mr Jamie Briggs MP

Ms Gai Brodtmann MP

Mr Darren Cheeseman MP

Mr Josh Frydenberg MP

Ms Deb O'Neill MP

Ms Laura Smyth MP

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Terms of reference

On 9 of February 2011 the Committee resolved to review and report on the operation of funding agreements between the Commonwealth and State and Territory Governments, including the National Agreements entered into under the Intergovernmental Agreement on Federal Financial Relations. The Committee will specifically consider:

1. the changing dynamics of grants to states and territories, the types of grants that are made and the principles, agreements and legislation governing these grants;
2. the extent to which the current systems for funding agreements satisfy the requirements of all levels of government, and any suggestions for changes to the process;
3. the need to balance the flexibility to allow states and territories to determine their own priorities with mechanisms for monitoring accountability and ensuring that the objectives of funding agreements are being achieved, noting the role of the COAG Reform Council; and
4. the adequacy of parliamentary scrutiny of funding agreements, noting that such agreements are typically negotiated at executive-to-executive level.

Adopted: 9 February 2011



List of abbreviations

ABS	Australian Bureau of Statistics
ANAO	Australian National Audit Office
APS	Australian Public Service
BCA	Business Council of Australia
BER	Building the Education Revolution
CGC	Commonwealth Grants Commission
CGG	Commonwealth Grant Guidelines
COAG	Council of Australian Governments
CRC	Council of Australian Government Reform Council
Finance	The Department of Finance and Deregulation
GST	Goods and Services Tax
HFE	horizontal fiscal equalisation
HoTs	Heads of Treasuries
HoTs Review	Heads of Treasuries Review
IGA	Intergovernmental Agreement
IGA FFR	Intergovernmental Agreement on Federal Financial Relations

IP	Implementation Plan
ISCA	Independent Schools Council of Australia
JCPAA	Joint Committee of Public Accounts and Audit
KPI	key performance indicator
NA	National Agreement
NDS	National Disability Services
NEA	National Education Agreement
NP	National Partnership
OECD	Organisation for Economic Co-operation and Development
PBS	Portfolio Budget Statement
PC	Productivity Commission
PM&C	The Department of the Prime Minister and Cabinet
SDAC	Survey of Disability Ageing Carers
SPP	National Specific Purpose Payment
Treasury	The Treasury
VFI	vertical fiscal imbalance



List of recommendations

2 The Framework

Recommendation 1

The Committee recommends that the Department of Finance and Deregulation examine the interaction between the new grants framework and grant payments delivered under the Intergovernmental Agreement on Federal Financial Relations. The report should propose options to remove inconsistencies and improve governance arrangements for all grants provided to states and territories.

A copy of the report should be provided to the Joint Committee of Public Accounts and Audit, with the Government's Response to this recommendation - and both should be made publicly available.

3 Implementation of national funding agreements

Recommendation 2

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

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

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.

4 Performance reporting for national funding agreements

Recommendation 5

The Committee recommends that a structured approach be developed and implemented by the Department of the Prime Minister and Cabinet and other central agencies to ensure relevant staff receive specific training to enhance understanding of the Intergovernmental Agreement on Federal Financial Relations and develop the skills required to meet outcomes focused performance reporting requirements.

Recommendation 6

The Committee recommends that the Department of the Prime Minister and Cabinet, in consultation with other central agencies, establish processes to ensure that there is clarity of the outcomes to be achieved and these are clearly reflected in national funding agreements. The committee asserts that to underpin the achievement of outcomes, mutual understanding of the end goal must drive the cultural change, the training and skill development, and the quality and timeliness of data collection and publication. At all times, outcomes should be the focus in the development of all national agreements.

Recommendation 7

The Committee recommends that the Department of the Prime Minister and Cabinet, in collaboration with agencies such as the Australian Public Service Commission, should lead a process to provide training across the broader Australian Public Service which incorporates information on the Intergovernmental Agreement on Federal Financial Relations to explain the importance of the Agreement and its principles.

Recommendation 8

The Committee recommends that the Commonwealth works through the Council of Australian Governments to ensure that states and territories develop and implement a similarly structured approach to foster cultural change throughout departments and agencies and ensure all staff receive relevant training to enhance understanding of the framework and

develop the skills required to meet outcomes focused performance reporting requirements.

Recommendation 9

The Committee recommends that the Department of the Prime Minister and Cabinet and central agencies report back to the Committee within six months on work undertaken to move towards the 'single report to multiple agencies' ideal and the potential to develop a core set of standard data requirements for key areas of national interest.

Recommendation 10

The Committee recommends that the Prime Minister through the Council of Australian Governments, take steps to respond to the reports and recommendations of the Council of Australian Governments Reform Council within three months.

5 Scrutiny of National Funding Agreements

Recommendation 11

The Committee recommends that the Prime Minister table COAG Reform Council reports in the Commonwealth Parliament one month after submission to COAG, and that relevant Productivity Commission reports are tabled as soon as practical.

Once tabled, these reports should be automatically referred to an appropriate Joint Standing Committee for review.

Recommendation 12

The Committee recommends that signed National Partnerships are tabled in Parliament, along with a complementary Ministerial Statement.

Recommendation 13

The Committee recommends that the Prime Minister deliver an annual Statement to the House:

- outlining the Commonwealth Government's perspective on the contribution of national funding agreements to the improvement of the well-being of all Australians; and
- summarising the number of current, new, upcoming and expired National Agreements and National Partnerships

Recommendation 14

The Committee recommends that the Department of the Prime Minister and Cabinet and central agencies investigate steps so that Portfolio Budget Statements and annual reporting requirements provide a more comprehensive picture of the performance and outcomes of programs under national partnerships across government.

Recommendation 15

The Committee recommends that, in light of the range of review activity currently underway, the Commonwealth Government take this opportunity to institute and deliver on the Intergovernmental Agreement on Federal Financial Relations' full potential.

With these changes Australia will be well positioned to continue on the reform pathway in the coming decade.

Introduction

Background

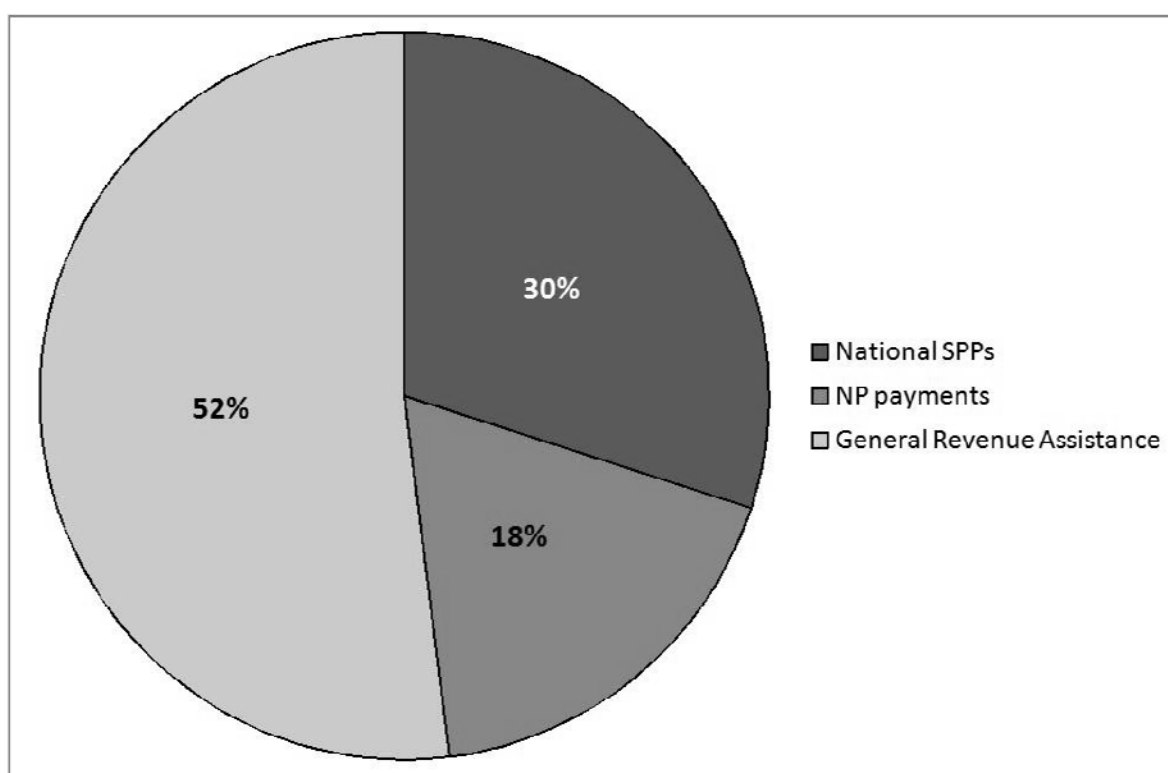
- 1.1 On 9 February 2011 the Joint Committee of Public Accounts and Audit (JCPAA) resolved to conduct an inquiry into national funding agreements between the Commonwealth and the states and territories. The terms of reference can be found at page *xi*.
- 1.2 The inquiry focused on the implementation of the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) which was agreed to by the Council of Australian Governments (COAG) on 29 November 2008 and came into effect on 1 January 2009.
- 1.3 The IGA FFR replaced the Intergovernmental Agreement on the Reform of Commonwealth State Financial Relations and rationalised funding transfers between the Commonwealth and states and territories.
- 1.4 The *COAG Reform Fund Act 2008* provided the means to make financial grants to the states and territories and the *Federal Financial Relations Act 2009* formalised the payment arrangements for the IGA FFR.

Purpose of the inquiry

- 1.5 The purpose of this inquiry is to review and report on the operation of funding agreements between the Commonwealth and State and Territory Governments, including the National Agreements (NA) entered into under the IGA FFR.

- 1.6 The Committee has an ongoing interest in achieving value for money for the Australian taxpayer. The Committee understands that for 2011–12, the Commonwealth announced a total of \$95 billion in payments to the states and territories. This comprised of \$49.5 billion (52 per cent) in general revenue assistance and a total of \$45.5 billion (48 per cent) in payments for specific purposes. Of the \$45.5 billion, \$28 billion was to be provided for National Specific Purpose Payments¹ and \$17.5 billion for National Partnership Payments.² The distribution of Commonwealth payments to states/territories is illustrated in the figure below.

Figure 1.1 Commonwealth funding to the states and territories 2011–12



Source Based on information in *Australia's Federal Relations: Budget Paper No. 3 2011–12* pp. 12–13.

- 1.7 As highlighted above, payments for specific purposes represent a significant proportion of total Commonwealth funding to the states/territories. The Committee considered it important to investigate the transfer of \$45.5 billion to the states/territories to deliver on national priorities.

1 National Specific Purpose Payments are provided to the states and territories under NAs. See Chapter 2 for further details.

2 *Australia's Federal Relations: Budget Paper No. 3 2011–12* pp. 12–13, available at <<http://www.budget.gov.au/2011-12/content/bp3/html/index.htm>> viewed 23 November 2011.

- 1.8 This inquiry examines the implementation of funding agreements under the new framework and will help establish if the reform's promised potential to satisfy the needs of all levels of Australian government has been achieved. The Committee is particularly interested in areas where greater efficiency can be achieved throughout the implementation process.
- 1.9 The Committee acknowledges that, as the IGA FFR was implemented in early 2009, it is relatively early to be undertaking an inquiry of this nature. The Committee recognises the implementation process is still being refined, problems are being identified and continual improvements undertaken. However, the JCPAA's review is important to ensure that at this stage these funds are subject to adequate accountability mechanisms, that best practice is being followed and that transparency for both the Parliament and the Australian people is assured.
- 1.10 The Committee notes that a number of reports have been handed down that have included recommendations for improvements to the IGA FFR as well as the implementation process. There are also more reviews due to report in the coming months. In particular, the Committee acknowledges the latest report from the COAG Reform Council (CRC) released on 15 November 2011, and the as yet unreleased review by the Heads of Treasury. The Committee believes that the similarity of the findings and recommendations of these various reports with those of this JCPAA report demonstrates the need for the Commonwealth Government to take action. These actions should rectify the problems identified in the reports to provide a solid foundation for the next phase of improvements in Commonwealth-state financial relations, and hence better outcomes for all Australians.

Conduct of the inquiry

- 1.11 The terms of reference for the inquiry were advertised in February 2011. Additionally, letters were sent to individuals, peak bodies and government agencies inviting them to make submissions to the inquiry. In particular, state and territory auditors-general were contacted. The terms of reference and other information about the inquiry were also advertised on the JCPAA's website.
- 1.12 Eighteen submissions and five supplementary submissions were received. A list of submissions and supplementary submissions can be found at Appendix A.

- 1.13 Six public hearings were held during 2011: four in Canberra, one in Brisbane and one in Sydney. The Committee heard from a variety of witnesses including Commonwealth central agencies, state auditors-general, academics and end users. A list of public hearings and witnesses can be found at Appendix B.
- 1.14 Transcripts from the hearings are available through the Committee's website.

Structure of the report

- 1.15 The report contains five chapters, including this introductory chapter which sets out the background to the inquiry. The content of the other chapters are as follows:
- chapter 2 provides details of the IGA FFR and then examines the significance of the reforms and the changing dynamics of federal financial relations before identifying some of the specific problems encountered with national funding agreements;
 - chapter 3 goes on to look at the implementation of national funding agreements under the IGA FFR and elaborates on the problems which have arisen;
 - chapter 4 examines the performance reporting framework for the IGA FFR, concentrating on the difficulties with data quality and collection; and
 - chapter 5 looks at the scrutiny of national funding agreements and whether or not current arrangements are satisfying transparency and accountability requirements.
- 1.16 The Committee has made 15 recommendations on the basis of the evidence received. These recommendations are set out in full from pages *xiv-xvii*.

2

The Framework

Introduction

2.1 This chapter will provide details of the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) before discussing responses to the overall reforms to federal financial relations. The significance of the reforms are considered in the context of the changing dynamics of financial relations between the Commonwealth and the states and territories. The benefits of the IGA FFR are identified before looking at specific issues with national funding agreements. Finally the chapter examines some of the suggestions the Committee has received to improve the existing framework.

The Intergovernmental Agreement on Federal Financial Relations

2.2 The overall objective of the IGA FFR is the 'improvement of the well-being of all Australians'.¹ This is to be achieved through:

- collaborative working arrangements, including clearly defined roles and responsibilities and fair and sustainable financial arrangements, to facilitate a focus by the Parties on long term policy development and enhanced government service delivery;
- enhanced public accountability through simpler, standardised and more transparent performance reporting by all

1 Council of Australian Governments (COAG), *Intergovernmental Agreement on Federal Financial Relations* (2008), Council of Australian Governments website <http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_federal_financial_relations.pdf> viewed 23 November 2011.

- jurisdictions, with a focus on the achievement of outcomes, efficient service delivery and timely public reporting;
- reduced administration and compliance overheads;
 - stronger incentives to implement economic and social reforms;
 - the on-going provision of Goods and Services Tax (GST) payments to the States and Territories equivalent to the revenue received from the GST; and
 - the equalisation of fiscal capacities between States and Territories.²
- 2.3 The IGA FFR consolidates and simplifies policy development and service delivery arrangements between the Commonwealth and the states and territories, providing the foundation for collaboration in these areas and facilitating the implementation of economic and social reforms ‘in areas of national importance’.³
- 2.4 The principles underpinning the IGA FFR include flexibility for the states and territories to deliver services, reducing Commonwealth prescription, and a commitment to cooperative working arrangements. Accountability to the Australian people for results and value for money are central to the new arrangements.⁴
- 2.5 The IGA FFR provides for three categories of funding transfer between the Commonwealth and the states and territories:
- general revenue assistance, including the on-going provision of GST payments, to be used by the States for any purpose;
 - National Specific Purpose Payments (SPPs) to be spent in the key service delivery sectors; and
 - National Partnership payments to support the delivery of specified outputs or projects, to facilitate reforms or to reward those jurisdictions that deliver on nationally significant reforms.⁵

2 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 23 November 2011.

3 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 23 November 2011.

4 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 23 November 2011.

5 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 23 November 2011.

- 2.6 National Specific Purpose Payments (SPPs) and National Partnership (NP) payments are facilitated under National Agreements (NA) and NPs respectively.

Goods and Services Tax and general revenue

- 2.7 The Commonwealth makes Goods and Services Tax (GST) payments to the states and territories equivalent to the revenue received from the GST. This revenue is untied and can be used by the states and territories for any purpose.⁶
- 2.8 The amount of GST payable to the states and territories is determined by the Commonwealth Treasurer. The Commonwealth Grants Commission makes recommendations to the Treasurer on the distribution of the GST in accordance with the principle of horizontal fiscal equalisation (HFE).⁷
- 2.9 The amount of revenue from the GST to the states and territories in a financial year is defined as:
- the sum of GST collections, voluntary and notional payments made by government bodies, and amounts withheld from any local government authority representing the amount of unpaid voluntary or notional GST;
reduced by:
 - the amounts paid or applied under a provision of a Commonwealth law that requires the Commonwealth to refund some or all of an amount of GST that has been paid.⁸
- 2.10 The Commonwealth makes payments of other general revenue assistance to the states and territories that can be used for any purpose, including:
- revenue sharing arrangements other than GST—for example, offshore petroleum royalty revenues;
 - compensation payments for Commonwealth policy decisions;
or
 - payments for national capital influences.⁹

6 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 23 November 2011.

7 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 23 November 2011.
HFE is discussed in more detail in Chapter 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 23 November 2011.

- 2.11 There is currently a review underway of the distribution of revenue from the GST to the states and territories. This review was commissioned by the Australian Government in March 2011. A Review Panel comprised of the Hon Nick Greiner AC, the Hon John Brumby and Mr Bruce Carter will prepare an interim report by February 2012 and a final report by September 2012.¹⁰

National Agreements

- 2.12 Under the new framework six NAs have been developed to cover key areas of national importance. These NAs are in the areas of health, education, skills and workforce development, disability services, affordable housing and Indigenous reform.
- 2.13 NAs define the objectives, outcomes, outputs and performance indicators and clarify the roles and responsibilities of the various levels of government to facilitate the delivery of services across a particular sector.¹¹
- 2.14 National SPPs are provided under NAs to states and territories and although the funds must be spent within a particular sector, states and territories have 'full budget flexibility to allocate funds within that sector'.¹²

National Partnership agreements and payments

- 2.15 NP agreements 'define the objectives, outputs and performance benchmarks related to the delivery of specified projects, to facilitate reforms or to reward those jurisdictions that deliver on national reforms or achieve service delivery improvements'.¹³
- 2.16 NP payments are a central element of the new framework. There are three types of NP payments:

9 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 23 November 2011.

