

Charity Now: Redefining Charity Law for the New Millennium

Discussion paper and recommendations for reform

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(Prepared by Jobs Australia, VCOSS and ACOSS. Supported by the Reichstein Foundation)

Introduction

The partners in this project – Jobs Australia, VCOSS and ACOSS - believe that the legal and administrative framework governing charities needs to be better understood by our sector and that the framework needs to be reformed.

Broadly speaking we believe there is a case for:

- Building sector understanding of charity law and administration
- Clarifying and modernizing the definition of charities and related organisations
- Rationalizing the categories of charity, public benevolent institution and other not-for-profit organisations
- Establishing how each category of not-for-profit should be treated in relation to the various types of concessions available at the Commonwealth and State levels within a consistent and clearly articulated framework.

This paper discusses four issues that are centrally important to the future of charities and related organisations in Australia:

- The core definition of ‘charity’
- The ‘political’ activities of charities
- The distinction between charities, public benevolent institutions and related organisations
- The regulation of charities.

The paper accompanies ten fact sheets which provide basic information on the definition and regulation of charities. Familiarity with the basic contours of charity law and the main issues arising from the current definition is crucial if the charitable sector is to grasp new opportunities for positive reform or resist initiatives that inappropriately curtail the activities of charities.

Charity law is important because it defines what a charity is and dictates what particular trusts and organisations can and cannot do.

If a trust or organisation is defined as a charity it is afforded a range of favourable legal and administrative treatments in recognition of the public benefits it provides.

For example, charities may receive support from all levels of government, including taxation relief (although each state has its own arrangements in relation to stamp duty, payroll tax and land tax). Charities may also collect donations from the public and donations to some charities are tax deductible to the donor.

The title of charity can also bring with it public credibility.

However, there are also restrictions on the activities of charities. Charities are bound by their purposes. For example, any profits or surpluses a charity makes must be used to further its charitable purposes. Such profits or surpluses must not be distributed to owners, members or any other individual or group of individuals.

Satisfying the requirements of the definition of charity can therefore affect the way an organisation operates and the level of public and government support it receives.

Why now?

Australia missed an opportunity to modernise charity law when the Commonwealth Government decided to abandon the draft Charities Bill 2003, which would have largely implemented the recommendations of the 2001 Inquiry into the Definition of Charities and Related Organisations.

Since then, the interpretation and administration of charity law at the Commonwealth level has effectively fallen back on the Australian Taxation Office (even although the definition of charity has much broader implications than just tax law).

The ATO's Tax Ruling 2005/21, which deals with income tax and fringe benefits tax for charities, provides a comprehensive summary of the current law (including the areas of difficulty) and takes a reasonably liberal approach to the definition of charity.

At the same time however, the ATO has stepped up its auditing of non-profit organisations to ensure that they are entitled to the tax concessions they are claiming. The 2005-6 Australian Taxation Office compliance program priorities includes 'testing the integrity of endorsed deductible gift recipients and tax concession charities.'¹

This means that not-for-profit organisations need to be clear about their legal status, including whether they qualify as community service organisations, charities, deductible gift recipients, and/or public benevolent institutions.

The key to this is understanding how charities and related organisations are defined in Australia and the issues relating to the definition.

Fact sheets

This discussion paper is accompanied by ten fact sheets which provide information about how charities and related organisations are defined in Australia.

Discussion paper

This paper elaborates on four of the key definitional and regulatory issues and makes recommendations for reform. These recommendations were developed in consultation with charitable and other non-profit organisations during a series of seminars in Melbourne, Canberra and Sydney.

The four main issues with the definition and regulation of charities are:

1. The definition of charity is unclear and outdated
2. The distinction between charities and related organisations is confusing and outdated
3. The law is unclear on the 'political' activities of charities
4. The regulation of charities is complex and inefficient.

¹ ATO, Tax Priorities for the Year Ahead, 2005-6, <http://www.ato.gov.au/corporate/content.asp?doc=/content/62364.htm>

Note: Earlier versions of this paper included a fifth issue which was the growing confusion between charitable purposes and governmental functions. The law in this area had become increasingly unclear following a decision of the Victorian Court of Appeal. The case was recently heard on appeal by the High Court which criticised the reasoning of the Victorian Court of Appeal and clarified the legal situation. (Refer to *Fact Sheet 7: Government Funding and Control* for a full description of the issues and current legal position.)