10 Commonwealth Grants Commission, <http://www.cgc.gov.au/gst_distribution_review> viewed 23 November 2011.

11 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 23 November 2011.

12 COAG Reform Council (CRC), *Submission 11*, p. 3.

13 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 23 November 2011.

1. project payments - which support the delivery of specified outputs or projects;
 2. facilitation payments - designed to drive reform in areas considered to be a national priority; or
 3. incentive payments - to reward those jurisdictions that deliver on nationally significant reforms.
- 2.17 Currently there are 51 NPs in key areas such as health, education, housing, Indigenous affairs, infrastructure, environment, and community services. NPs are also used to address other areas of national priority such as the national economy and local government and regional development.
- 2.18 Although evidence to the inquiry touched on national funding agreements under both NAs and NPs, the focus tended to be on funding arrangements under NPs.

Governance and accountability

Council of Australian Governments

- 2.19 The Council of Australian Governments (COAG) is the peak intergovernmental body in Australia. It is comprised of the Prime Minister, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association (ALGA).¹⁴
- 2.20 COAG was established in 1992 and is supported by a Secretariat located in the Department of the Prime Minister and Cabinet.¹⁵ Its role is to initiate, develop, endorse and monitor the 'implementation of policy reforms that are of national significance and which require cooperative action by Australian Governments'.¹⁶
- 2.21 COAG meets at the Prime Minister's discretion as needed and releases communiqués detailing the outcomes of each meeting.¹⁷

14 Council of Australian Governments (COAG), <<http://www.coag.gov.au/>> viewed 23 November 2011.

15 COAG, <http://www.coag.gov.au/about_coag/index.cfm> viewed 23 November 2011.

16 COAG, *Intergovernmental Agreement on Federal Financial Relations* (2008), see COAG website.

17 COAG, <http://www.coag.gov.au/about_coag/index.cfm> viewed 23 November 2011.

- 2.22 COAG negotiates and signs intergovernmental agreements after the various jurisdictions have committed to implement decisions reached by COAG.¹⁸ The IGA FFR was agreed to by COAG in November 2008 and came into effect on 1 January 2009.

Ministerial Council for Federal Financial Relations

- 2.23 The Ministerial Council for Federal Financial Relations has general oversight of the IGA FFR on behalf of the COAG. The Council is made up of the Treasurers of the Commonwealth, states and territories and is chaired by the Treasurer of the Commonwealth.

COAG Reform Council

- 2.24 The COAG Reform Council (CRC) is an independent non-statutory body established by COAG to drive its reform agenda. The CRC monitors, assesses and publicly reports on the performance of the Commonwealth and states and territories in achieving the outcomes and performance benchmarks specified in the six National Agreements. The CRC provides reports to COAG which:
- publish the performance data and provide a comparative analysis of the performance of governments in meeting the agreement's objectives, including highlighting relevant contextual differences between jurisdictions;
 - highlight examples of good practice and performance so that, over time, innovative reforms or methods of service delivery may be adopted by other jurisdictions (from second year of reporting); and
 - reflect the contribution of both levels of government to achieving performance benchmarks and to achieving continuous improvement against the outcomes, outputs and performance indicators (from second year of reporting).¹⁹

Productivity Commission

- 2.25 The Steering Committee for the Review of Government Service Provision, which is supported by a Secretariat within the Productivity

18 COAG, <http://www.coag.gov.au/intergov_agreements/index.cfm> viewed 23 November 2011.

19 COAG Reform Council, <<http://www.coagreformcouncil.gov.au/about.cfm>> viewed 23 November 2011.

Commission (PC), provides agreed performance information to the CRC to enable reporting on NAs.²⁰

2.26 Additionally, in March 2008, COAG requested that the PC report to COAG on the impact and benefits of the reform agenda every two to three years. The PC's role is to assess:

- the economic impacts and benefits of COAG reforms
- where practicable, whether Australia's reform potential is being achieved and the opportunities for improvement.

The focus of the Commission's reporting will be on the realised and prospective effects of COAG reforms. It will complement COAG Reform Council reporting on the implementation of reforms agreed to by COAG.²¹

2.27 The first report is to be provided to COAG by 31 December 2011.

Perspectives on the overall reforms

2.28 Throughout the inquiry the Committee heard that there was general support for the IGA FFR. However, while the underlying principles and intent of the framework are seen as positives there have been problems translating the theory into practice with regard to national funding agreements.

2.29 This section will examine the:

- significance of the reforms;
- changing dynamics of federal financial relations;
- benefits of the IGA FFR; and
- issues with national funding agreements.

The significance of the reforms

2.30 Throughout the inquiry the Committee heard that the IGA FFR has provided significant reform to the financial relations system between the

20 Productivity Commission (PC), 'Review of Government Service Provision', <<http://www.pc.gov.au/gsp/review>> viewed 23 November 2011.

21 PC, 'Impacts and Benefits of COAG Reforms', <<http://www.pc.gov.au/projects/study/coag-reporting>> viewed 23 November 2011.

Commonwealth and states and territories. The Tasmanian Government told the Committee that the new framework was ‘an important evolution in federal financial relations’ and ‘represented a major step forward in Commonwealth-state financial relations’.²²

- 2.31 Likewise, the New South Wales Government in their written submission to the inquiry, commented:

Overall, the changing dynamics of grants brought about by COAG in 2008, through the IGA FFR, are considered a positive step in Commonwealth-State relations due to the increased focus on outcomes and increased public accountability.²³

- 2.32 The Victorian Government called the reform a ‘significant watershed in Australian federalism’ explaining that the IGA FFR has:

...for the first time in Australia’s federal history—established an ongoing policy and administrative framework for intergovernmental transfers. Facilitating these transfers through a single piece of Commonwealth legislation is a dramatic improvement in Commonwealth-level parliamentary accountability. It also provides for a much more coherent and comprehensive approach to these transfers, particularly the outcomes-based policy and reform objectives of the IGA FFR.²⁴

- 2.33 This view was supported by other witnesses to the inquiry. The Commonwealth Auditor-General told the Committee that the IGA FFR ‘represents a significant evolution in Commonwealth, state and territory arrangements’.²⁵ Academic witnesses also confirmed the importance of the framework particularly as it places Commonwealth-state financial relations within a comprehensive legislative framework.²⁶ The Victorian Government’s submission noted that a recent Organisation for Economic Co-operation and Development (OECD) report recognised the

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

23 NSW Government, Treasurer, *Submission 10*, p. 3.

24 Victorian Government, *Submission 6*, pp. 7 and 11.

25 Mr Ian McPhee, Auditor-General, Australian National Audit Office (ANAO), *Committee Hansard*, Canberra, 24 June 2011, p. 2.

26 Professor Alexander Jonathan Brown, Professor of Public Law, Griffith University, *Committee Hansard*, Brisbane, 19 July 2011, p. 17; See also Associate Professor Anne Twomey, *Committee Hansard*, Sydney, 19 August 2011, p. 10.

contribution that the IGA FFR is making to Australia's economic performance and social welfare.²⁷

Changing dynamics

- 2.34 Evidence to the inquiry suggests that the IGA FFR addresses ongoing historical issues within Australia's underlying federal structure. The Australian Constitution, which came into force on 1 January 1901, divided power between the newly created Commonwealth Government and the state governments. In terms of fiscal responsibility, this division of power allowed the Commonwealth to collect excise and customs duties, retain a limited amount of these funds for the Commonwealth's own requirements and return the balance to the states.
- 2.35 However, over time the initial arrangements have become increasingly complex, producing a growing discrepancy between revenue collected and expenditure.²⁸ The Commonwealth collects the bulk of the revenue and the states and territories are responsible for most of the expenditure. The Productivity Commission reports that, in 2008–09, the Commonwealth raised 'two-thirds of all government revenue, but only undertook half of all government expenditure'.²⁹ This difference is called vertical fiscal imbalance (VFI).
- 2.36 The states and territories acknowledge that VFI necessitates the transfer of revenue between the Commonwealth and states and territories.³⁰ It is the resulting perceived distortion of the original intent of the Australian federal system that the states and territories take issue with. The Victorian Government submitted that:

[S]ince Federation, the potential for the Commonwealth's fiscal dominance to overwhelm the constitutional division of powers and the policy and budget autonomy of States and Territories has been widely recognised.³¹

27 Victorian Government, *Submission 6*, p. 8. See Organisation of Economic Co-operation and Development (OECD), *OECD Reviews of Regulatory Reform: Australia: towards a seamless national economy* 2010, pp. 3 and 146–147.

28 For a history of the development of vertical fiscal imbalance in Australia see Denis James, 'Federal-State Financial Relations: The Deakin Prophecy', *Research Paper*, no. 17, 1999–2001, Department of the Parliamentary Library.

29 PC, 'Impacts and Benefits of COAG Reforms: Reporting Framework', *Productivity Commission Research Report*, 2010, p. 19.

30 Tasmanian Government, *Submission 8*, pp. 3–4; Victorian Government, *Submission 6*, p. 6.

31 Victorian Government, *Submission 6*, p. 7.

- 2.37 According to the Victorian Government, the IGA FFR provides a solution because it acknowledges and facilitates the role of the states and territories in the federal system:

The IGA FFR does not simply ‘allow’ States and Territories to determine their own priorities: more fundamentally, it recognises their primary (and constitutional) responsibility for many of the service sectors covered by relevant National Agreements and associated Special Purpose Payments.³²

- 2.38 The CRC explained that the IGA FFR has addressed this issue by removing Commonwealth prescription and providing flexibility to the states and territories by moving to an outcome focused reporting structure.³³ In order to attain this flexibility, the IGA FFR emphasises the need to clearly define the roles and responsibilities of the various levels of government.³⁴

- 2.39 However, the Committee heard that to date the clarification of roles and responsibilities in both NAs and NPs ‘has been inadequate’.³⁵ The NSW Government told the Committee that, despite the original intention of the IGA FFR, roles and responsibilities are defined broadly and:

Across the NAs, a total of 63 responsibilities are defined as “shared”, with just 45 listed as Commonwealth and 36 listed as State responsibilities.³⁶

- 2.40 Identifying the roles and responsibilities of the different levels of government has been a perennial problem for Commonwealth-state financial relations. Professor Brown from Griffith University drew the Committee’s attention to the ‘historical confusion’ inherent in the Australian system.³⁷ He likened the problem to the difference between a layered cake and a marbled cake:

It is the old idea—which to some extent is an idea which informed the design of the Australian Constitution—that you can separate out the roles and responsibilities of different levels of government quite clearly, like a layered cake, but in reality what you get is all

32 Victorian Government, *Submission 6*, p. 10.

33 CRC, *Submission 11*, p. 5.

34 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 23 November 2011.

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

36 NSW Government, Treasury, *Submission 10*, p. 6.

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

levels of government getting involved in all sorts of things, even if one level of government has different roles or different leadership roles, and you end up with a marbled cake rather than a layered cake.³⁸

- 2.41 Professor Brown went on to explain that the lack of clear roles and responsibilities is a symptom of the ‘inescapable’ tension between the centralised and decentralised power of the Australian federation and ongoing efforts to reconcile the two.³⁹ He added that the ambiguous position of local government within the federation and subsequently within the Commonwealth-state financial relations framework caused further difficulties.⁴⁰

Benefits of the new framework

- 2.42 The Committee heard that the underlying principles and intent of the IGA FFR provided a solid foundation to improve financial relations between the Commonwealth and the states and territories. Previous financial arrangements between the Commonwealth and the states and territories were dominated by Specific Purpose Payments (SPP), which are tied grants with an inputs focus rather than an outcomes focus. An inputs focus enabled the Commonwealth to exert control through imposing conditions on states and territories: it focused attention on *how* objectives were achieved. In contrast, the IGA FFR facilitates an outcomes focus, primarily concerned with *what* is being achieved.
- 2.43 The shift from an inputs focus to an outcomes focus was seen as a positive step by witnesses. In both oral and written evidence to the Committee, witnesses identified features within the IGA FFR that should improve the funding process:
- a less prescriptive role for the Commonwealth;
 - increased flexibility for the states and territories; and
 - the clarification of the roles and responsibilities of the various levels of government.
- 2.44 All of these benefits are interlinked and cannot be separated. The less prescriptive role for the Commonwealth in service delivery has allowed

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

39 Professor Brown, Griffith University, *Committee Hansard*, Brisbane, 19 July 2011, p. 20.

40 Professor Brown, Griffith University, *Committee Hansard*, Brisbane, 19 July 2011, p. 18.

greater flexibility to the states and territories. To enable this change the focus has shifted from measuring inputs and outputs to measuring outcomes. In turn, this shift has required clarification of the roles and responsibilities of the various levels of government.

- 2.45 Referring to the significant change in the dynamic of Commonwealth-state relations under the IGA FFR, the Victorian Government explained the benefits of the new arrangements:

...an outcomes based framework that provides states and territories with flexibility delivers better value for money than where funding conditions are tightly prescribed by the Commonwealth.⁴¹

- 2.46 The Victorian Government identified two reasons why better value for money could be achieved through this increased flexibility:

Firstly, the state and territory governments can tailor policies to their local conditions, which improves the responsiveness, efficiency and effectiveness of policy. Secondly, the flexibility allows states to innovate and find new and better ways of delivering services. This kind of innovation cannot happen when inputs are tightly prescribed.⁴²

- 2.47 This point was reiterated by several witnesses. The Auditor-General told the Committee that states and territories were in the best position to meet the needs of their population, having the 'on-the-ground experience' that enables them to best 'deliver services in their own jurisdictions'.⁴³ He indicated that the move to an outcomes focus and flexibility is part of a wider shift in public administration:

In many ways the new approach reflects national and international developments in public sector management. By consolidating payments, giving greater emphasis to expected outcomes and looking to enhance accountability for performance, it is expected that the quality and effectiveness of government services will be improved.⁴⁴

41 Mr Donald Speagle, Deputy Secretary, Federalism, Citizenship and Climate Change Group, Department of Premier and Cabinet, Victoria, *Committee Hansard*, Canberra, 16 September 2011, p. 13.

42 Mr Speagle, Department of Premier and Cabinet, Victoria, *Committee Hansard*, Canberra, 16 September 2011, p. 13.

43 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 24 June 2011, p. 2.

44 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 24 June 2011, p. 2.

Issues with national funding agreements

2.48 While there was overall support for the IGA FFR witnesses also identified a number of problems with national funding agreements, including:

- proliferation of agreements;
- implementation of agreements; and
- reporting requirements.

These issues are outlined briefly in the following paragraphs but will be discussed in more detail in Chapters 3 and 4.

Proliferation of agreements

2.49 The IGA FFR reduced the existing 92 specific purpose payments (SPPs) to six NAs. The Committee heard that despite the reduction in SPPs and contrary to the original intention of the IGA FFR, NPs and the more proscriptive payments they provide, have grown to 51.⁴⁵ Both the Tasmanian Government and the NSW Government expressed disappointment at the subsequent proliferation of funding agreements.⁴⁶

2.50 Specifically the NSW Government identified that the new arrangements no longer cater for small, less complex projects without developing a full NP. Previously these types of fund transfers could be completed with a 'simple exchange of letters' between relevant parties.⁴⁷ The NSW Government maintained that the need for a NP in such circumstances contributes to the proliferation of such agreements.

2.51 Associate Professor Anne Twomey told the Committee that the proliferation of funding agreements under NPs had seriously jeopardised the new reforms and left the way open for the problems with the previous system to re-emerge.⁴⁸ In their written submission to the inquiry, the Business Council of Australia (BCA) summarised the concerns over this proliferation expressed by many witnesses, singling out the return of Commonwealth control of the system and the consequent loss of state and territory flexibility.⁴⁹

45 Business Council of Australia (BCA), *Submission 9*, p. 1.

46 Tasmanian Government, *Submission 8*, p. 9; NSW Government, Treasurer, *Submission 10*, p. 7.

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

48 Association Professor Twomey, *Committee Hansard*, Sydney, 19 August 2011, p. 10.

49 BCA, *Submission 9*, p. 1.

Implementation of agreements

2.52 The Committee was told that the reassertion of Commonwealth control over funding was evident in the Implementation Plans (IPs) developed for funding agreements. Contradictory to the principles of the IGA FFR, witnesses pointed out that the IPs were often prescriptive and focused on inputs rather than outcomes.⁵⁰ The NSW Government identified the increased administrative burden created by the IPs.⁵¹ The Tasmanian Government expressed concern over the ‘onerous reporting requirements’ entailed in the IPs, a feature confirmed by the NSW Government.⁵²

Reporting requirements

2.53 With regard to reporting requirements, the Committee heard evidence that there were two areas of concern: the reporting burden and the quality and timeliness of data. The Northern Territory Legislature referred to ‘irrelevant reporting mechanisms’⁵³ and the NSW Government detailed the difficulties faced by states and territories in meeting the reporting demands for NPs:

Most NPs (or associated Implementation Plans) require line agencies to furnish milestone and/or progress reports to the relevant Commonwealth line agency. These may or may not be linked to the release of milestone/progress payments to the States. The frequency of reporting varies among agreements from annual to monthly. There are also ad hoc requests by the Commonwealth which can be difficult to accommodate, especially where the information sought is detailed, not otherwise collated in the requested manner and/or is sought at short notice. In some areas, there are also separate reporting requirements on related issues to different bodies.⁵⁴

2.54 The quality and timeliness of data required to fulfil reporting requirements was a recurring theme throughout the inquiry. There were overarching issues with the limitations of the data available, not only to the states and territories but to the CRC and the PC in their broader reporting roles. Once again, the NSW Government’s written submission summed up the difficulties, describing the problems, including:

50 NSW Government, Treasurer, *Submission 10*, p. 5; Tasmanian Government, *Submission 8*, pp. 8–9.

51 NSW Government, Treasurer, *Submission 10*, p. 5.

52 Tasmanian Government, *Submission 8*, p. 9; NSW Government, Treasurer, *Submission 10*, p. 5.

53 Legislative Assembly of the Northern Territory, *Submission 17*, p. [1].

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

...data that are poor quality, unreliable or infrequent; data that are not comparable over time or between jurisdictions; and data that cannot be sufficiently disaggregated by Indigenous or socio-economic status where appropriate.⁵⁵

Goods and Services Tax revenue

2.55 The IGA FFR also covers the provision of GST revenue to the states and territories. Although the distribution of the GST revenue was not the focus of this inquiry, the Committee heard evidence of a degree of dissatisfaction with the GST arrangements. GST revenue is distributed according to the principles of HFE.⁵⁶ The Commonwealth Grants Commission (CGC), which recommends levels of GST revenue paid to the states and territories, defines HFE as:

State governments should receive funding from the pool of GST revenue such that, after allowing for material factors affecting revenues and expenditures, each would have the fiscal capacity to provide services and the associated infrastructure at the same standard, if each made the same effort to raise revenue from its own sources and operated at the same level of efficiency.⁵⁷

2.56 In general, smaller states and territories support the current arrangements for the GST redistribution and larger states and territories express some reservations about the system. The Tasmanian Government 'strongly supports the existing principle and practice of HFE on the basis that it is fair and equitable for all states'.⁵⁸ Whereas the NSW Government maintains that:

The consequences of Australia's HFE are: large cross-subsidies paid by the larger to the smaller States; a complex and data intensive method of equalisation yet one which still relies on large measures of judgement; and a method of equalisation which

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

56 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 23 November 2011.

57 Commonwealth Grants Commission (CGC), 'About Fiscal Equalisation', <http://www.cgc.gov.au/fiscal_equalisation/navigation/2> reviewed 23 November 2011.

58 Tasmanian Government, *Submission 8*, p. 5.

potentially has significant adverse impacts on resource allocation in Australia.⁵⁹

- 2.57 With regard to this inquiry, the Committee was particularly concerned to hear suggestions that the current distribution process may provide a disincentive to productivity and reward poor administration. The NSW Government submitted that:

Above average revenues may be partially equalised away and this can reduce the incentive to improve efficiency. There is a disincentive against expanding the revenue base, either through increasing activity in the State or through undertaking additional expenditure to fund economic development, as some of the increased revenue capacity will be equalised away through lower GST revenue.⁶⁰

- 2.58 The CGC was asked if GST distribution did affect efficiency and quality of administration. The CGC denied that this was the case and maintained, that on the contrary, '[m]icro service level efficiency is absolutely rewarded'.⁶¹

- 2.59 The Committee also sought clarification regarding the affect that payments under NAs and NPs have on the distribution of GST. The CGC told the Committee that the majority of such payments did affect GST distribution but that each payment was assessed individually before a decision was made:

You cannot say all of them will [affect the GST distribution], because the Treasurer might tell us that one should not and the commission might itself decide that a particular payment should not. The presumption is that, because there is money available to the states to fund services, it will affect the GST distribution. The bulk of them do.⁶²

Changes to improve the framework

- 2.60 The Committee received a number of suggestions to improve the perceived inadequacies of the IGA FFR. The Victorian Government
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59 NSW Government, Treasurer, *Submission 10*, p. 4.

60 NSW Government, Treasurer, *Submission 10*, p. 4.

61 Mr John Spasojevic, Secretary, Commonwealth Grants Commission (CGC), *Committee Hansard*, Canberra, 16 September 2011, p. 9.

62 Mr Spasojevic, CGC, *Committee Hansard*, Canberra, 16 September 2011, p. 11.

re-iterated the importance of the framework and suggested that 'a key national priority should be to ensure that these reforms are properly implemented *prior* to considering other far-ranging reform options'.⁶³

2.61 The Australian National Audit Office (ANAO) suggested that another area needing attention was the interaction between the IGA FFR and the recently enhanced framework for the administration of grant programs.⁶⁴ The ANAO explained that under the legislation the Commonwealth Grant Guidelines (CGGs) do not apply to national funding agreements.⁶⁵ The ANAO is of the opinion that the exemption of these agreements from the CGGs could lead to a number of inconsistencies, including:

- ...complex administrative arrangements whereby any grants awarded to state and territory governments may be subject to governance arrangements that are different to those applying to grants awarded, under the same program, to other types of applicants;
- ...a funding agreement might be signed with an intermediary in respect to a project actually being delivered by a state government, rather than a National Partnership Agreement being negotiated with the state; and
- ...the time required to negotiate a National Partnership Agreement with the various states and territories, rather than signing a standardised funding agreement, can present challenges to the achievement of intended outcomes.⁶⁶

2.62 The ANAO suggests that the interaction between the grants under the two new frameworks should be re-examined in order to remove these inconsistencies and improve governance arrangements.⁶⁷

Committee comment

2.63 The Committee is pleased with the strength of the consensus that the underlying principles and intent of the IGA FFR are seen as addressing the previous problems underpinning federal financial relations. The Committee notes the general recognition, including international recognition, of the significance of the IGA FFR reforms. The Committee

63 Victorian Government, *Submission 6*, p. 9.

64 ANAO, *Submission 1*, p. 4.

65 ANAO, *Submission 1*, p. 4.

66 ANAO, *Submission 1*, p. 4.

67 ANAO, *Submission 1*, p. 4.

agrees that the reforms were a substantial milestone in federal financial relations, one which is based on sound principles and provides a robust framework for the future.

- 2.64 However, the Committee is aware that the potential benefits of this framework will only be fully realised if the principles and intention of the IGA FFR are actually followed in practice. For example, the Committee is particularly concerned with the proliferation of NPs and the potential for this trend to distract from the reform process. A broader discussion of the disconnect between the underlying intention of the IGA FFR and its current operation is explored further in Chapter 3.
- 2.65 The Committee recognises the place of NPs within the overall IGA FFR. However, the Committee supports a more strategic use of NPs to drive reform, particularly as the principles of the IGA FFR promote a move away from tied payments. The Committee believes that where NPs are operationally justified reward payments should only be made when performance benchmarks have been clearly achieved. Payments should be a genuine reward for effort, not a default. The Committee recognises that there are times where reward payments have not been made but wants to emphasise that payments must be earned not expected.
- 2.66 The Committee is particularly concerned with the continuing blurring of the roles and responsibilities between the levels of government. The Committee notes that the CRC has highlighted this issue in its recent report and understands that at times 'shared responsibilities are unavoidable'.⁶⁸ While the Committee recognises that governments will need to collaborate in certain areas, the Committee shares the CRC's concern that 'shared responsibilities lead to confusion about which level of government is accountable' in some cases.⁶⁹ The Committee believes action must be taken to immediately reduce, where appropriate, the number of responsibilities defined as 'shared' in NAs and clarify existing ambiguities to promote accountability.

68 CRC, *COAG reform agenda: Report on progress 2011: Report of the Council of Australian Governments*, COAG Reform Council, 2011, p. 22.

69 CRC, *COAG reform agenda: Report on progress 2011: Report of the Council of Australian Governments*, COAG Reform Council, 2011, p. 22.

- 2.67 The Committee acknowledges that some states hold concerns expressed over the redistribution of the GST, but notes that there is currently a review underway which may address the issues raised.⁷⁰
- 2.68 The Committee shares the concerns of the Auditor-General regarding the interaction between the IGA FFR and the enhanced framework for the administration of grant programs. The Committee recommends that the Department of Finance and Deregulation re-examine the interaction of the two frameworks and take steps to address any inconsistencies.

Recommendation 1

- 2.69 The Committee recommends that the Department of Finance and Deregulation examine the interaction between the new grants framework and grant payments delivered under the Intergovernmental Agreement on Federal Financial Relations. The report should propose options to remove inconsistencies and improve governance arrangements for all grants provided to states and territories.**

A copy of the report should be provided to the Joint Committee of Public Accounts and Audit, with the Government's Response to this recommendation - and both should be made publicly available.

⁷⁰ This review was commissioned by the Australian Government in March 2011. A Review Panel made up of The Hon Nick Greiner AC, The Hon John Brumby and Mr Bruce Carter will prepare an interim report by February 2012 and a final report by September 2012. (CGC, <http://www.cgc.gov.au/gst_distribution_review> reviewed 23 November 2011.)

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.**

Performance reporting for national funding agreements

Introduction

- 4.1 This chapter examines the performance reporting requirements for national funding agreements. Firstly, it explores the necessity for cultural change across all levels of government to adapt to the reporting requirements for an outcomes focused framework. The chapter then looks at the factors that must be considered in order to provide viable, relevant data. This leads to a discussion about data quality and collection. Finally the chapter examines some of the improvements that are underway to address the issues identified in the chapter.
- 4.2 A strong performance reporting framework is essential to provide transparency, accountability and scrutiny of the Intergovernmental Agreement on Federal Financial Relations (IGA FFR). These areas will be covered in Chapter 5.

Accountability and performance reporting

- 4.3 The IGA FFR is outcomes-based, promising a 'rigorous focus on the achievement of outcomes—that is mutual agreement on what objectives, outcomes and outputs improve the well-being of Australians'.¹

1 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.

4.4 While an outcomes approach focuses on the achievement of objectives and provides better value for money and flexibility, witnesses warned that it also demands increased accountability. The Commonwealth Auditor-General advised the Committee that performance measurement was central to accountability, explaining that parliament cannot be confident national funding agreements are achieving the required outcomes without successful reporting:

Without clear, adequate and consistent reporting against meaningful performance measures, the Parliament is constrained in its ability to understand and assess how Commonwealth funding is contributing to the achievement of value-for-money outcomes in areas covered by national funding agreements.²

4.5 The Council of Australian Governments Reform Council (CRC) told the Committee that, to ensure accountability, a strong reporting framework was necessary, including objectives, outcomes and performance indicators:

The [CRC] must be able to assess the jurisdictions' progress over time in the areas covered by the national agreements, and it therefore must have access to adequate and reliable information and data to inform its assessments.³

4.6 The Committee heard that there are several issues that need to be addressed in order to improve accountability and the reporting framework for national funding agreements:

- cultural change;
- setting reporting objectives;
 - ⇒ clearly defined outcomes; and
 - ⇒ key performance indicators;
- data quality;
 - ⇒ timeliness;
 - ⇒ comparability; and
 - ⇒ generic data collections; and
- meaningful interpretation.

2 ANAO, *Submission 1*, p. 6.

3 Ms Mary Ann O'Loughlin, Executive Councillor and Head of Secretariat, COAG Reform Council (CRC), *Committee Hansard*, 6 July 2011, p. 1.

Cultural change

4.7 Witnesses warned that achieving the benefits of an outcomes-based framework requires significant cultural change at all levels of government. The CRC identified the need for extensive cultural change, reminding the Committee that the reform of federal financial relations ‘challenge[s] conventional practices’ and will necessitate ‘[g]enuine cooperation, a commitment to outcomes, respect for roles and responsibilities, and real accountability’.⁴

4.8 The Committee asked whether or not government departments and agencies had accepted the need for cultural change and made the necessary adjustments. The Victorian Government maintained that the changes had been accepted and embraced at ministerial and central agency level but admitted that there were problems at line agency level:

The cultural challenge that we have is one where some people in some of the relevant line agencies ...are taking a while to absorb what is a really marked conceptual shift. ...The challenge that we have is persuading some of those who for many years in line agencies and both levels of government have been dealing with these very prescriptive SPPs to realise that the world has changed fundamentally.⁵

4.9 The Committee asked what the barriers were to achieving this cultural shift. Echoing the Victorian Government’s comments, the Queensland Government cautioned that an inputs approach was entrenched in many government departments and this mind-set would take some time to adjust:

It is simply a matter of getting people to change the way they think. In this case what Commonwealth line agencies require from state agencies under a particular agreement is an issue that can be resolved in time, but it is very hard to change overnight people’s views and expectations about what needs to be done under a particular agreement.⁶

4.10 The Queensland Auditor-General suggested that it is more difficult to measure outcomes than inputs and this explained the reluctance of departments and agencies to change:

4 COAG Reform Council (CRC), *Submission 11*, p. 2.

5 Mr Speagle, Department of Premier and Cabinet, Victoria, *Committee Hansard*, Canberra, 16 September 2011, p. 16.

6 Dr Ward, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 7.

Everyone is comfortable with controlling inputs because you can measure them; you can see them. People are less comfortable with outcomes because they are a bit more difficult to describe and to measure.⁷

- 4.11 The Productivity Commission (PC) elaborated on this concept, proposing that agencies were not comfortable being held accountable for outcomes which are less easy to control than inputs:

Outcomes can be affected by a lot of external contextual factors, an agency can say, 'I don't control the unemployment rate, and the unemployment rate is actually a major factor in homelessness, so you can't hold me responsible for that high-level outcome.'⁸

- 4.12 The Committee asked what steps are being taken by the various parties to promote cultural change. The Queensland Government admitted that it is still working through solutions to address this issue but told the Committee that it is implementing a range of methods to encourage and support the necessary change:

We are looking at a few mechanisms, but mostly in the area of what we can do in terms of training material and documentation. For instance, we are looking at guidance, practitioner's toolkits and that kind of material at a fairly technical level.⁹

- 4.13 The Department of the Prime Minister and Cabinet (PM&C) confirmed that cultural change was a long term goal that required 'an ongoing educative exercise' and acknowledged that the federal departments responsible for implementing the IGA FFR had 'underestimated the amount of work that we would need to do to change the culture'.¹⁰

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

8 Mr Lawrence McDonald, Assistant Commissioner, Social Infrastructure Branch, Head of Secretariat, Steering Committee for the Review of Government Service Provision, Productivity Commission (PC), *Committee Hansard*, Canberra, 21 September 2011, p. 4.

9 Mr Laurie Ehrenberg, Principal Treasury Analyst, Intergovernmental Relations Branch, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 7.

10 Mr Ron Perry, Assistant Secretary, COAG Unit, Economics Division, Department of the Prime Minister and Cabinet, *Committee Hansard*, Canberra, 16 September 2011, pp. 35-36.

Setting reporting objectives

- 4.14 To lay the foundation for reliable performance reporting clear reporting objectives have to be established by precisely defining the outcomes required for each individual national funding agreement. Once objectives are clear, key performance indicators can be developed to measure and assess outcomes.

Clearly defined outcomes

- 4.15 The Commonwealth Auditor-General told the Committee that outcomes must be clearly defined and that this required ‘clarity around the policy objectives’ of national funding agreements.¹¹ This advice was reiterated by state Auditors-General and academics.¹² The Queensland Auditor-General told the Committee:

...it is knowing what you want and what you want to use it for which is important.¹³

- 4.16 The Queensland Auditor-General went on to provide the example of the Building the Education Revolution (BER), telling the Committee that lack of clarity around policy outcomes hampered performance reporting for this national funding agreement:

I am still bemused as to whether the stimulus package [BER] was about spending the money quick or actually achieving some outcomes by way of school buildings. If I look at the agreement, there is not a clear sense as to should the money have just been spent and spent quickly,...or should it have been spent well to actually deliver some buildings and some capacity.¹⁴

- 4.17 While agreeing with the need to specify measureable outcomes, the NSW Auditor-General cautioned that this can be a difficult task in itself.¹⁵ He explained that outcomes must neither be too broad or too specific:

11 Mr Ian McPhee, Auditor-General, Australian National Audit Office (ANAO), *Committee Hansard*, Canberra, 24 June 2011, pp. 2 and 3.

12 Mr Tony Whitfield, Deputy Auditor-General, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 5; Mr Poole, Auditor-General, Queensland, *Committee Hansard*, Brisbane, 19 July 2011, p. 10; Associate Professor Anne Twomey, *Committee Hansard*, Sydney, 19 August 2011, p. 13.

13 Mr Poole, Auditor-General, Queensland, *Committee Hansard*, Brisbane, 19 July 2011, p. 10.

14 Mr Poole, Auditor-General, Queensland, *Committee Hansard*, Brisbane, 19 July 2011, p. 13.

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

...if the outcomes are too broad it becomes very difficult to measure whether they have been effective. For example, if they say, 'Here's a bucket of money – the outcome we want is better health,' it is quite difficult to measure whether that has been achieved. But if they say, 'Here's a bucket of money– we want you to buy this number of syringes,' that is pretty pointless as well.¹⁶

- 4.18 The Queensland Auditor-General identified another difficulty. Given the multijurisdictional nature of many national funding agreements it is difficult to articulate outcomes and specify measurements:

So there will be a number of factors that are impacting on the achievement of the outcome, not all of which will be controlled by either the state or the Commonwealth...¹⁷

Key performance indicators

- 4.19 Effective performance measurement is facilitated by the development of relevant key performance indicators (KPIs). The Commonwealth Auditor-General advised the Committee that the shift to outcomes measurement 'requires performance indicators that link directly to outcomes'.¹⁸ Likewise, the CRC told the Committee that its ability to provide useful performance reporting depends on developing relevant KPIs that are linked to objectives and outcomes.¹⁹
- 4.20 The Committee asked the PC what process is used to develop the KPIs. The PC informed the Committee that the high level indicators were developed by the Council of Australian Governments' (COAG) working groups and endorsed by COAG.²⁰ These indicators were 'fairly broad' so the PC consulted with Ministerial Council data subcommittees, PC review working groups, data providers and the CRC to develop more specific indicators.²¹ The PC advised that the indicators are continually revised on

16 Mr Achterstraat, Auditor-General, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 1.

17 Mr Poole, Auditor-General, Queensland, *Committee Hansard*, Brisbane, 19 July 2011, p. 14.

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

19 CRC, *Submission 11*, p. 3.

20 Mr McDonald, Head of Secretariat, Steering Committee for the Review of Government Service Provision, PC, *Committee Hansard*, Canberra, 21 September 2011, p. 8.

21 Mr McDonald, Steering Committee for the Review of Government Service Provision, PC, *Committee Hansard*, Canberra, 21 September 2011, p. 8.

advice from the CRC and stakeholder consultation is repeated with each revision.²²

- 4.21 Despite the attempts to align KPIs with outcomes and objectives, witnesses repeatedly claimed that KPIs are inadequate. The Queensland Government told the Committee that a number of KPIs are 'not relevant'.²³ In their submission, the NSW Government argue that KPIs are often not appropriate:

Performance indicators should be well connected to, and provide comprehensive coverage of, the high level objectives and outcomes of agreements. Currently this is not the case for many NAs and NPs.²⁴

- 4.22 Specifically, witnesses were highly critical of the profusion of KPIs. A number of witnesses pointed to the National Healthcare Agreement as an example of the unwieldy overuse of KPIs. The NSW Government told the Committee that although 70 indicators may provide a useful overview of the health system it is neither sustainable nor meaningful.²⁵ Further, there is insufficient data available to measure the indicators and the CRC could only 'meaningfully report against 25 of the 70 indicators' in 2010.²⁶ The NSW Government concedes that data could be provided for more of the indicators but warns that the cost of achieving such improvements 'cannot be justified'.²⁷

- 4.23 Ultimately, the NSW Government argues for rationalisation of KPIs:

Fewer, more meaningful indicators across the spectrum of agreements will facilitate a sharper focus on what really matters, and make it easier for the public to understand the performance of their governments.²⁸

- 4.24 Another example, provided by the Queensland Government, is the National Agreement for Indigenous Reform. This Agreement has 27 indicators and the Queensland Government only has useful data for 14 of the KPIs and questions whether or not it should set up programs to satisfy

22 Mr McDonald, Steering Committee for the Review of Government Service Provision, PC, *Committee Hansard*, Canberra, 21 September 2011, p. 8.