Issue 1: The definition of charity is unclear and outdated

Although the law of charity is 400 years old, its core concept of *altruism for the public good* is still an appropriate basis for defining charities today. It is flexible enough to accommodate social and institutional change.

However, this core concept is not sufficient in itself to enable us to draw clear boundaries around charitable organisations. The public good can be interpreted in many different ways, both at a point of time and over time, as the priorities of a society change.

Therefore, the courts have developed classification structures for charities over the years. Most of the current issues with the definition of charity arise from these classification structures.

Currently in Australia, the courts and public bureaucracies regulating charities mainly rely on four categories of charity, drawn from Pemsel's case in 1891. These are the so-called "four heads of charity":

- poverty (including illness, distress and old age),
- education,
- religion, and
- "other purposes beneficial to the community".

This classification structure is over 100 years old and has become out-dated as a framework for categorizing charitable purposes in contemporary societies. Indeed, as a result of a too narrow an interpretation of charity in the 1960s and 1970s, other categories of organisation (such as Community Service Organisations) had to be created and added to legislation so that they were able to access, for example, income tax exemptions.

We make the assessment that the current framework is out of date on the basis of an assumption (which must inevitably be subjective in an area such as this), that a sound contemporary understanding of the *core* "public benefits" that charitable activity should strive to achieve are the advancement (which includes protection, maintenance, support, research, improvement or enhancement) of:

- health, education, social welfare and adequate housing (the purposes of contemporary *human services*);
- people's spiritual and cultural development, including scientific endeavour
- civil and human rights
- the natural environment.

These purposes are of fundamental importance to human well being, *and* they are widely regarded as the province of altruistic activity by the non-government sector.

The classification structure for charities in Pemsel's case does not fit well with the above description of the core purposes that warrant charitable status in contemporary Australian society.

The first three heads fail to clearly embrace purposes that many would today regard as "core" charitable purposes, while the fourth ("other purposes") must either be limited by reference to the other three heads or become so vague that it is of little use, except as a reminder that no classification structure can adequately capture the changing meaning of

charity. While there is a view that the fourth head provides the courts with the ability to recognize new categories of charity over time, the reality is that the courts have been slow to do so and that the haphazard development of the law has led to a definition of charity with little internal logic.

The *poverty* head has certainly been interpreted by the courts as inclusive of assistance for people with a disability, as well as many other social welfare (and social housing) services. However, both of these interpretations are much broader than the contemporary popular meaning of poverty, which connotes financial hardship or social disadvantage rather than illness or incapacity. This is confusing to the public. On the other hand, the *poverty* head is probably too narrow to embrace the full range of social welfare services such as counselling services, neighbourhood centres, and social policy organisations.

Of particular concern is that the first three heads do not clearly and explicitly cover the full range of human services. The biggest gap between our understanding of the contemporary definition of charity and the "four heads" classification system lies in the fields of social welfare and housing.

The range of social welfare services whose charitable status is ambiguous indicates a serious problem for the courts, the Australian Taxation Office, and social welfare and community housing organisations.

Broadly speaking, human services can be divided into four categories:

- *health services*, whose purpose is to improve the physical or mental condition of the community;
- *education services*, whose purpose is to improve people's understanding of the society and world around them, as well as their intellectual ability and vocational skills;
- *social welfare services*, whose purpose is to improve the social condition and functioning of the community (including, but not limited to, action to reduce poverty and social exclusion);
- *housing services*, whose purpose is to ensure that people are adequately housed.

The social welfare category is the least understood of these four categories, and the one whose charitable status is the most ambiguous. The social welfare sector in Australia has grown substantially over the past 30 years, and is now much more diverse than the "traditional charities" that characterised it up until the 1970s.

Social welfare services are those whose main purpose is to improve the social condition and functioning of the community, including but not limited to, reducing poverty and social exclusion.

The Australia Institute of Health and Welfare has developed a useful classification system for welfare activity that divides it into the following categories:

- personal and social support
- child care and preschools
- training, rehabilitation and employment
- financial and material assistance
- residential care and accommodation support
- policy development and advocacy
- community development

- service development and support.

Although most of the services in this list *are* accepted by the Australian Taxation Office (ATO) as charitable, the legal basis for doing so is not explicit.

In the absence of a contemporary classification structure for charities, two problems emerge.

First, newly-emerging "public good" organisations that are charitable in nature may be denied charitable status, creating a need for separate categories of community organisation for taxation and other purposes. For example, non-profit child care organisations (until these were deemed to be charitable by recent legislation) were classified as CSOs for taxation purposes.

Second, entities that were once considered charitable but may no longer be so are likely to remain on the register (for example, building funds for wealthy private schools).

Recommendations for reform

The organisations consulted support the concept that the classification structure for charities must have internal consistency and sufficient flexibility to embrace new social trends and priorities, and it must be capable of being understood and supported by the broader community.

There was also support for legislative reform along the lines of the 2003 Draft Charities Bill (now defunct) which provided a modernised classification structure.

The Bill stated that a charitable purpose is any of the following:

- (a) the advancement* of health;
- (b) the advancement of education;
- (c) the advancement of social or community welfare;
- (d) the advancement of religion;
- (e) the advancement of culture;
- (f) the advancement of the natural environment;
- (g) any other purpose that is beneficial to the community;

(**advancement* includes protection, maintenance, support, research or improvement).

However, some of the organisations expressed concern that pursuing legislative reform at the wrong time could present an opportunity for others to narrow charitable purposes and restrict the activities of charities.

Pursuing reform therefore needs to occur with sensitivity to prevailing contexts.

Issue 2: The distinction between charities and related organisations is confusing

One of the main aims of charity law reform is to provide a framework for charities and related entities to facilitate decision making by governments and the public about support for the not-for-profit sector.

Aside from charities there are Public Benevolent Institutions (PBIs) and a wide range of other categories of not-for-profit organisations.

Few people working in the charitable sector, and almost none of the general public, understand the distinction between a charity, a PBI and other non-profit organisations.

Any attempt to modernise the definition of charity is incomplete without considering PBIs and other non-profit organisations. Otherwise, the confusion between the categories will remain, and changes to the scope and definition of charity could have unintended effects on the scope and definition of PBIs and other not-for-profit organisations.

Public Benevolent Institutions

Public Benevolent Institution (PBI) status is separate from charitable status, not a sub-set of charity.

PBI status was legislated in Australia early in the 20th Century to restrict certain tax advantages to those charities that assisted the most disadvantaged people in society, such as poor people, sick people, and people with disabilities.

The most generous tax concessions (Deductible Gift Recipient Status and Fringe Benefit Tax exemptions) are generally linked to PBI status and not charitable status.

In the case of gift deductibility, the community services and welfare sector is poorly represented in the gift provisions of the Income Tax Assessment Act, with access restricted to either PBIs or 'necessitous circumstances funds', both of which are strictly defined.

The definition of PBI is in greater need of modernisation than that of charity for two reasons.

First, confusion between PBI and charitable status was exacerbated by an early judgement that defined "benevolence" separately from the charitable purpose of the relief of poverty (which in charity law includes illness and disability), as the "*relief of poverty, sickness, destitution, or helplessness*" where "*their disability or distress arouses pity*". This very out-dated view of the relief of poverty has since been entrenched in court judgements regarding PBI status, while the common law relating to charities for the relief of poverty took greater account of social change and developments in charitable service delivery.

For example:

- The *prevention* of poverty is not generally regarded by the courts as an appropriate purpose for a PBI.²

² For example, marriage counselling services are not regarded as benevolent. See Marriage Guidance Council Vs FC of T 90ATC 4775.

- It is difficult to envisage a *self help organisation* of disadvantaged people obtaining PBI status because the concept of "public benevolence" is rooted in early 20th Century notions of charities dispensing benevolent relief to poor people who are unable to help themselves.

Second, the courts have unnecessarily and inappropriately restricted PBI status to organisations providing aid *directly* to disadvantaged people. This is out of tune with contemporary methods of human service delivery and development.

As is the case with charitable institutions, the law pays too much attention to *how services are provided* rather than their *main purpose*.

On the face of it, this excludes organisations whose main activity is prevention and promotion, policy development and advocacy, research, and support for direct service providers, even where this is directed towards improving the circumstances of disadvantaged people.³

Many Public Benevolent Institutions that assist disadvantaged people but are not (or are no longer) predominantly engaged in direct service delivery are at risk of losing their gift deductible and FBT-exempt status.