23 Mr Ehrenberg, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 4.

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

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

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

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

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

the other 13 indicators or 'focus on the areas for which we do have data and time series data.'²⁹

- 4.25 The Treasury (Treasury) acknowledged that this is an area that needs attention and indicated that the Heads of Treasuries (HoTs) Review has addressed the issue. Treasury told the Committee that a balance of KPIs is required that will 'give the best analysis of the outcome you are trying to achieve whilst keeping [the number of KPIs] to the minimum you need to do that'.³⁰
- 4.26 The Queensland Government, among others, drew the Committee's attention to the *Conceptual Framework for Performance Reporting* endorsed by COAG in February 2011 which provides a general guide for developing KPIs and addresses many of the issues raised by witnesses.³¹

Data quality and collection

- 4.27 Witnesses repeatedly stressed the inadequacy of the data available to assess performance under national funding agreements. The CRC highlighted its frustration over this ongoing issue and told the Committee its ability to 'meaningfully report on the achievement of outcomes year-on-year is significantly constrained by the availability and quality of nationally comparable data'.³² The CRC said bluntly that 'accountability and transparency fail' without quality data.³³
- 4.28 National Disability Services (NDS) like many other witnesses supported the move to an outcomes focus, however also warned that currently available data was inadequate to measure outcomes.³⁴

29 Dr Ward, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 3.

30 Mr Peter Robinson, General Manager, Commonwealth-State Relations Division, Treasury, *Committee Hansard*, Canberra, 16 September 2011, pp. 28 and 36.

31 Mr Ehrenberg, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 3; Ministerial Council for Federal Financial Relations, 'Conceptual Framework for Performance Reporting', <http://www.federalfinancialrelations.gov.au/content/performance_reporting/conceptual_framework_performance_reporting_feb_11.pdf> viewed 23 November 2011.

32 CRC, *Submission 11*, p. 3.

33 CRC, *Submission 11*, p. 3.

34 Dr Ken Baker, Chief Executive, National Disability Services (NDS), *Committee Hansard*, Canberra, 24 June 2011, p. 17.

4.29 The Committee heard that a number of areas need to be addressed to improve the availability and collection of data and ensure effective performance reporting, including:

- timeliness; and
- comparability.

Timeliness

4.30 In their submission the CRC identified the timeliness of data as one of the areas that required attention.³⁵ This concern was shared by others including NDS, who provided the Committee with a relevant example of the problems caused by time gaps in data collection. NDS informed the Committee that the CRC had been forced to draw on data from the 2003 Survey of Disability Ageing and Carers (SDAC) for its latest report which would suggest that the findings do not accurately reflect the current situation:

...a six-year gap between collections makes tracking the effectiveness of the Agreement in relation to a range of key indicators, including employment participation, almost impossible.³⁶

4.31 In his testimony to the Committee, the Chief Executive of NDS elaborated on the distortion caused by the lack of adequate, timely data in this area:

I think the standout case there is figures on workforce participation and employment. These are available at present only through one source, which is the Survey of Disability, Aging and Carers, and that occurs every six years. ... In that area where the government has such a strong focus on increasing workforce participation, where workforce participation is such a key driver of the economy, it seems to me ludicrous to be relying on figures in this area that are six years out of date.³⁷

4.32 The Committee pursued this matter with the Australian Bureau of Statistics (ABS) and were told that, due to policy changes in this area, the SDAC will be expanded and will be run every three years.³⁸

35 CRC, *Submission 11*, p. 3.

36 National Disability Services (NDS), *Submission 7*, p. 3.

37 Dr Baker, NDS, *Committee Hansard*, Canberra, 24 June 2011, p. 18.

38 Mr Bob McColl, Assistant Statistician, Social Conditions Statistics Branch, Social Statistics Group, Australian Bureau of Statistics, *Committee Hansard*, Canberra, 16 September 2011, p. 2.

Comparability

- 4.33 Another issue of concern to the CRC is the availability of nationally comparable data.³⁹ The CRC explained to the Committee that, while it supports the need for state and territory flexibility, in the interests of transparency and accountability there is a need to be able to compare data across governments.⁴⁰ The challenge for the CRC is that different governments set different targets to achieve the outcomes of national funding agreements.⁴¹
- 4.34 For example, the CRC told the Committee that, with regard to the Literacy and Numeracy National Partnership, variations across jurisdictions have included:
- proportion of participating schools and students and the criteria for selecting participating schools;
 - domains, year levels, size of student cohort, student characteristics and sectors for measurement; and
 - calculation of targets and methodologies for establishing baselines and the total number of targets.⁴²
- 4.35 The Committee asked the ABS what steps have been taken to improve the comparability of data across the nation. The ABS explained that the Commonwealth processes had to be clarified before the issue could be taken up with the states and territories.⁴³ Now that those processes are established at the Commonwealth level, the states and territories are being engaged and attempts made to collect comparable data across jurisdictions:
- There is a whole range of differences in the systems in states and territories that we are sorting out in that process as well so that we can get common measurement not so much in the way the services and systems work differently but in what the outcome differences are.⁴⁴
- 4.36 The CRC also alerted the Committee to the need for data to be built up over time to provide both meaningful comparisons across jurisdictions and longitudinal comparisons of changes and trends, a point made by

39 CRC, *Submission 11*, p. 3.

40 CRC, *Submission 11*, p. 4.

41 CRC, *Submission 11*, p. 4.

42 CRC, *Submission 11*, p. 4.

43 Mr McColl, ABS, *Committee Hansard*, Canberra, 16 September 2011, p. 3.

44 Mr McColl, ABS, *Committee Hansard*, Canberra, 16 September 2011, pp. 3–4.

PM&C as well.⁴⁵ The CRC advised that, as the CRC has been operating for nearly three years, solid foundations have been put in place and this aspect of data collection is improving.⁴⁶

Generic data collections

4.37 To streamline data collection and remove some of the burden being placed on line departments and service delivery agencies, the Committee heard that it would be useful if generic data collections could be developed to satisfy the requirements of various reporting frameworks. Dr Baker, Chief Executive Officer of NDS suggested that the PC principle 'one report, many uses' would significantly relieve the reporting burden on smaller agencies:

The picture from the point of view of service providers is that they are often feeding into multiple data collections, some of which overlap and not all of which include meaningful data items. It seems to me that there would be sense in...auditing that and producing a reduced but more meaningful consolidated set which may have multiple purposes.⁴⁷

4.38 The Committee questioned if it was feasible to develop a uniform set of KPIs that would satisfy the reporting requirements of different sectors. Dr Baker was unsure but pointed to similar work being done to rationalise quality compliance systems and suggested this may provide a model:

There are attempts at present to try to ... look at the different quality systems to which organisations have to comply and do a cross-check. So, if they have complied with one quality accreditation system, then they may have complied, in effect, with 90 per cent of another requirement. The same principle could apply to data as well. There will be some data required that is distinct to one particular program or sector and there will be some that will be common to many.⁴⁸

45 Ms O'Loughlin, CRC, *Committee Hansard*, Canberra, 6 July 2011, p. 2; Mr David Hazlehurst, First Assistant Secretary, Economic Division, Department of the Prime Minister and Cabinet (PM&C), *Committee Hansard*, Canberra, 16 September 2011, p. 28.

46 Ms O'Loughlin, CRC, *Committee Hansard*, Canberra, 6 July 2011, p. 2.

47 Dr Baker, NDS, *Committee Hansard*, Canberra, 24 June 2011, p. 19.

48 Dr Baker, NDS, *Committee Hansard*, Canberra, 24 June 2011, p. 20.

Meaningful interpretation

4.39 Meaningful interpretation of data to assess the quality of outcomes was also of concern. The Committee heard that the focus on narrow or quantitative data could make it difficult to assess the quality of the larger outcomes being achieved. For example, NDS explained to the Committee that while public policy outcomes stress the participation of people with a disability ‘in all domains of life, not just the economy but civil society’ such an outcome is very difficult to measure:

...our capacity to measure in a meaningful way what participation in non-economic terms means is not easy.

4.40 The Committee pursued this issue with a number of witnesses and asked what methods were being implemented to ensure meaningful interpretation of the data collected. In particular, the Committee wanted to know what was being done to supplement the facts and figures of quantitative data with more sophisticated qualitative information about the quality of outcomes. PM&C recognised the need to assess ‘quality of life’ outcomes but maintained that this could be done without resorting to direct qualitative methods as Mr Hazlehurst, First Assistant Secretary, explained:

It is in those spaces where the data challenges of course become the most challenging. It is still data. I do not think we are likely to end up in a situation where it would go as far as qualitative data in the form of things like reports from focus groups. However, there is plenty of data that is collected, including of course by the ABS, which is survey data which goes to people’s level of satisfaction with either services that they have received, their quality of life, the amenity of their local neighbourhood, their feeling of empowerment in the workplace,...things like that where it is not about things that you can see as easily, it is more about people’s perceptions.⁴⁹

4.41 While acknowledging the validity of collecting qualitative data, PM&C informed the Committee that collecting qualitative data is not cost effective:

The obvious thing to say about that is that those require intensive, expensive, nationally collected surveys in order to come up with an accurate representation of, if you like, the pattern of outcomes

49 Mr Hazlehurst, PM&C, *Committee Hansard*, Canberra, 16 September 2011, p. 33

across the country that one requires for administering a set of arrangements like this. For a particular one-off purpose we are talking about national data collections that have to be replicated over and over again...⁵⁰

4.42 The Committee questioned if the focus on facts and figures would blur the distinction between outputs and outcomes and inhibit the cultural transition needed to ensure the quality of the outcomes of the IGA FFR. PM&C held that quantitative data was the only means of measuring many outcomes and cited the example of reducing infant mortality where a figure indicates the quality of the outcome.⁵¹

4.43 To clarify the issue, PM&C used the example of the National Education Agreement where the emphasis is on measuring student results:

The sorts of measures in there are not measures of how many students receive X, Y and Z. ...They are actually measures of achievement of outcomes by those students. So...wherever possible, the desire has been to shift to those measures that are not to do with counting the number of things that have been delivered to people.⁵²

4.44 The Committee asked how to ensure that both qualitative and quantitative results were being considered in the analysis of data to guarantee that quality outcomes were being achieved. Treasury advised that the issue must be addressed when KPIs are being formulated at the beginning of the process:

You would expect these qualitative issues to be considered in the policy design up front and thought about in terms of the policy that is formulated and then looking to get an appropriate expression of the outcomes of that and then indicators to measure it.⁵³

4.45 The Committee's questioning on qualitative results related to the question of how to effectively assess the overall quality of outcomes in a sector. The Committee also questioned whether sectoral assessments alone were sufficient due to the large scale of the spending, and hence whether a more integrated measure or limited set of high level indicators of national outcomes might be needed. Members of the Committee asked the PC whether 'development' or 'wellbeing' indicators at a national level were

50 Mr Hazlehurst, PM&C, *Committee Hansard*, Canberra, 16 September 2011, p. 33.

51 Mr Perry, PM&C, *Committee Hansard*, Canberra, 16 September 2011, p. 34.

52 Mr Hazlehurst, PM&C, *Committee Hansard*, Canberra, 16 September 2011, p. 34.

53 Mr Robinson, Treasury, *Committee Hansard*, Canberra, 16 September 2011, p. 34.

being used to assess the outcomes for national funding agreements – such as the ABS’s program into Measures of Australia’s Progress – and whether data used for national funding agreements was being cross linked to these types of initiatives.

4.46 The PC told the Committee that it had not been requested to use this type of complementary measure of welfare. Further, the PC representative made a point of detail saying that he was cautious of using indices due to the complexities involved:

I know how to interpret a specific indicator. I know what the numerator and denominator were. I can work out the data quality issues and the context and I can make an informed assessment. When you start putting an index together, you have to be very careful because the debate then becomes about what is included in the index, what you left out of the index and how you weighted the different components of the index.⁵⁴

Improvements underway

4.47 The Committee is aware that, as with the implementation process, the performance reporting framework has been reviewed by the HoTs and the CRC and acknowledges that these bodies have made a number of recommendations to address the issues identified in this chapter. Additionally, witnesses drew the Committee’s attention to a range of improvements that are underway, including:

- *Conceptual Framework for Performance Reporting*;
- whole-of-government data integration project;
- CRC reports and recommendations; and
- Steering Committee for the Review of Government Service Provision analysis and reforms.

Conceptual Framework for Performance Reporting

4.48 The Queensland Government drew the Committee’s attention to the *Conceptual Framework for Performance Reporting* endorsed by COAG in

54 Mr McDonald, Steering Committee for the Review of Government Service Provision, PC, *Committee Hansard*, Canberra, 21 September 2011, p. 6.

February 2011 which provides a general guide for developing KPIs.⁵⁵ The guidelines set out clear steps to ensure KPIs are linked to objectives and outcomes, and are meaningful, timely and comparable.⁵⁶ The guidelines are to be used in conjunction with the IGA FFR and the Federal Finances Circular 2010/01, *Developing National Partnerships*.

Whole-of-government data integration project

4.49 The ABS advised the Committee that a whole-of-government data integration project has been established to facilitate the collection and comparability of data across the country.⁵⁷ The project has been initiated by portfolio secretaries and a governance board chaired by the Australian Statistician has been set up.⁵⁸

4.50 The ABS told the Committee that the project will allow all information held by Commonwealth agencies to be interrogated for statistical and research purposes.⁵⁹ However, the ABS assured the Committee that steps have been taken to ensure transparency and accountability, including legislative accountability:

It is high powered in terms of liberating the data for the sorts of purposes that...this committee is interested in, but it also has very strict controls around privacy and confidentiality. It can only be done for public benefit.⁶⁰

COAG Reform Council reports and recommendations

4.51 The CRC is the key accountability body for COAG under the IGA FFR and is tasked with reporting on performance for all National Agreements (NAs) and National Partnerships (NPs).⁶¹ The Committee was told that the CRC plays a 'pivotal role'⁶² in providing transparency and

55 Mr Ehrenberg, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 3.

56 Ministerial Council for Federal Financial Relations, 'Conceptual Framework for Performance Reporting', <http://www.federalfinancialrelations.gov.au/content/performance_reporting/conceptual_framework_performance_reporting_feb_11.pdf> viewed 23 November 2011.

57 Mr McColl, ABS, *Committee Hansard*, Canberra, 16 September 2011, p. 1.

58 Mr McColl, ABS, *Committee Hansard*, Canberra, 16 September 2011, pp. 1-2.

59 Mr McColl, ABS, *Committee Hansard*, Canberra, 16 September 2011, p. 1.

60 Mr McColl, ABS, *Committee Hansard*, Canberra, 16 September 2011, p. 1.

61 COAG, *Intergovernmental Agreement on Federal Financial Relations* (2008), COAG <http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_federal_financial_relations.pdf> viewed 23 November 2011.

62 Business Council of Australia (BCA), *Submission 9*, p. 4; Associate Professor Twomey, *Committee Hansard*, Sydney, 19 August 2011, p. 11.

accountability for the COAG reform agenda. The Queensland Auditor-General spoke of the 'rigour' that the CRC is bringing to performance reporting.⁶³

- 4.52 In its second annual report on the reform agenda, the CRC found that overall performance reporting is improving and is simpler, standardised, and more transparent.⁶⁴ However, the CRC continues to be concerned over data quality including 'data availability, comparability, timeliness, frequency of collection, accuracy and the ability to disaggregate data'.⁶⁵ The CRC has recommended that these issues must be addressed, particularly with regard to NPs.⁶⁶
- 4.53 Questioned on the seeming slowness of reform with regard to the performance reporting framework and data quality and collection, the CRC cautioned that reform in this area takes time.⁶⁷ The CRC said that data development is complex and expensive, explaining that service delivery data, drawn from administrative data, is essential for monitoring NAs.⁶⁸ Administrative data is largely collected by state and territory governments and changes and improvements involve considerable negotiation:
- ...[administrative data systems] were set in place at the state level for the state government's purposes or even for the service providers' purposes, and you are trying to aggregate administrative data not only to, say, the school system of a jurisdiction but then to jurisdictions across Australia so that it is comparable. It takes a long time to agree how they are going to define certain indicators and how they are going to collect the data. It changes computer systems. It changes administrative systems.⁶⁹
- 4.54 The Business Council of Australia (BCA) was critical of COAG's slow response rate to CRC reports and recommendations.⁷⁰ The Committee asked the CRC if its recommendations were being responded to in a timely manner by COAG. The CRC assured the Committee that COAG is
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63 Mr Poole, *Committee Hansard*, Brisbane, 19 July 2011, p. 15; see also Mr McPhee, ANAO, *Committee Hansard*, Canberra, 24 June 2011, p. 4.