The Government has acknowledged this problem and responded in partial fashion, by:

- extending gift deductibility to certain *health promotion organisations* by amending the Income Tax legislation, without changing PBI status.
- extending gift deductibility to organisations involved in the "prevention of control of harmful and abusive behaviour"

These partial responses only highlight the seriousness of the problem, and expose the unfairness and arbitrariness of access to gift deductibility for health and welfare organisations.

A related problem to inconsistent access to DGR status by charities is that most philanthropic foundations and trusts require potential donees to have DGR status.

The results of a Philanthropy Australia national survey of Australian philanthropic trusts and foundations confirmed that most members required grant applicants to have DGR status.

Given the inappropriate restrictions on PBI status (ie that assistance must be direct) and the under-representation of community service and welfare organisations in the gift provisions of the tax act, the current definitions are a major impediment to foundations who want to support a more progressive solution to social issues.

Other not-for-profit organisations

Clearly there are a wide range of not-for-profit organisations that are neither charities nor PBIs.

³ Peak bodies are not completely excluded from PBI status. For example, if their main role is to represent and support direct service providers who are themselves PBIs, they may attain PBI status. See *ACOSS Vs Commissioner of Payroll Tax (NSW)* 85ATC 4235. *ACFOA Vs FC of T (1980)* at 11ATR 343.

Where a non-for-profit community service organisation does not meet the definition of a charity, it may be classified as a 'Community Service Organisation' (CSO) under Commonwealth tax law.

In Australia, the concept of CSO has been created to permit certain tax exemptions for community bodies whose activities are not accepted as being charitable but which nevertheless conduct activities of benefit to the community.

A CSO is a not-for-profit society, association or club that is established for community service purposes. Community service purposes must be its main purpose. Any non-community service purpose of a CSO must be incidental, ancillary or secondary to its community service purposes. This contrasts with charities that are required to have a 'sole' or 'dominant' purpose that is charitable, so that any other purposes must be incidental or ancillary to the charitable purpose.

Some CSOs are income tax exempt entities (such as cultural, educational, industry development and scientific organisations) while others are gift deductible entities (such as various categories of hospital and health research organisations, various organisations for the promotion of scientific research and specific industry development organisations).

One of the main reasons for the proliferation of these categories is that the definitions for charitable organisations and public benevolent institutions are too narrow or too uncertain. For example, the CSO category that attracts income tax exemptions was added to the legislation in the early 1970s to fill a gap left by the narrow interpretation of charitable status at that time.

These categories of community organisation, especially those conferring gift deductibility, have been added to the income tax law one by one, either to address the above problem or for political convenience.

There is a need to simplify the current classification structure of charities, PBIs and CSOs in income tax law.

Recommendations for reform

Charitable and other non-profit organisations consulted during the seminar program largely supported a three tier classification structure upon which government regulation and access to tax and other concessions could be based, as proposed by the Charities Definition Inquiry.

The bottom and broadest tier would consist of Altruistic Community Organisations, which are not-for-profit organisations that have a main purpose that is altruistic. While including charities, it would also include other organisations which are not charities, either because their purposes are not charitable ones or because they have secondary non-altruistic purposes. It would be a broader category than charity but narrower than the whole not-for-profit sector.

The second, narrower tier would consist of charities.

The third and narrowest tier would replace Public Benevolent Institutions with a new class of *Benevolent Charity*. A Benevolent Charity would be a charity whose dominant purpose is to benefit, *directly or indirectly*, those who are disadvantaged.

The most generous concessions, such as Fringe Benefit Tax Exemptions and Deductible Gift Recipient Status, should be restricted to Benevolent Charities.

The alternative option - to extend the tax concessions currently available only to PBIs to all entities that meet the definition of a charity - was rejected by most of the organisations consulted because of its cost to revenue, with the likely consequence that the value of existing concessions would be eroded and/or the definition of charity narrowed.

Issue 3: The law is unclear on the 'political' activities of charities

The law of charity is inconsistent. In most cases, it defines organisations as charities according to their main *purpose*, but in some cases it determines an organisation's charitable status on the basis of the *means* by which its main purpose is achieved.

Whether the courts and the bureaucratic administrators of charities should concern themselves with *means* as well as *ends* depends on the underlying objectives of charity law.

For example, the courts and the bureaucracy have an important role in ensuring that charities carry out the purpose for which they are registered and properly account for their expenditure, including any donations received. This helps maintain public confidence in charities generally.

However, the courts in Australia have also sought to restrict the range of activities which a charity can undertake in pursuit of their charitable purposes, and this has given rise to much controversy.

The most important case is the restriction of political activity by charitable organisations. A number of judgements have found that organisations whose primary role is legislative change cannot be charitable, although seeking legislative change which is "incidental" to, or helps further, other charitable purposes will not normally threaten an organisation's charitable status.

This has given rise to complex rules which aim to distinguish between organisations whose objects are primarily political and those for whom political activities are incidental.

The ATO's Tax Ruling, for example, states at one point that an institution or fund whose purpose is to change the law or government policy is not charitable and that this is so even if the subject matter of the change concerns the relief of poverty, education or religion.

Later it states that not all activities associated with changing the law or government policy are necessarily inconsistent with charity. If a purpose is otherwise charitable its status is not affected by political or lobbying activities which are incidental to the charitable end.

The ATO acknowledges that while this is a clear principle, the practical difficulties in distinguishing between political objects and charitable purposes are particularly apparent in the court cases.

In the United Kingdom, this problem has led to the development of a set of intrusive and paternalistic rules restricting the "political activity" of charities, whose objective appears to be the avoidance of controversy as much as defining charitable purposes.

In the U.S. and Canada, there are arbitrary restrictions on the proportion of an organisation's funds that can be devoted to advocacy purposes.

In Australia, there has been no similar attempt to regulate the political activities of charities. However, there is a danger that restrictions may be placed on charities that engage in political lobbying and policy change activities in the future.

These problems reflect a misunderstanding of the distinction between charitable purposes and the means by which they are achieved. The judgments underpinning them also fail to make the crucial distinction between 'political' activity such as lobbying and engaging in public debate as a means to achieve charitable purposes and political activity generally. Charities that engage in advocacy play an important role in policy development and public debate that benefits the groups or communities they serve.

The key test of whether these activities are merely *political* (that is, they aim to increase the political power or influence of the organisation or its members) or *charitable* (eg they aim to improve social welfare) should be their purpose rather than the nature of the activity itself (for example, whether private lobbying or public advocacy are used as the means to achieve charitable purposes).

Of course, it would still be necessary in some cases to examine the advocacy activities themselves in order to assess their underlying purpose. For example, an organisation that publicly campaigns for a political party during an election is likely to be doing so for political rather than charitable purposes.

Three arguments have been advanced in favour of denying advocacy organisations charitable status.

The first of these arguments is that if organisations whose main activity is advocacy to change Government policy are accepted as charities, the courts would be forced to pass judgement on the rights or wrongs of Government policy, thereby intruding upon the role of Government.

However, the courts are not being asked to sit in judgement on public policy. They are being asked to facilitate policy development and public discussion around issues that bear on charitable purposes (such as the relief of poverty) by enabling advocacy organisations to attract financial support from the public. Whether the court approves of the purpose of the advocacy is not at issue. At issue is whether the purpose of the activity is charitable.

In a pluralistic society such as Australia, public policy development is not the role of Government alone. Governments recognise the important role of advocacy and peak bodies in the health, education and social welfare fields in many ways, including by directly funding such bodies, by appointing their representatives to advisory bodies, and by convening regular meetings between those organisations and relevant Ministers.

A second argument is that including advocacy bodies in the definition of charity would attract controversy and thereby undermine public support for charities generally. However desirable it might be to forge a public consensus in support of charitable purposes, any argument that "controversial" purposes should not be recognised as charitable should be firmly rejected. There is an important distinction between *altruism for public benefit* and a *public consensus* on what constitutes the public benefit.

Many disadvantaged groups who are the recipients of charitable services are politically "unpopular", such as refugees who arrive in a country by unorthodox means or people with a substance use problem. Community organisations that assist these groups may be classified as charitable, notwithstanding a lack of public consensus in favour of their work. Further, many charitable purposes, for example the promotion of racial harmony, that have attracted a great deal of controversy in the past are now more widely accepted.

It would be counter-productive to deny these organisations charitable status at an early stage in their development, simply because some people (or even many) oppose their objectives or activities. Those who support their work will donate; those who oppose it will choose not to.