64 CRC, *COAG reform agenda: Report on progress 2011*, p. 27.

65 CRC, *COAG reform agenda: Report on progress 2011*, p. 35.

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

67 Ms O'Loughlin, *Committee Hansard*, 6 July 2011, p. 3.

68 Ms O'Loughlin, *Committee Hansard*, 6 July 2011, pp. 3–4.

69 Ms O'Loughlin, *Committee Hansard*, 6 July 2011, p. 4.

70 Business Council of Australia (BCA), *Submission 9*, p. 4.

taking action on its recommendations.⁷¹ The CRC advised the Committee that many of its recommendations have been simple reforms not requiring COAG approval and have been directly taken up by data development committees across jurisdictions.⁷²

4.55 The CRC informed the Committee that, in response to a range of recommendations concerning the performance reporting framework from the CRC and others, COAG had initiated the Heads of Treasuries Review (HoTs Review). More recently, COAG has announced a review to specifically assess the performance framework of each individual NA 'to ensure progress is measured and all jurisdictions are clearly accountable to the public and COAG for their efforts'.⁷³ The *Conceptual Framework for Performance Reporting*, mentioned earlier, details the process to be followed for this review. The Committee asked what timeframe was in place for this review and was told that the review will be completed by the middle of 2012.⁷⁴

4.56 The Treasury (Treasury) and PM&C updated the Committee on the progress of this review. The performance framework for each agreement is being examined to ensure that there are clear links between outcomes and indicators and that indicators are sound:

...ensuring that there is no ambiguity in indicators in how they relate to the outcomes so that from the lay person's or public's point of view there is a clear understanding; if you have an indicator, if you see a movement or change in the data over time, you know what that is trying to measure...⁷⁵

4.57 Treasury told the Committee data is being reviewed to ensure its veracity and frequency and that it is measureable over time.⁷⁶ Treasury advised that gaps in data are being identified and the opportunity taken to assess whether or not such data can be collected cost effectively:

If there is an absence of data in an area, you need to look at the benefit of the data being captured versus the cost of actually doing it.⁷⁷

71 Ms O'Loughlin, *Committee Hansard*, 6 July 2011, p. 7.

72 Ms O'Loughlin, *Committee Hansard*, 6 July 2011, p. 5.

73 Ms O'Loughlin, *Committee Hansard*, 6 July 2011, p. 2-3; CRC, *Submission 11*, p. 1.

74 Ms O'Loughlin, *Committee Hansard*, 6 July 2011, p. 5.

75 Mr Robinson, Treasury, *Committee Hansard*, 16 September 2011, p. 28.

76 Mr Robinson, Treasury, *Committee Hansard*, 16 September 2011, p. 28.

77 Mr Robinson, Treasury, *Committee Hansard*, 16 September 2011, p. 28.

4.58 In its submission to the Committee, the Secretariat for the Steering Committee for the Review of Government Services elaborated on this principle explaining:

- the benefits of new data collections or improvements to collections and reporting must be reasonably expected to outweigh the associated costs to service providers, data agencies, reporting agencies and agencies required to respond to reports.⁷⁸

Steering Committee for the Review of Government Service Provision

4.59 Supported by a Secretariat within the Productivity Commission, the Steering Committee for the Review of Government Service Provision provides support to the CRC through a range of reports.⁷⁹ Specifically, under the IGA FFR, the Steering Committee collects and collates the performance data for all NAs, and a number of NPs, for the CRC.⁸⁰ The Secretariat advised the Committee that the Steering Committee also has a role in assessing the quality of data collected for performance reporting:

...the data providers provide a data quality statement according to the Australian Bureau of Statistics' data quality framework. The Steering Committee then summarises that information and adds some of its own commentary to that in what are called 'comments on data quality'.⁸¹

4.60 The Secretariat is optimistic that there is overall improvement in data systems including in the quality, availability and timeliness of data.⁸² The Secretariat identified both the HoTs Review and the current review of the performance framework of each individual NA as positive steps and told the Committee that a lot of work is being done at ground level to improve data quality.⁸³

78 Secretariat, Steering Committee for the Review of Government Service Provision, *Submission 18*, p. 2.

79 Mr McDonald, Steering Committee for the Review of Government Service Provision, PC, *Committee Hansard*, 21 September 2011, p. 1.

80 Mr McDonald, Steering Committee for the Review of Government Service Provision, PC, *Committee Hansard*, 21 September 2011, p. 1.

81 Mr McDonald, Steering Committee for the Review of Government Service Provision, PC, *Committee Hansard*, 21 September 2011, p. 1.

82 Mr McDonald, Steering Committee for the Review of Government Service Provision, PC, *Committee Hansard*, 21 September 2011, p. 3.

83 Mr McDonald, Steering Committee for the Review of Government Service Provision, PC, *Committee Hansard*, 21 September 2011, p. 3.

4.61 The Committee asked the Steering Committee Secretariat how advanced the improvement in data collection was. The Secretariat explained that improvement varies across the different areas covered by the NAs, depending on the specific problems associated with different types of data. For example, the National Indigenous Reform Agreement and the National Disability Agreement present inherent difficulties that will take some time to resolve. On the other hand, data quality and collection for the National Healthcare Agreement has made 'rapid progress' due to a concerted effort across jurisdictions:

That has come about through system changes at the jurisdiction level, where jurisdictions are doing things differently, and through significant changes by the main collector or manager of the health data, which is the Australian Institute of Health and Welfare. They have done a good job of making more data available more quickly.⁸⁴

4.62 The Committee asked if the work on improving data quality and collection is being undertaken formally and coordinated between the Commonwealth and state/territory governments. The Secretariat advised that the ABS and the Australian Institute of Health and Welfare, both national data agencies, were responsible for the data improvement process.⁸⁵

4.63 The Committee asked if there was a timeframe for completion of the improvement process and was told that the timeframe could vary depending on the type of work that was needed. For example, the Secretariat explained that the issues regarding data on homelessness for the National Affordable Housing Agreement presented conceptual problems that would need academic research:

...developing a new methodology for counting the homeless is an academic piece of work and it is taking academic time frames to be resolved. It is quite a difficult conceptual issue and you want it done right.⁸⁶

84 Mr McDonald, Steering Committee for the Review of Government Service Provision, PC, *Committee Hansard*, 21 September 2011, p. 5.

85 Mr McDonald, Steering Committee for the Review of Government Service Provision, PC, *Committee Hansard*, 21 September 2011, pp. 8-9.

86 Mr McDonald, Steering Committee for the Review of Government Service Provision, PC, *Committee Hansard*, 21 September 2011, p. 9.

Committee comment

- 4.64 Performance reporting is crucial to understanding the success or otherwise of COAG priorities and the IGA FFR itself. However, through the inquiry the Committee found that better performance reporting will require additional effort and sustained focus. For this to become a reality there will be a need to:
- drive cultural change;
 - clearly set objectives and outcomes, and develop valid key performance indicators;
 - collect data of a higher quality more quickly, while streamlining administrative burdens; and
 - ensure meaningful interpretation of the data that is collected.
- 4.65 Each of the above improvement points is discussed below.
- 4.66 Driving cultural change towards full adoption and implementation of the principles in the IGA FFR is critical to realising the potential benefits it promises. Achieving deep seated cultural change will require additional effort within the Australian Public Service (APS) and across the different levels of government. It will also require time and concerted effort. The Committee recognises that the IGA FFR is part of a broader shift in public sector management, with an emphasis on outcomes and enhanced accountability. Commitment will be needed to overcome entrenched practices which do not accommodate the fundamental principles of this new perspective on public administration.
- 4.67 The Committee is satisfied that the cultural change required is well understood within central agencies and that cultural change is underway. However, the evidence suggests that personnel on the ground in line departments and service delivery agencies have still not grasped, or at least have not fully adopted, the consequences of the change.
- 4.68 While the Committee accepts that cultural change will take time to filter down through the various layers of the bureaucracy, it believes that positive steps can be taken to encourage and support such change. The Committee notes that some steps are being taken with the development of Federal Finances Circulars and the *Conceptual Framework for Performance Reporting*. However, more can still be done.

- 4.69 The delivery of training to all staff involved in IGA FFR processes and performance reporting is a key additional step towards the cultural change needed.
- 4.70 The Committee therefore recommends that PM&C and the central agencies implement a structured approach to ensure that all relevant staff receive specific training to enhance their understanding of the framework and develop the skills required to meet performance reporting requirements. In addition to dedicated training, the Committee recommends that relevant broader APS training be amended to incorporate information on the IGA FFR. For example, training on the *Financial Management and Accountability Act 1997* and general public sector administration courses should reference and explain the importance of the IGA FFR and its principles. This is considered important to raise awareness of the IGA FFR to APS staff generally.
- 4.71 The Committee also recommends that the Commonwealth works to ensure that other jurisdictions implement a similar approach to training. Up-skilling only APS staff is insufficient; to realise the full benefits inherent in the IGA FFR state and territory officials will need equivalent skills and buy-in.
- 4.72 The Committee considers it essential that clear objectives and outcomes for national funding agreements be negotiated, agreed and documented – and that these are supported by valid key performance indicators. The Committee believes that the apparent lack of clarity surrounding outcomes for different agreements is seriously undermining the principles of the IGA FFR. If outcomes cannot be satisfactorily agreed and articulated in a way that provides sufficient clarity to all parties this suggests that the practicality of the principles of the IGA FFR may need to be reconsidered. However, this should not be interpreted to mean that every aspect of an agreement needs to be quantified or linked to a numerical KPI for the agreement to be meaningful. Agreement and clarity of outcomes is about mutual understanding of the end goal, not whether the end goal can be perfectly broken down into a long list of numerical KPIs.
- 4.73 In this regard, the Committee stresses the need to ensure that serious consideration is given to the relevance of KPIs, and whether these KPIs are supported by existing data collections. The Committee notes that the *Conceptual Framework for Performance Reporting* is being used to streamline KPIs with the aim of ensuring that KPIs are measureable, relevant and directly related to outcomes. The Committee understands that this review is well underway and that it will rationalise and simplify KPIs. The

Committee considers that this exercise is critical to address the concerns raised over the proliferation and meaningfulness of indicators.

- 4.74 Despite a potentially improved set of KPIs, the Committee remains concerned at the ongoing problems with data quality and collection. In many instances data needs to be collected, compiled and analysed more quickly than is currently the case. In instances where data is not currently collected, consideration must be given to the allocation of funds to support its collection. If there is no data available to measure a KPI and collecting the necessary data would not be cost effective, the KPI should be removed or amended.
- 4.75 Regarding the reporting burden, national funding agreements should seek to streamline reporting requirements and consolidate data collections wherever possible. In essence, the goal should be easier data collection with fewer 'survey' forms. Although the Committee is aware that various attempts are underway to improve data collection approaches, it was not clear that enough work had been done towards the 'single report to multiple agencies' ideal, or towards compiling core data sets for key national priorities.
- 4.76 The benefits of moving towards the 'single report to multiple agencies' ideal are obvious, including minimising the need to reconfigure and repackage the data collected for each respective reporting requirement. The Committee also sees potential benefit in developing a core set of standard data requirements for all reporting which include key areas of national interest such as indigenous affairs and provision of services to low socio economic status members of the public.
- 4.77 The Committee therefore recommends that PM&C, Finance and Treasury report back to the Committee on work undertaken to move towards the 'single report to multiple agencies' ideal and the potential to develop a core set of standard data requirements for key areas of national interest.
- 4.78 In this regard the Committee is particularly interested in the development of the whole-of-government data integration project and urges all jurisdictions to take whatever steps necessary to ensure it progresses expeditiously.
- 4.79 It is not sufficient just to collect data, it is necessary to ensure meaningful interpretation by decision makers and the community. The Committee is concerned that the proliferation of KPIs comes at the detriment of higher level measures or summary indicators that allow decision makers to meaningfully gauge ultimate outcomes. Despite some suggestions that sectoral or national level indicators (either single or multiple) are complex

to compile the Committee feels that it is important that a tangible set of indicators is available. The Committee therefore supports moves towards better links between national agreement reporting and complementary measures of national outcomes such as ABS's Measuring Australia's Progress initiative, even if further research is required to achieve this result.

- 4.80 Overall the Committee has identified a range of potential improvements to the performance reporting framework under the IGA FFR. The Committee acknowledges that there are many initiatives underway towards improvement, but is keen to see more action to bring these to fruition and ensure full implementation. The Committee notes that the CRC has already identified many of the problems examined in this chapter, however remains concerned at the slow response time by COAG to the CRC's reports and recommendations. The Committee recommends that COAG take steps to respond to the reports and recommendations of the CRC in a timelier manner.

Recommendation 5

- 4.81 **The Committee recommends that a structured approach be developed and implemented by the Department of the Prime Minister and Cabinet and other central agencies to ensure relevant staff receive specific training to enhance understanding of the Intergovernmental Agreement on Federal Financial Relations and develop the skills required to meet outcomes focused performance reporting requirements.**

Recommendation 6

- 4.82 **The Committee recommends that the Department of the Prime Minister and Cabinet, in consultation with other central agencies, establish processes to ensure that there is clarity of the outcomes to be achieved and these are clearly reflected in national funding agreements. The committee asserts that to underpin the achievement of outcomes, mutual understanding of the end goal must drive the cultural change, the training and skill development, and the quality and timeliness of data collection and publication. At all times, outcomes should be the focus in the development of all national agreements.**

Recommendation 7

- 4.83 The Committee recommends that the Department of the Prime Minister and Cabinet, in collaboration with agencies such as the Australian Public Service Commission, should lead a process to provide training across the broader Australian Public Service which incorporates information on the Intergovernmental Agreement on Federal Financial Relations to explain the importance of the Agreement and its principles.

Recommendation 8

- 4.84 The Committee recommends that the Commonwealth works through the Council of Australian Governments to ensure that states and territories develop and implement a similarly structured approach to foster cultural change throughout departments and agencies and ensure all staff receive relevant training to enhance understanding of the framework and develop the skills required to meet outcomes focused performance reporting requirements.

Recommendation 9

- 4.85 The Committee recommends that the Department of the Prime Minister and Cabinet and central agencies report back to the Committee within six months on work undertaken to move towards the 'single report to multiple agencies' ideal and the potential to develop a core set of standard data requirements for key areas of national interest.

Recommendation 10

- 4.86 The Committee recommends that the Prime Minister through the Council of Australian Governments, take steps to respond to the reports and recommendations of the Council of Australian Governments Reform Council within three months.

Scrutiny of National Funding Agreements

Introduction

- 5.1 This chapter discusses the adequacy of parliamentary scrutiny of national funding agreements, noting that such agreements are typically negotiated at executive-to-executive level.
- 5.2 Participants' views on the adequacy of accountability mechanisms and the level of transparency in place for national funding agreements will firstly be presented. Comments relating to the sufficiency of parliamentary scrutiny will follow and arguments for and against the current level of scrutiny will be explored.
- 5.3 The chapter will then go on to outline the type and extent of accountability and transparency provided through the work of the Council of Australian Governments Reform Council (CRC). Also included, will be participants' views on the role of Auditors-General in providing accountability for funds expended under the new framework and insight to the parliament on the outcomes of these agreements.
- 5.4 Taking into account the views presented, the chapter will consider the adequacy of current scrutiny arrangements and pose suggestions to improve parliamentary scrutiny as well as the supporting accountability mechanisms.

Accountability and transparency

- 5.5 Typically, all funding agreements under the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) are negotiated through the Council of Australian Governments (COAG) at an executive-to-executive level. Although this approach enables negotiations to occur in a speedy manner,¹ it can be at the expense of transparency.
- 5.6 The Committee received evidence to suggest that unlike the exposure of other government policies to the parliament through legislation, democratic accountability and parliamentary scrutiny of national funding agreements is minimal.² For example, the Centre of Public Law from the University of New South Wales informed the Committee that, funding agreements which do not require legislative implementation ‘will not be subject to any parliamentary scrutiny’.³
- 5.7 The Committee was particularly interested to gain insight from the inquiry’s participants on the mechanisms available for parliamentary scrutiny and oversight of national funding agreements including perspectives on the adequacy of these arrangements.

High level accountability and transparency mechanisms

- 5.8 The balance between flexibility and accountability under the new federal financial framework has been identified as an ‘ongoing challenge for all governments’.⁴ Further, within a federal system the CRC notes that the improvement of Australians’ wellbeing will require:
- ...strong public accountability to give the community confidence that governments are on track to achieve results’.⁵
- 5.9 Parliamentary access to clear and reliable information that ‘provides insights to the success or otherwise’ of programs funded under national funding agreements is essential.⁶ As stated by the Australian National Audit Office (ANAO), measuring and assessing performance against program objectives is at the core of public sector accountability.⁷

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

2 Centre of Public Law, *Submission 2*, p. [2].

3 Centre of Public Law, *Submission 2*, p. [2].

4 COAG Reform Council (CRC), *Submission 11*, p. 5.

5 CRC, *Submission 11*, p. 5.

6 Australian National Audit Office (ANAO), *Submission 1*, p. 8.

7 ANAO, *Submission 1*, p. 8.

- 5.10 The Committee was advised that under the current arrangements there were a number of high level mechanisms in place for parliament to gain insight on the operation of national funding agreements. The ANAO pointed to reporting to the Parliament through portfolio budget statements and annual reports, as well as information reported through the CRC.⁸
- 5.11 The ANAO's submission also noted that The Treasury's (Treasury) Portfolio Budget Statements (PBS)⁹ included the funding provided for National Partnership (NP) agreements, with a link to the relevant agency's program.¹⁰
- 5.12 However, the ANAO raised a number of issues with these mechanisms commenting that PBS reporting requirements and national funding agreements often have a different focus and 'do not intersect'.¹¹ The ANAO's submission noted that while Treasury's PBS include funding provided for NPs often there is:
- ...variability in whether agencies include performance indicators for those programs in their own publications. As such, reporting is often either at a very high level or, in some cases, is non-existent.¹²
- 5.13 The ANAO identified that currently there is no guidance for agencies on 'how to assess and report' through these mechanisms on the performance of programs funded under NPs.¹³ The ANAO suggested that in this context current arrangements could be improved by:
- agencies being required to provide clear and consistent reporting to Parliament on the outcomes being achieved under national funding agreements...¹⁴
- 5.14 In light of this, the Commonwealth Auditor-General in oral evidence to the Committee noted that as part of the evolving arrangements, it is timely that requirements for PBS and annual reports are reviewed.¹⁵

8 ANAO, *Submission 1*, p. 5.

9 Portfolio Budget Statements 2011-12, Treasury Portfolio, *Budget Related Paper No. 1.18*, <http://www.treasury.gov.au/documents/2027/PDF/00_Treasury_PBS_combined.pdf> viewed 23 November 2011.

10 ANAO, *Submission 1*, p. 6.

11 ANAO, *Submission 1*, p. 5.

12 ANAO, *Submission 1*, p. 6.

13 ANAO, *Submission 1*, p. 5.

14 ANAO, *Submission 1*, p. 8.

15 Mr Ian McPhee, Auditor-General, Australian National Audit Office (ANAO), *Committee Hansard*, Canberra, 24 June 2011, p. 5.

- 5.15 Treasury also identified Budget Paper No. 3¹⁶, which presents information on the Commonwealth's financial relations with state, territory and local governments, and includes an overview of the federal financial relations framework.¹⁷
- 5.16 More broadly, Treasury advised the Committee that the mechanism for money to be paid through national specific purpose payments allows for parliamentary scrutiny. The base amount for each of the national specific purpose payments is established in legislation.¹⁸ Treasury explained that the *Federal Financial Relations Act 2009* allows the Treasurer, 'through written determination'¹⁹, to credit amounts to the COAG Reform Fund for making payments for NPs'²⁰ and that those determinations are tabled in parliament.²¹
- 5.17 The Committee was advised that it is a requirement for the Treasurer to gain parliamentary approval for the 'maximum amount'²² to be credited to the COAG Reform Fund and the Treasurer annually indexes those amounts.²³ From Treasury's perspective the parliament essentially sets the drawing right limits for the amount of money that can be placed in the COAG Reform Fund²⁴ conserving the parliament's role in approving Commonwealth expenditure.²⁵

State perspectives on accountability and transparency mechanisms

- 5.18 The general consensus from evidence given to the Committee by state government representatives was that current accountability mechanism

16 Mr Peter Robinson, General Manager, Commonwealth-State Relations Division, Treasury, *Committee Hansard*, Canberra, 16 September, p. 31.

The most recent example is Budget Paper No. 3 *Australia's Federal Relations 2011-12* which is produced as a suit of budget documents, available at <<http://www.budget.gov.au/2011-12/content/bp3/html/index.htm>> viewed 23 November 2011.

17 Mr Robinson, Treasury, *Committee Hansard*, 16 September 2011, p. 31.

18 Mr Bede Fraser, Manager, Federal Finances Unit, Commonwealth-State Relations Division, Treasury, *Committee Hansard*, Canberra, 16 September 2011, p. 31.

19 Determinations are legislative instruments registered on the Federal Register of Legislative Instruments.

20 The Treasury (Treasury), *Submission 13*, p. [20].

21 Mr Fraser, Treasury, *Committee Hansard*, Canberra, 16 September 2011, p. 31.

22 Treasury, *Submission 13*, p. [20].

23 Mr Fraser, Treasury, *Committee Hansard*, Canberra, 16 September 2011, p. 31.

24 Treasury advised that for the current financial year \$18 billion can be drawn out of the Fund.

25 Treasury, *Submission 13*, p. [20].

are appropriate and that the new framework generally fostered improved Commonwealth-level parliamentary accountability.²⁶

- 5.19 Representatives from the Victorian and Queensland governments highlighted that the reform agenda, which centralises intergovernmental transfers is both a major step forward in federal fiscal transparency²⁷ and an improvement in accountability in areas where different levels of government share policy objectives.²⁸
- 5.20 The Victorian Government identified however, that a shared and critical challenge for all jurisdictions is to clarify the ‘public and parliamentary expectations of the accountability arrangements for intergovernmental transfers’.²⁹ The submission stated that while it is appropriate that the Commonwealth Government, through the Commonwealth Parliament, is accountable for areas it is directly responsible for (including its decisions and agreements for the transfer of public funds through the IGA FFR):
- ...Commonwealth Ministers and officials should not, however, be asked to answer for the performance of State and Territory governments.³⁰
- 5.21 Dr Gary Ward, Assistant Under Treasurer and Government Statistician for Queensland was satisfied with the current arrangements, however advised that he could not comment on whether there was a need for a ‘broader oversight regime or mechanism’. Dr Ward explained the line of accountability for the state of Queensland:

The Ministerial Council for Federal Financial Relations comprising the treasurers has the responsibility of oversight of the intergovernmental agreement and the agreements that sit under the IGA. So there is a direct connection between elected representatives and the oversight process. Ultimately of course COAG is the body that signs off on the agreements in the first instance and all reports from the work that we do at HoTs [Heads of Treasuries] level ultimately ends up at either the Ministerial Council for Federal Financial Relations and COAG.³¹

26 Victorian Government, *Submission 6*, p. 11.

27 Victorian Government, *Submission 6*, p. 11.

28 Dr Gary Ward, Assistant Under Treasurer and Government Statistician, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 1.

29 Victorian Government, *Submission 6*, p. 11.

30 Victorian Government, *Submission 6*, p. 11.

31 Dr Ward, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 3.

5.22 The Committee went on to ask whether any processes were in place which enabled the Queensland Government to report to its state parliament about the achievement of outcomes from national partnership agreements.

5.23 While the Committee heard that there was a regime allowing the Queensland Treasury to report upwards through the treasurer and premier to parliament, there was:

...no specific process for individual partnership agreements to be reported back to parliament. There is the review process through the estimates committee...³²

5.24 The NSW Government's views are largely in line with the Queensland and Victorian Governments. While acknowledging room for improvement for accountability arrangements, the NSW Government considers that '...a high level of transparency and public accountability has already been achieved'.³³

5.25 The NSW Government's submission provided specific examples to illustrate its views. The My School and My Hospitals websites were described as providing 'unprecedented transparency in the education and health sectors'.³⁴ The submission stated that:

My Hospitals provides information about bed numbers, patient admissions and hospital accreditation, as well as the types of specialised services each hospital provides. It also provides comparisons to national public hospital performance statistics on waiting times for elective surgery and emergency department care.³⁵

5.26 The Tasmanian Government's submission concurred with the perspectives of its state counterparts describing that under the Intergovernmental Agreement (IGA), funding agreements were both 'transparent' and 'publicly accessible'.³⁶ Additionally, that all funding agreements have clearly specified:

- outcomes;
- outputs;

32 Mr Laurie Ehrenberg, Principal Treasury Analyst, Intergovernmental Relations Branch, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 4.

33 Mr Laurie Ehrenberg, Principal Treasury Analyst, Intergovernmental Relations Branch, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 4.

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

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

36 Tasmanian Government, *Submission 8*, p. 12.

- performance indicators; and
 - defined roles and responsibilities.³⁷
- 5.27 The Tasmanian Government described these elements as enabling ‘enhanced public accountability (and parliamentary scrutiny)’.³⁸

Other perspectives on accountability and transparency mechanisms

- 5.28 While the Committee heard that the states were generally satisfied with accountability and transparency mechanisms available for national funding agreements, a number of end-user peak bodies and academics were not. Although increased transparency is a stated outcome under the new framework, some witnesses were concerned that this has not been fully realised.
- 5.29 The Centre of Public Law at the University of New South Wales advised that an inevitable outcome of the executive centric approach to developing and implementing funding agreements is that the role of parliaments is sidelined and democratic accountability is undermined.³⁹ The result is a ‘democratic deficit’. The Centre of Public Law’s submission identified that these weaknesses did not only relate to funding but were:
- ...instead part of broader accountability problems that exist with respect to intergovernmental relations in Australia. These broader concerns extend to the operation of COAG, and the processes for the making of IGAs.⁴⁰
- 5.30 The Committee heard from other academics such as Associate Professor Twomey who cautioned against a system with ‘everybody checking everybody all the time’.⁴¹ Professor Twomey raised concerns that to some extent, the burden of accountability is created by the Commonwealth making commitments which can only be delivered by the states. For example, by linking NP agreements to a Commonwealth election commitment, such as the National Partnership Agreement for the Funding of Fort Street High School Noise Insulation.⁴²
- 5.31 To increase transparency, Professor Twomey suggested an audit of all the intergovernmental agreements entered into by the Commonwealth be

37 Tasmanian Government, *Submission 8*, p. 12.

38 Tasmanian Government, *Submission 8*, p. 12.

39 Centre of Public Law, *Submission 2*, p. [2].

40 Centre of Public Law, *Submission 2*, p. [2].

41 Associate Professor Anne Twomey, *Committee Hansard*, Sydney, 19 August 2011, p. 12.

42 Associate Professor Twomey, *Committee Hansard*, Sydney, 19 August 2011, p. 12.

undertaken (not solely funding agreements), and all agreements placed on a database.⁴³ The development of this database would make a significant contribution to the current level of transparency allowing parliamentarians, academics and other stakeholders to have complete access.⁴⁴ The Centre of Public Law also encouraged the development of such a database.⁴⁵

- 5.32 Professor Brown, from Griffith University also suggested improvements to current accountability mechanisms. Professor Brown drew on examples from the United States of America such as the introduction of the False Claims Act into their whistle blowing regimes.⁴⁶ Professor Brown suggested that the Committee consider whether as part of the new framework there is a need to 'strengthen and systematise those sorts of mechanisms'.⁴⁷ While the types of disclosure and accountability mechanisms did not necessarily need to mirror those in the US, Professor Brown was of the opinion that they were part of the answer to the Commonwealth's level of confidence that funds were being expended accountably.⁴⁸
- 5.33 The Independent Schools Council of Australia (ISCA) was also of the view transparency needed to be addressed under the new framework. ISCA acknowledges that a key feature of the funding reforms was increased transparency. In practice however, transparency in Commonwealth funding for government schools has diminished, reducing the capacity for scrutiny by the public and the parliament.⁴⁹
- 5.34 ISCA's submission notes that the Commonwealth Government funding for government schools is now appropriated under the *Federal Financial Relations Act 2009* while funding for non-government schools continues under the *Schools Assistance Act 2008*.⁵⁰ Under these arrangements and with the implementation of the National Education Agreement (NEA) it is 'virtually impossible to find a state/territory breakdown of

43 Associate Professor Twomey, *Committee Hansard*, Sydney, 19 August 2011, p. 10.

44 Associate Professor Twomey, *Committee Hansard*, Sydney, 19 August 2011, p. 11.

45 Mr Paul Kildea, Director, Federalism Project, Gilbert + Tobin Centre of Public Law, University of New South Wales, *Committee Hansard*, 19 August 2011, p. 16 and p. 19.

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

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

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

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

50 ISCA, *Submission 3*, p. 11.

Commonwealth funding for government schools in any publicly available document'.⁵¹

- 5.35 Mr William Daniels, Executive Director from ISCA told the Committee that it was the view of his organisation that 'the greater the transparency, the better'.⁵² Mr Daniels stressed that all members of the public should be able to clearly see how much money the Commonwealth government is providing for the funding of government and non-government schools.⁵³ For example, prior to 2009, the Green Report⁵⁴ not only extensively included details on funding provided to non-government schools from the Commonwealth, but also the funding that was provided to government schools.⁵⁵
- 5.36 The ISCA outlined to the Committee that the *Federal Financial Relations Act 2009* has resulted in a loss of transparency at a number of levels:
- [f]irst, in the already contested area of government funding assistance for schools it is no longer apparent, by looking at the Schools Assistance Act, that the Commonwealth government actually provides any funding to government schools;
 - [s]econd, even if you know where to look in the Federal Financial Relations Act to locate Commonwealth government funding for government schools, it is very difficult to find a state-by-state breakdown of that funding; and
 - [t]hird, state and territory government budget papers generally make no distinction between Commonwealth and state school funding appropriations.⁵⁶
- 5.37 The Committee was interested in ISCA's views on whether this decrease in transparency was an inadvertent consequence of the new arrangements. ISCA stated that it was 'probably an unintended consequence of the financial reforms'.⁵⁷

51 ISCA, *Submission 3*, p. 11.

52 Mr William Daniels, Executive Director, Independent Schools Council of Australia (ISCA), *Committee Hansard*, Canberra, 24 June 2011, p. 12.

53 Mr Daniels, ISCA, *Committee Hansard*, Canberra, 24 June 2011, p. 12.

54 The Green Reports are available from <<http://www.deewr.gov.au/Schooling/RecurrentGrants/NonGovSchools/Pages/GrantsToStates.aspx>> viewed 23 November 2011.

55 ISCA, *Submission 3*, p. 11.

56 Mr Daniels, ISCA, *Committee Hansard*, Canberra, 24 June 2011, p. 10.

57 Mr Daniels, ISCA, *Committee Hansard*, Canberra, 24 June 2011, p. 12.

Parliamentary scrutiny

- 5.38 Transparency and accountability considerations within the new intergovernmental arrangements and wider COAG system are directly linked to the issue of parliamentary scrutiny.

Commonwealth perspectives on parliamentary scrutiny

- 5.39 As previously outlined, the Committee heard from Treasury that a number of mechanisms were in place to ensure that the Commonwealth parliament is able to scrutinise the financial arrangements of the new framework. Treasury responded positively when asked by the Committee whether it was comfortable with the level of scrutiny at the Commonwealth level.⁵⁸
- 5.40 The Committee also raised questions regarding the entry point of the public into the reform program. The Department of the Prime Minister and Cabinet (PM&C) expanded on the mechanisms available to members of the public to understand the operation of funding under the new framework.

In addition to a member of the public relying on parliamentary scrutiny, other information is also available through the website that includes the various agreements, and through CRC reports themselves. Progressively, there are going to be more and more of those, including one coming up quite soon on the overall progress under the new arrangements, both in terms of the institutional arrangements and whether substantial policy outcomes are being achieved.⁵⁹

State perspectives on parliamentary scrutiny

- 5.41 State government representatives' evidence on this topic echoed their sentiments regarding the adequacy of current accountability and transparency mechanisms. Generally, the Committee heard that enhancements to Commonwealth parliamentary scrutiny were not seen as necessary and participants argued that current oversight arrangements were sufficient including the scrutiny of funding under the IGA FFR through state parliaments and state Auditors-General.

58 Mr Robinson, Treasury, *Committee Hansard*, Canberra, 16 September 2011, p. 31.

59 Mr David Hazlehurst, First Assistant Secretary, Economic Division, Department of the Prime Minister and Cabinet (PM&C), *Committee Hansard*, Canberra, 16 September 2011, p. 31.

- 5.42 The Tasmanian Government for example was explicit in its view that parliamentary scrutiny had been enhanced rather than reduced under the new framework.⁶⁰
- 5.43 The NSW Government's submission considered that despite the executive-to-executive negotiation phase, the current level of scrutiny for funding agreements is appropriate due to:
- agreements required to be signed by Heads of Governments or delegated Ministers;⁶¹
 - state parliamentary scrutiny;
 - activities of the NSW Auditor-General⁶²; and
 - state and territory Treasurers providing the Commonwealth Treasurer with annual reports from acquittals of expenditure of National Agreement and National Partnership funds.
- 5.44 The submission also pointed to significant public scrutiny of agreements' content under the IGA FFR and jurisdictions' performance.⁶³
- 5.45 Two main contributing factors were identified:
- the publishing of signed agreements on the Ministerial Council for Federal Financial Relations' website, noting the website also provides information on the funding, performance reporting and accountabilities elements of the framework; and
 - performance reports released by the CRC on National Agreements and National Partnerships.⁶⁴
- 5.46 In summary, the NSW Government was of the view that 'the addition of another layer of scrutiny by the Commonwealth within States is not required, nor appropriate'.⁶⁵
- 5.47 Similarly, representatives from the Queensland Government noted the 'direct connection between elected representatives and the oversight process'.⁶⁶ The Committee delved further into this claim inquiring as to

60 Tasmanian Government, *Submission 8*, p. 12.

61 NSW Government, Treasurer, *Submission 10*, p. 11.

62 NSW Government, Treasurer, *Submission 10*, p. 12.

63 NSW Government, Treasurer, *Submission 10*, p. 11.

64 NSW Government, Treasurer, *Submission 10*, p. 12.

65 NSW Government, Treasurer, *Submission 10*, p. 12.

66 Dr Gary Ward, Assistant Under Treasurer and Government Statistician, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 3.

the specific role the Queensland parliament carried out regarding the sign-off of an agreement, including the development and finalisation stages. The Queensland Government informed the Committee that the parliament was not directly engaged at either phase but there was a 'connection' in the lead-in phase:

When we draft agreements what generally happens is that we assess the fiscal implications of those and indeed what it would mean to the service delivery activity in Queensland and we would put a submission to the budget review committee of cabinet or cabinet – depending on the magnitude of the agreement that we are talking about – but not parliament as such.⁶⁷

- 5.48 The Committee queried the Queensland Auditor-General on oversight arrangements and general community engagement. The Queensland Auditor-General advised that 'public engagement is in the programs that are being delivered – education, health, Indigenous affairs...and so forth'.⁶⁸ The state parliament is 'heavily involved' through audit reports and committee works in the programs that are being delivered through the National Agreements (NA). The Auditor-General went on to state that:

I am not sure that the state parliament is necessarily interested in base level funding coming from the Commonwealth as a separate exercise.⁶⁹

- 5.49 In line with evidence from other state representatives, the Victorian Government's submission highlighted the state's 'independent regime of parliamentary and institutional oversight of government actions'⁷⁰ and cautioned against defaulting to 'mechanisms for additional centralised oversight'.⁷¹ Key elements identified within the state's accountability regime were the Victorian Auditor-General and parliamentary committees such as the Public Accounts and Estimates Committee and the Joint Investigatory Committee of the Parliament of Victoria.⁷²
- 5.50 Appearing before the Committee, the Victorian Government representative highlighted that 'there is no glaring gap in accountability and no need for Commonwealth scrutiny of state spending of

67 Dr Ward, Queensland Treasury, *Committee Hansard*, Brisbane, 19 July 2011, p. 8.

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

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

70 Victorian Government, *Submission 6*, p. 9.

71 Victorian Government, *Submission 6*, p. 3.

72 Victorian Government, *Submission 6*, p. 9.

Commonwealth grants'.⁷³ Considering this statement, the Committee was interested in the Victorian Government's view on parliamentary scrutiny.

- 5.51 Mr Donald Speagle, Deputy Secretary, Department of Premier and Cabinet, Victoria advised that while agreeing that there is a scrutiny role to be played by the Commonwealth parliament and its committees, the appropriate accountability for examining Commonwealth grants to states is through state parliaments.⁷⁴

Other perspectives on parliamentary scrutiny

- 5.52 Several academics were not as content with or supportive of the current level of Commonwealth parliamentary scrutiny. The power of the Executive to negotiate and develop national funding agreements was a key area of concern raised.
- 5.53 At one end of the spectrum, Mr Bryan Pape expressed the opinion that 'there is no scrutiny', maintaining that the Executive has been given the freedom to spend 'at will' by the Commonwealth Parliament.⁷⁵
- 5.54 The Centre of Public Law was also critical of the effects of the executive driven approach on the Commonwealth parliament's ability to provide adequate scrutiny. The Centre of Public Law explained that funding agreements will not be subject to parliamentary scrutiny if they do not require legislative implementation and that even when this is needed the impact of parliamentary scrutiny is limited because the details of the agreement are presented 'as a fait accompli'.⁷⁶
- 5.55 As mentioned earlier, the Centre of Public Law described the sidelining of parliaments in this process as a 'democratic deficit'. The executive's accountability to the legislature is weak, therefore, reducing the practice of 'responsible government' a cornerstone of Australia's Westminster system.⁷⁷ Further, valuable input from a variety of perspectives may not be capitalised and potential for improvements may be absent from the process.

73 Mr Donald Speagle, Deputy Secretary, Federalism, Citizenship and Climate Change Group, Department of Premier and Cabinet, Victoria, *Committee Hansard*, Canberra, 16 September 2011, p. 15.

74 Mr Speagle, Department of Premier and Cabinet, Victoria, *Committee Hansard*, Canberra, 16 September 2011, p. 15.

75 Mr Bryan Pape, *Submission 15*, p. [1].

76 Centre of Public Law, *Submission 2*, p. [2].

77 Centre of Public Law, *Submission 2*, p. [2].

- 5.56 The Centre of Public Law's submission identified that this deficit was not exclusive to funding matters but extended to broader intergovernmental accountability issues, such as COAG and the process of developing IGAs. COAG's deliberations for example are not open, with scarce details on decision making provided through press releases or communiqués.⁷⁸
- 5.57 The Committee received a number of suggestions to improve COAG, including the need for Constitutional recognition of the institution and a more structured approach to its operation. Associate Professor Twomey told the Committee that Constitutional reform to institutionalise COAG was possible.⁷⁹ Moreover, the Victorian Government considered that something as simple as regular, twice-yearly meetings would be beneficial.⁸⁰
- 5.58 Similar to the sentiments of other witnesses the Centre of Public Law recognises the important role the CRC has made to enhance 'the public accountability of governments for their performance against agreed objectives in funding agreements'.⁸¹ However, the Centre of Public Law argued that it is not the role of the CRC to provide democratic accountability.⁸²
- 5.59 Three reforms were suggested by the Centre of Public Law to improve the existing arrangements for parliamentary scrutiny of funding agreements:
1. That a complete register of funding agreements be publicly available;
 2. That all funding agreements be tabled in the parliaments of affected jurisdictions; and
 3. Reference of funding agreements to joint parliamentary committees for review and report.⁸³
- 5.60 In oral evidence to the Committee, the Centre of Public Law expanded on their first suggestion noting that the Ministerial Council for Federal Financial Relations' website includes the six NAs and the NPs.⁸⁴ The Centre of Public Law also acknowledged that this list was being kept up to date on the website.

78 Centre of Public Law, *Submission 2*, p. [2].

79 Associate Professor Twomey, *Committee Hansard*, Sydney, 19 August 2011, pp. 13-15.

80 Victorian Government, *Submission 6*, p. 11.

81 Centre of Public Law, *Submission 2*, p. [2].

82 Centre of Public Law, *Submission 2*, p. [2].

83 Centre of Public Law, *Submission 2*, p. [3].

84 Mr Kildea, Centre of Public Law, *Committee Hansard*, Sydney, 19 August 2011, p. 19.

5.61 The Committee questioned the practicality of the Centre of Public Law's second reform that funding agreements should be referred to joint parliamentary committees for review and report.⁸⁵ The Centre of Public Law conceded that it would slow the process down but maintained that it would improve efficiency and effectiveness in the long term as parliaments would have already considered the full implications of the agreement before it reached the final stages:

We are conscious of the practical difficulties but suggest that, although the process would certainly be slowed by having parliamentary involvement, one plus of that is the ability of governments to know what they can certainly commit to.⁸⁶

5.62 The Centre of Public Law reminded the Committee that a previous House of Representatives Committee has twice made a similar recommendation, indicating that the parliament considers it a reasonable process.⁸⁷ In 2006 the House of Representatives Standing Committee on Legal and Constitutional Affairs recommended that:

... the Australian Government raise, at the Council of Australian Governments or other appropriate forum:

- The circulation of draft intergovernmental agreements for public scrutiny and comment;
- The parliamentary scrutiny of draft intergovernmental agreements; and
- The augmentation of the COAG register of intergovernmental agreements so as to include all agreements requiring legislative implementation.

With a view to the implementation of these reforms throughout the jurisdictions.⁸⁸

5.63 In 2008 the House of Representatives Standing Committee on Legal and Constitutional Affairs reinforced its position recommending:

The Committee recommends that the Australian Government introduce the requirement for intergovernmental agreements to be

85 Centre of Public Law, *Submission 2*, p. [3].

86 Dr Andrew Lynch, Director, Gilbert + Tobin Centre of Public Law, University of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 18.

87 Dr Lynch, Centre of Public Law, *Committee Hansard*, Sydney, 19 August 2011, p. 18.

88 House of Representatives Standing Committee on Legal and Constitutional Affairs, *Harmonisation of legal systems within Australia and between Australia and New Zealand*, November 2006, p. xx.

automatically referred to a parliamentary committee for scrutiny and report to the Parliament.⁸⁹

5.64 Insufficient parliamentary scrutiny of national funding agreements was also raised in the ACT Standing Committee on Public Accounts' (ACT Standing Committee) submission.⁹⁰ The ACT Standing Committee suggested a number of avenues to improve or boost parliamentary scrutiny of national funding agreements, including further exploration of the:

- reforms suggested by the Centre of Public Law; and
- ACT Legislative Assembly's Standing Committee on Planning and Environment's 2008 recommendation – dual sittings of parliamentary standing committees regarding issues of 'common interest and importance'.⁹¹

COAG Reform Council

5.65 As discussed in Chapter 4, the CRC is seen as playing a 'pivotal role'⁹² in providing transparency and accountability for the COAG reform agenda and is integral to the workings of the reform agenda. The Committee heard that there was general recognition that the CRC is enhancing the accountability and transparency of governments' performance under the reform agenda.⁹³

5.66 However, the ANAO and the Centre of Public Law highlighted to the Committee that the CRC is not accountable to the Australian Parliament, only to COAG.⁹⁴

5.67 The Committee directly asked the CRC whether there were mechanisms for CRC reports to be tabled in parliament. The CRC informed the Committee that currently CRC reports go directly to COAG. While there is no mechanism for CRC reports to be tabled in parliament, the CRC

89 House of Representatives Standing Committee of Legal and Constitutional Affairs, *Reforming our Constitution: a roundtable discussion*, June 2008, p. xiii.

90 ACT Standing Committee on Public Accounts, *Submission 14*, p. 14.

91 ACT Standing Committee on Public Accounts, *Submission 14*, p. 14.

92 Business Council of Australia (BCA), *Submission 9*, p. 4.

93 BCA, *Submission 9*, p. 4 and Centre of Public Law, *Submission 2*, p. [2]; Mr Speagle Department of Premier and Cabinet, Victoria, *Committee Hansard*, Canberra, 16 September 2011, p. 15; Associate Professor Twomey, *Committee Hansard*, Sydney, 19 August 2011, p. 11.

94 ANAO, *Submission 1*, p. 6 and Centre of Public Law, *Submission 2*, p. [2].

outlined that the following steps are undertaken in submitting reports to COAG:

- reports are submitted to the individual first ministers; and
- reports are distributed to COAG and the Prime Minister and at the same time to premiers and chief ministers.⁹⁵

5.68 The Committee was therefore interested whether the CRC thought that this gap should be filled with these or other reports being made available to the Commonwealth parliament. For example, the Prime Minister making annual reports to the parliament which cover all six national agreements. The CRC stated that its role is to report to COAG and for respective governments to respond, advising:

It is not our role or our area of remit to advise on whether there should be other accountability mechanisms for those reports.⁹⁶

5.69 Despite the lack of accountability of the CRC to the parliament, the Committee received positive comments in other aspects of the CRC's operations. For example, the robust independence of the CRC was reinforced to the Committee through comments by PM&C.⁹⁷

5.70 Further, both the Tasmanian and NSW Governments⁹⁸ highlighted public access to the CRC's reports. The CRC via its website publishes and releases performance reports on national agreements and national reward partnerships. These assessments enable the public to compare governments' performances in delivering outcomes across key delivery areas such as health and education.⁹⁹ In September 2010 the CRC publicly released its first report on progress towards the COAG reform agenda.¹⁰⁰

5.71 The ANAO also expressed that while the CRC is not accountable to parliament, the CRC's gathering and reporting of information on national agreements provides the Commonwealth parliament with 'insights' as to the overall progress of outcomes under national funding agreements.¹⁰¹

95 Ms Mary Ann O'Loughlin, Executive Councillor and Head of Secretariat, COAG Reform Council, *Committee Hansard*, Canberra, 6 July 2011, p. 7.

96 Ms O'Loughlin, Executive Councillor and Head of Secretariat, COAG Reform Council, *Committee Hansard*, Canberra, 6 July 2011, p. 7.

97 Mr Hazlehurst, PM&C, *Committee Hansard*, Canberra, 16 September 2011, p. 32.

98 Tasmanian Government, *Submission 8*, p. 11 and NSW Government, Treasurer, *Submission 10*, p. 12.

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

100 COAG Reform Council, *COAG reform agenda: Report on progress 2010*, <<http://www.coagreformcouncil.gov.au/reports/progress.cfm>> viewed 23 November 2011.

101 ANAO, *Submission 1*, p. 6

- 5.72 Broader support and engagement by all jurisdictions with the CRC's reports was also raised as desirable by the Victorian Government. Their submission noted remarks by the COAG Reform Council Chairman:

“... our heads of governments and key ministers have not done enough to promote the agenda and the new governance approach”.¹⁰²

The Auditor-General's role

- 5.73 The Committee's previous report, *Report 419 Inquiry into the Auditor-General Act 1997 (Report 419)*,¹⁰³ considered the assurance role of the Auditor-General plays with regard to the scrutiny of Commonwealth funds delivered to the states and territories. The Committee's report contained 13 recommendations including to empower the Commonwealth Auditor-General with the 'authority to follow the dollar' where non-Commonwealth bodies receive Commonwealth funding to deliver agreed national outcomes.¹⁰⁴ In response to the Committee's report, the *Auditor-General Amendment Bill 2011* is currently before the Parliament and largely reflects the report's recommendations.

- 5.74 The Commonwealth Auditor-General emphasised the importance these proposed extended powers would play in providing transparency and accountability of the new arrangements under the IGA FFR framework.¹⁰⁵ In light of the complexity of the 'multijurisdictional delivery arrangements underpinning the new framework' the Commonwealth Auditor-General believes that an enhanced capacity to follow the money for his office will ensure that:

...parliament has access to clear and reliable information that provides insights to the success or otherwise of services delivered through national funding agreements.¹⁰⁶

- 5.75 The ANAO's submission highlighted the significance of the role of the Auditor-General in providing the Parliament with independent assurance

102 Victorian Government, *Submission 6*, p. 11.

103 Joint Committee of Public Accounts and Audit (JCPAA), *Report 419 Inquiry into the Auditor-General Act 1997*, <<http://www.aph.gov.au/house/committee/jcpaa/agact/report.htm>> viewed 23 November 2011.

104 JCPAA, *Report 419 Inquiry into the Auditor-General Act 1997*, p. vi and xvii.

105 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 24 June 2011, p. 2.

106 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 24 June 2011, p. 2.

on administrative effectiveness and efficiency on government programs and entities. In line with the Committee's recommendations in Report 419, the ANAO's submission reiterated that barriers to the Commonwealth Auditor-General's powers exist impeding the Auditor-General's ability to carry out activities which will help inform the Parliament on the 'operations and outcomes of the new arrangements'.¹⁰⁷ The ANAO's submission expressed support for the 'follow the money' provisions in the proposed *Auditor-General Amendment Bill 2011*. The ANAO argued that extending the power of the Commonwealth Auditor-General is integral to addressing the limitations of the Auditor-General to assess how Commonwealth resources are used.¹⁰⁸

5.76 The ANAO is aware that some state Auditors-General have the power to follow funding expended by non-state recipients, this is limited to their own respective jurisdictions. The arrangement did not 'provide sufficient information to the Australian Parliament on the Commonwealth's role and the outcomes being achieved'.¹⁰⁹

5.77 The ANAO therefore recommended that the current arrangements for national funding agreements could be improved by:

...the Auditor-General being provided with an appropriate mandate that allows the operation of the arrangements to be examined (this would also entail the inclusion of explicit references to access and audit powers in national funding agreements).¹¹⁰

5.78 The ANAO noted that the legislation currently before the Commonwealth parliament would assist in transforming the Auditor-General's mandate along these lines.

5.79 The Committee questioned PM&C regarding this tension between the roles of the Commonwealth and states Auditors-General. PM&C asserted that a 'balance always needs to be struck' and highlighted the need for consideration of the jurisdictional separations and accountability of the Commonwealth and state Executives to their own respective parliaments and Auditors-General.¹¹¹ Subject to the passing of the amendments to the *Auditor-General Act 1997*, PM&C cautioned that the capacity of both the state Auditors-General and the Commonwealth Auditor-General to follow

107 ANAO, *Submission 1*, p. 7.

108 ANAO, *Submission 1*, p. 7.

109 ANAO, *Submission 1*, p. 7.

110 ANAO, *Submission 1*, pp. 7-8.

111 Mr Hazlehurst, PM&C, *Committee Hansard*, Canberra, 16 September 2011, p. 30.

the money will not automatically result in the measurement of outcomes as a primary focus but rather:

...whether the money has been spent on stuff that relates to the purposes for which the money has been passed over to the states.¹¹²

- 5.80 The states did not agree that the Commonwealth Auditor-General's powers should be extended to follow the dollar. The Victorian and NSW Governments¹¹³ maintained that the current oversight arrangements under the new framework and the work of state Auditors-General provided sufficient and appropriate scrutiny of payments via national partnerships.
- 5.81 The Victorian Government argued that at the most fundamental level applying the terminology of 'Commonwealth money' to intergovernmental transfers is 'inappropriate'.¹¹⁴
- 5.82 Associate Professor Twomey also supported the Victorian Government's views on misconceptions regarding 'Commonwealth money'. Professor Twomey strongly disagrees with the emphasis the Commonwealth places on ownership of 'Commonwealth money'. Professor Twomey argued that it is the 'taxpayer's money' as it is:
- ...money collected from the taxpayers that should be distributed in such a way as to ensure that all functions of government, be it state, Commonwealth or local, are capable of being fulfilled in a sensible way.¹¹⁵
- 5.83 In this context, the Victorian Government explicitly argued against the view that Commonwealth agencies remain accountable to the relevant Commonwealth Ministers and Commonwealth parliament for funds transferred to the states under the IGA FFR.¹¹⁶
- 5.84 The Victorian Government's submission highlighted that institutional oversight of intergovernmental financial transfers is maximised by state Auditors-General exercising their mandates rather than 'access clauses in

112 Mr Hazlehurst, PM&C, *Committee Hansard*, Canberra, 16 September 2011, p. 30.

113 NSW Government, Treasurer, *Submission 10*, p. 12.

114 Victorian Government, *Submission 6*, p. 6.

115 Associate Professor Twomey, *Committee Hansard*, Sydney, 19 August 2011, p. 11.

116 The Victorian Government's submission referenced ANAO Report No. 30, 2010–11 *Digital Education Revolution Program – National Secondary Schools Computer Fund*, paragraph 22.

intergovernmental funding agreements, or be extending the investigative authority of the Commonwealth Auditor-General'.¹¹⁷

- 5.85 The Committee made further inquiries about the Victorian Government's position noting the current frustrations of the Commonwealth Parliament being able to discern whether policy objectives are being achieved through funding to the states. The Victorian Government identified to the Committee that adequate scrutiny could be delivered by the Commonwealth requesting through national partnership agreements that state Auditors-General undertake additional activities.¹¹⁸
- 5.86 Further, the Victorian Government was of the view that as state Auditors-General are authorised to audit the expenditure of Commonwealth grants by a state, there is 'no strong case for the Commonwealth to duplicate that role'.¹¹⁹
- 5.87 The NSW Auditor-General believed that where government dollars are expended it is the role of an auditor-general to provide accountability. However, consideration as to which auditor-general, state or Commonwealth, is to be given within the context of each situation.¹²⁰ The NSW Auditor-General expressed that where the Commonwealth provides funding in areas of state responsibility such as health, there is a stronger case for the state Auditor-General to review this expenditure.¹²¹

Constitutional, legal and operational implications

- 5.88 Specific commentary on the proposal to bestow additional powers and functions on the Commonwealth Auditor-General was provided by the Victorian Government within a constitutional context. The Victorian Government's submission outlined a number of issues. Enabling the Commonwealth Auditor-General to audit a state agency receiving Commonwealth funding was raised as 'inconsistent with the basic constitutional structure of the Australian Federation'.¹²²

117 Victorian Government, *Submission 6*, p. 7.

118 Mr Speagle, Department of Premier and Cabinet, Victoria, *Committee Hansard*, Canberra, 16 September 2011, p. 17.

119 Mr Speagle, Department of Premier and Cabinet, Victoria, *Committee Hansard*, Canberra, 16 September 2011, p. 14.

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

121 Mr Achterstraat, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 2.

122 Victorian Government, *Submission 6*, p. 12.

5.89 Difficulties regarding the practical and legal consequences resulting from extending the Auditor-General's powers were also raised including:

...questions about the extent of the Commonwealth's constitutional power to enable the Commonwealth Auditor-General to perform such functions, and the interaction with any State legislation.¹²³

5.90 The Victorian Government's submission also raised the potential for 'administrative inefficiencies' with the extension of the Auditor-General's powers and the risk of 'confusing accountability at the entity level'.¹²⁴

Collaborative audits

5.91 While state governments and state Auditors-General cautioned against the extension of the Commonwealth Auditor-General's powers to 'follow the dollar' they were generally supportive of changes to enable collaborative audits between the Commonwealth and states and territories.

5.92 The Queensland Auditor-General was of the view that the best way for the parliament to gain greater assurance is through collaborative audits. According to the Queensland Auditor-General this approach would 'harness the capacity of state audit offices to increase the level of assurance for both state and Commonwealth parliaments'.¹²⁵

5.93 However, witnesses identified a number of concerns. One area was resourcing. The Queensland Auditor-General cautioned that, if the Commonwealth Auditor-General were to undertake performance audits of states, territories and local government agencies this would involve either a 'diversion of audit effort from Commonwealth agencies or require a significant increase in the capacity of the ANAO'.¹²⁶

5.94 Further, as discussed in chapter two and three, state Auditors-General called for clarity of objectives, outcomes and assurance requirements. The Queensland Auditor-General emphasised the need for the Commonwealth to provide clear direction as to what they want and why.¹²⁷

123 Victorian Government, *Submission 6*, p. 12.

124 Victorian Government, *Submission 6*, p. 12.

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

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

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

5.95 The NSW Auditor-General felt that collaborative audits ‘could well be the way forward’¹²⁸ and did not feel that such audits would unduly take up his resources. However, he advised that the framework for collaborative audits would need to be carefully considered to ensure:

... that there can be no misunderstanding, no breaches of trust and, obviously, once all of that is established, good trust.¹²⁹

5.96 The Committee asked if collaborative audits were normal practice in other countries and, if so, were there advantages or disadvantages to the process. The NSW Auditor-General confirmed that collaborative audits are used in a number of other countries, citing Canada and a collaboration between numerous South Pacific countries.¹³⁰ Overall, the NSW Auditor-General considered that collaborative audits had produced good results in these countries but warned that reporting requirements can prove a problem, as each Auditor-General obliged to report to his/her own parliament. He used the example of the seven South Pacific countries involved in a collaborative audit to illustrate the difficulty:

They had to time the tabling of their report because they had different countries. It would be a lot easier if it was in the one country with different states. I think they had to go to a fair bit of effort to make sure those performance audits were tabled at the same time.¹³¹

Secrecy provisions

5.97 The main barrier to collaborative audits raised by state Auditors-General is the secrecy provisions contained in audit legislation across both Commonwealth and state and territory jurisdictions. The Committee inquired whether the proposed amendments to the *Auditor-General Act 1997* are sufficient to enable successful collaborative audits or whether other legislative changes would also be required. The

128 Mr Peter Achterstraat, Auditor-General, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 3.

129 Mr Achterstraat, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 3.

130 Mr Archterstratt, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 7.

131 Mr Achterstraat, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 7.

states told the Committee that without changes to Auditor-General Acts across the board the success of such audits will be constrained.¹³²

- 5.98 The Committee asked if steps are being taken to address this issue and change state and territory legislation. The Queensland Auditor-General informed the Committee that the Queensland parliament currently has a bill before the parliament to amend the Auditor-General Act. If passed, the new legislation will allow the Queensland Auditor-General to undertake joint or collaborative audits with other state Auditors-General or the Commonwealth Auditor-General if it is the belief of the Queensland Auditor-General that these other jurisdictions have an 'interest in that audit'.¹³³
- 5.99 The Queensland Auditor-General explained that even with the passing of this legislation this would only enable the Queensland Audit Office to share some information with the Commonwealth Auditor-General, however the Commonwealth Auditor-General would still not be able to reciprocate.¹³⁴
- 5.100 The Victorian Government told the Committee that the Victorian Department of Treasury and Finance and the state Auditor-General are currently examining the legal and operational issues which currently prohibit collaborative audits.¹³⁵ The NSW Auditor-General was reluctant to comment on NSW government policy but was not aware of any changes currently being contemplated.¹³⁶

Committee comment

- 5.101 The public often uses the parliament as the main point of entry to follow the triumphs or otherwise of government policy. The Committee is acutely aware of the significant role the Commonwealth Parliament plays in facilitating the public's visibility of public policy outcomes.

132 Mr Speagle, Department of Premier and Cabinet, Victoria, *Committee Hansard*, Canberra, 16 September 2011, p. 17; Mr Achterstraat, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, pp. 6-7; Mr Poole, Auditor-General, Queensland, *Committee Hansard*, Brisbane, 19 July 2011, p. 9.

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

134 Mr Poole, Auditor-General, Queensland, *Committee Hansard*, Brisbane, 19 July 2011, p. 12.

135 Mr Speagle, Department of Premier and Cabinet, Victoria, *Committee Hansard*, Canberra, 16 September 2011, p. 17.

136 Mr Achterstraat, Audit Office of New South Wales, *Committee Hansard*, Sydney, 19 August 2011, p. 3.

- 5.102 The Committee acknowledges the tensions between Commonwealth accountability and state/territory flexibility and understands the importance of striking the right balance within Australia's federal structure. However, while the Committee is conscious that the accountability and transparency principles underpinning the new framework are sound, in reality the public often holds the Commonwealth directly to account for the expenditure of taxpayers' money. Therefore, the Committee maintains that efforts must continue to obtain satisfactory scrutiny of national funding agreements and ensure value for money, including through transparency and accountability, for the Australian people.
- 5.103 The Committee is conscious that high level accountability and transparency mechanisms exist for the parliament and the public to gain insights into the operation and progress of the reform agenda. For example, initial scrutiny of national funding agreements is possible through approval of the budget and through national funding agreements which require legislative implementation. The Committee notes however, that while the parliament's role in approving Commonwealth expenditure has been preserved under the IGA FFR, there are a number of weaknesses with these high level mechanisms.
- 5.104 Overall the Committee is of the view that more can be done to facilitate parliamentary scrutiny of national funding agreements, in particular at the implementation stages. Increased parliamentary scrutiny will help ensure value for money is achieved for Australian taxpayers, and that a clearer picture of the success or otherwise of the national funding agreements is obtained. Parliamentary scrutiny can be enhanced through parliament having:
- ready access to a more holistic picture of key national funding agreements - in particular through the related CRC progress reports; and
 - a mechanism to routinely review the CRC reports and progress against the agreed outcomes within the national funding agreements.
- 5.105 The Committee is of the view that the CRC reports are a critical missing piece of the puzzle for parliamentary scrutiny. The initial budget and related legislative approvals provide parliament with a starting point for scrutiny, but need to be coupled with the CRC reports to allow full parliamentary engagement. While CRC reports are publicly accessible, the CRC itself is not accountable to the Commonwealth Parliament and the CRC reports are not tabled in Parliament. Furthermore, the Committee

feels that the Productivity Commission's reports investigating the impacts of the reforms are also necessary for Parliament's effective oversight.

- 5.106 Therefore, the Committee recommends that CRC reports are tabled in the Commonwealth Parliament one month after submission to COAG, in line with their public release and that relevant Productivity Commission reports are tabled as soon as practical.¹³⁷ This links with the Committee's recommendation in chapter 4 regarding the public release of the Government's response to the CRC reports in a timely manner.
- 5.107 To further give the Parliament a more holistic picture of national funding agreements, the Committee recommends that signed NPs are tabled in Parliament, along with a complementary Ministerial Statement. This will help increase the Parliament's visibility regarding the number and type of NPs being entered into and inform the Parliament whether new NPs are targeted and appropriately align with the intention of the IGA FFR.
- 5.108 Additionally, the Committee recommends that the Prime Minister make an annual Statement to the House giving the Government's perspective on the contribution of these national funding agreements to the improvement of the well-being of all Australians, and progress towards the objectives of the agreements. This statement should also summarise the number of current, new, upcoming and expired NAs and NPs.
- 5.109 With regard to the development of a mechanism whereby the parliament can routinely review progress against the reform's agenda, the JCPAA recognises the Senate Select Committee on the Reform of the Australian Federation's recommendation that a dedicated new Joint Standing Committee be established.¹³⁸ The JCPAA sees that committee review should be the main mechanism to enable the parliament to routinely scrutinise and review progress against the reform agenda's stated outcomes. Therefore, the Committee recommends that once CRC reports are tabled in the parliament, they are automatically referred to an appropriate Joint Standing Committee for review and report.
- 5.110 Further, the Committee acknowledges the recommendations made by previous parliamentary committees which called for the referral of draft intergovernmental agreements to a parliamentary committee. The JCPAA is aware of the Government Response to these recommendations and that such a referral would place additional time delays and complexity to the

137 CRC reports are currently publicly released approximately one month after being submitted to COAG.

138 Senate Select Committee on the Reform of the Australian Federation, *Australia's Federation: an agenda for reform*, 2011, p. xv.

process. The Committee also notes that the appropriateness of a parliamentary committee reviewing intergovernmental agreements while in the negotiation stage is questionable and would hence need further investigation before such a change could be fully considered and implemented.

- 5.111 Transparency of outcomes flowing from the funding provided under the new framework is essential and the Committee considers the Commonwealth Parliament's visibility to this information of high importance. The Committee recognises the need for agencies to provide clearer and more consistent reporting to the Commonwealth Parliament on performance and outcomes of programs under NPs.¹³⁹ The Committee sees the merits in the Commonwealth Auditor-General's suggestion that the requirements of portfolio budget statements and annual reports to be reviewed, with particular regard to enhancing reporting of the performance and outcomes of programs under NPs.
- 5.112 Further, the Committee supports and notes a recommendation in a recent Auditor-General report that Finance 'develops more expansive policy guidance for entities on how to reference performance reporting for programs delivered through national agreements'.¹⁴⁰
- 5.113 The Committee appreciates the states' overall support for the current accountability and transparency mechanisms, including scrutiny provided through state legislatures and auditors-general. However, the Committee also acknowledges that a number of witnesses identified gaps in parliamentary scrutiny at both the Commonwealth and state level.
- 5.114 In this regard, the Committee is of the belief that increased accountability of funding flowing to the states and other key institutions under national funding agreements is needed through Commonwealth Auditor-General reports to the Commonwealth parliament. The Committee supports the legislation before the parliament to extend the Commonwealth Auditor-General's powers in the area of federal-state financial relations and reinforces its view expressed in Report 419 that the Commonwealth Auditor-General should be:

139 The Commonwealth Auditor-General expressed the need for better reporting in terms of whole of government initiatives to the Committee for the inquiry into ANAO Audit Report No. 22 2010–11, *Audits of Financial Statements of Australian Government Entities*. The report concluding this inquiry is due to be tabled in December as part of the Committee's latest review of Auditors-General reports and contains further comments and recommendations regarding financial reporting across government.

140 ANAO Audit Report No. 05 2011–12, *Development and Implementation of Key Performance Indicators to Support the Outcomes and Programs Framework*, p. 25 and p. 29.

- able to easily access information relating to recipients expenditure of Commonwealth funding; and
 - empowered to assess the performance of bodies receiving Commonwealth funding.¹⁴¹
- 5.115 The Committee is aware of constitutional questions raised in the past and during this inquiry regarding the extension of the Commonwealth Auditor-General's powers in this way.¹⁴² However, due to the significance of the funding flows and subsequent national impacts in key areas such as health and education, it is important that these auditing and oversight powers be granted. In the Committee's view there is no other mechanism that will provide the necessary rigour and overall accountability picture needed of these significant national issues.
- 5.116 As a complement to extended powers for the Commonwealth Auditor-General, the Committee recognises the role collaborative audits may play in strengthening existing accountability and assurance arrangements under the new framework. The Committee recognises that the main barrier to successful collaborative audits is the secrecy provisions embedded within auditors-general legislation across all jurisdictions. The Committee is aware of one state's move to lift these restrictions and encourages individual jurisdictions to introduce amendments to their own auditors-general acts so that information can be more easily shared across current boundaries. The Committee notes the restrictions on collaborative audits between the states/territories and the Commonwealth in the absence of similar amendments to the *Auditor-General Act 1997* and flags this as an area to be considered and addressed in the future.
- 5.117 The Committee welcomes the work of the Ministerial Council for Federal Financial Relations in publishing a comprehensive and easily accessible list of NAs, NPs and Implementation Plans online. However, the Committee recognises the importance of the transparency of intergovernmental agreements more broadly and the merits of developing an online database which includes all intergovernmental agreements. The Committee encourages the Australian Government to review and extend its communication concerning COAG initiatives generally. The Committee notes the recent recommendation by the CRC that COAG provide an overview of their agenda, including a summary of the institutional framework, an explanation of the themes and a description of the content and timeframes for key reform activities.
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141 JCPAA, *Report 419 Inquiry into the Auditor-General Act 1997*, pp. 63–67.

142 JCPAA, *Report 419 Inquiry into the Auditor-General Act 1997*, p. 66.

- 5.118 The Committee recognises that reform to the IGA FFR is ongoing. The Committee notes that similar themes and recommendations have been made across this JCPAA report and the recent CRC report. Evidence to the Committee suggests that the HoTs Review confirmed many of the same findings. The Committee also notes that a range of reports are due for release in late 2011 and early 2012 evaluating the impact of the IGA FFR.¹⁴³ The Committee is of the view that it is timely for the Commonwealth Government to take consolidated action to address the issues identified in all of these reports.
- 5.119 Therefore, the Committee recommends that the Commonwealth Government take this opportunity to correct the identified problems and ensure that the IGA FFR fulfils its potential. With these changes Australia will be well positioned to continue on the reform pathway in the coming decade.

Recommendation 11

- 5.120 **The Committee recommends that the Prime Minister table COAG Reform Council reports in the Commonwealth Parliament one month after submission to COAG, and that relevant Productivity Commission reports are tabled as soon as practical.**

Once tabled, these reports should be automatically referred to an appropriate Joint Standing Committee for review.

Recommendation 12

- 5.121 **The Committee recommends that signed National Partnerships are tabled in Parliament, along with a complementary Ministerial Statement.**

¹⁴³ The Productivity Commission will release the draft *Impacts and Benefits of COAG Reforms* report in December 2011 and the final report in March 2012. The GST Review Panel interim report will be released in February 2012 and the final report by September 2012

Recommendation 13

5.122 **The Committee recommends that the Prime Minister deliver an annual Statement to the House:**

- **outlining the Commonwealth Government's perspective on the contribution of national funding agreements to the improvement of the well-being of all Australians; and**
- **summarising the number of current, new, upcoming and expired National Agreements and National Partnerships**

Recommendation 14

5.123 **The Committee recommends that the Department of the Prime Minister and Cabinet and central agencies investigate steps so that Portfolio Budget Statements and annual reporting requirements provide a more comprehensive picture of the performance and outcomes of programs under national partnerships across government.**

Recommendation 15

5.124 **The Committee recommends that, in light of the range of review activity currently underway, the Commonwealth Government take this opportunity to institute and deliver on the Intergovernmental Agreement on Federal Financial Relations' full potential.**

With these changes Australia will be well positioned to continue on the reform pathway in the coming decade.

Rob Oakeshott
Committee Chair

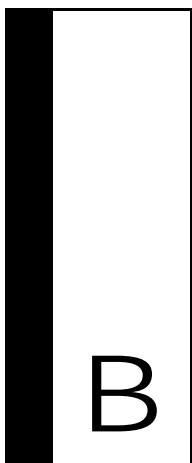
November 2011



Appendix A — Submissions

- 1 Australian National Audit Office
- 2 Gilbert + Tobin Centre of Public Law and Faculty of Law
- 2.1 Gilbert + Tobin Centre of Public Law and Faculty of Law (Supplementary to Submission No. 2)
- 3 Independent Schools Council of Australia
- 3.1 The Association of Independent Schools of NSW Ltd (Supplementary to Submission No. 3)
- 4 Queensland Government
- 4.1 Queensland Government et al (Supplementary to Submission No. 4)
- 5 Australian Parents Council
- 6 Department of Premier and Cabinet Vic
- 7 National Disability Services
- 8 Tasmanian Government
- 9 Business Council of Australia
- 10 NSW Government
- 11 COAG Reform Council
- 12 Mr G.H Schorel-Hlavka
- 13 Department of the Treasury
- 14 Legislative Assembly for the Australian Capital Territory
- 15 Mr Bryan Pape
- 15.1 Mr Bryan Pape (Supplementary to Submission No. 15)

- 15.2 Mr Bryan Pape (Supplementary to Submission No. 15)
- 16 TAFE Directors Australia
- 17 Legislative Assembly of the Northern Territory
- 18 Productivity Commission



Appendix B — Public hearing

Friday, 24 June 2011 - Canberra

Australian National Audit Office

Mr Brian Boyd, Executive Director, Performance Audit Services Group

Mr Matt Cahill, Group Executive Director, Performance Audit Services Group

Dr Thomas Clarke, Executive Director, Performance Audit Services Group

Mr Nathan Williamson, Executive Director, Performance Audit Services Group

Mr Ian McPhee, Auditor General

Independent Schools Council of Australia

Ms Colette Colman, Manager Policy & Analysis

Mr William Daniels, Executive Director

National Disability Services

Mr Ken Baker, Chief Executive

The Association of Independent Schools of NSW Ltd

Dr Geoff Newcombe, Executive Director

Wednesday, 6 July 2011 - Canberra

COAG Reform Council

Ms Mary O'Loughlin, Executive Councillor and Head of Secretariat

Tuesday, 19 July 2011 - Brisbane

Griffith Law School

Professor Alexander Brown, Professor of Public Law

Queensland Audit Office

Mr Glenn Poole, Auditor General

Queensland Treasury

Mr Laurie Ehrenberg, Principal Treasury Analyst, Intergovernmental Relations Branch

Ms Pavlina Matt, Senior Treasury Analyst, Intergovernmental Relations Branch

Dr Gary Ward, Assistant Under Treasurer and Government Statistician

Friday, 19 August 2011 - Sydney

Individuals

Mr Bryan Pape

Professor Anne Twomey, Professor

Gilbert + Tobin Centre of Public Law

Mr Paul Kildea, Director, Federalism Project

Dr Andrew Lynch, Director

The Audit Office of NSW

Mr Peter Achterstraat, Auditor General of NSW

Mr Tony Whitfield, Deputy Auditor General

Friday, 16 September 2011 - Canberra

Australian Bureau of Statistics

Ms Bindi Kinderman, A/g Director, Living Conditions, Social Conditions Statistics Branch

Mr Bob McColl, Assistant Statistician, Social Conditions Statistics Branch

Commonwealth Grants Commission

Mr Janko (John) Spasojevic, Secretary

Mr Richard Rowe, EL1

Department of Premier and Cabinet Vic

Ms Sarah Kemeny, Senior Policy Officer, Federalism Branch

Mr Donald Speagle, Deputy Secretary, Federalism, Citizenship and Climate Change Group

Department of the Prime Minister and Cabinet

Mr David Hazlehurst, FAS, Economic Division

Mr Ronald Perry, Assistant Secretary, COAG Unit Economic Division

Department of Treasury

Mr Bede Fraser, Manager, Federal Finances Unit Commonwealth State Relations Division

Mr Peter Robinson, General Manager, Commonwealth-State Relations Division

Mr Daniel Caruso, Manager, State Finances Unit

TAFE Directors Australia

Mr Stephen Conway, Board Chair, Managing Director, TAFE SA

Mr Martin Riordan, Chief Executive Officer, National Secretariat

Mr Michael O'Loughlin, CEO, Wodonga Institute of TAFE

Wednesday, 21 September 2011 - Canberra**Productivity Commission**

Ms Catherine Anderson, Research Manager

Mr Lawrence McDonald, Assistant Commissioner, Social Infrastructure Branch