A third argument for restricting the scope of the advocacy activities of charities is that it would be too difficult to distinguish between advocacy for charitable purposes and that which is essentially political. This argument turns on the degree of difficulty in identifying and classifying charitable purposes. As we argue above, a clearer and more up-to-date classification structure would help clarify which purposes are charitable.

Recommendations for reform

The sensible approach to this problem is to abandon any attempts to restrict the advocacy activities of organisations and focus instead on whether the main purpose of the organisation is charitable.

The ATO Tax Ruling 2005/21 effectively takes this path, stating that a charity may have public advocacy purposes provided those purposes:

- (1) further, or aid, or are ancillary or incidental to, its dominant charitable purpose or purposes; and
- (2) do not promote a political party or a candidate for political office.

The problem is, as the ATO acknowledges, that the common law is deficient in distinguishing between political objects and charitable purposes.

Charitable and other non-profit organisations consulted as part of the seminar program agreed that ideally there should be legislation which clarifies that activities like policy development, lobbying and engaging in public debate will not deny charitable status, even where it involves advocating for a change in law or policy.

However, some organisations expressed concern that pursuing this part of the agenda at the present time could derail other desirable gains that might be made in other areas – such as modernising the definition of charity and reforming PBI status.

Pursuing reform therefore needs to occur with sensitivity to prevailing contexts.

Issue 4: The regulation of charities is complex and inefficient

The existing legal framework and regulatory environment of the nonprofit sector is in need of fundamental overhaul.

At present there are more than twenty different ways to incorporate a nonprofit organisation. This variety is a product of both a variety of specialist forms of incorporation (eg for trade unions, parent associations), and the existence of a dual state/federal regime. There are eight forms for incorporating as an association and six as a cooperative. This proliferation imposes unnecessary complexity and duplication on both the sector and on governments. Fundraising is equally bedevilled by a proliferation of regimes across states and territories.

As outlined above however, it is in tax law that the greatest confusion is to be found. There are a great variety of concessions given by different levels of government, each to a variety of nonprofit organisations. It is impossible to find any set of principles underpinning the legislation that designates these concessions. There are no clear links between the concessions provided and public disclosure requirements. Not surprisingly, in such an environment regulation is confusing, contradictory and often unfair.

Current mechanisms to review and update official interpretations of the scope of charitable and public benevolent institution status are inadequate. There has been very little recent case law in this area, so judicial interpretations are out of date.

If these deficiencies are not addressed, there is a danger that any legislative reforms which are made, will once again atrophy.

The main problem with the administration of charity law at the Federal level is that progress in modernising charity law depends largely on case law, and there have been few cases over the past 30 years. This means that the courts have not caught up with dramatic changes in the charitable sector over this period.

A major advantage of the Charity Commission model in England is that the law has been up-dated *administratively* through Charity Commission inquiries and rulings, even though English case law on charities remains well behind the times.

A further problem is that the "gate-keeper" of charitable status is the ATO, whose main purpose is the collection of tax revenue rather than the definition or regulation of charities. The ATO has some expertise in charity law, since at the federal level this is mainly tax law. However, charitable status has broader implications than tax law (especially with regard to the status of charitable trusts), and charity law is only an incidental part of the ATOs activity.

Recommendations for reform

Charitable and other non-profit organisations consulted as part of the seminar program expressed strong support for the establishment of a separate specialist body such as a Charity Commission to act as the gate-keeper of charitable status at the federal level and to work with the relevant State Government bodies (those which regulate charitable donations) to streamline and improve the overall regulation of charities.

As a minimum, such an independent body would take on a number of functions:

- **registration of charities** – responsible for determining the status of all charitable and related entities in Australia, for listing them on a public register and for regularly reviewing the status of registered entities.
- **reviewing the definition of charity** – responsible for continuously monitoring the relevance of the definitions and providing policy advice to the government on the need for any change to the definitions.
- **harmonising the accountability requirements placed on charities by state and commonwealth regulators and departments.**
- **Advice and support for the charitable and related sector** – an independent body, particularly if it included expertise drawn from the sector, could assist organisations to fulfil their responsibilities and access their entitlements as effectively as possible.
- **An information resource for and about the sector** – responsible for developing a comprehensive profile of the sector and an authoritative source of advice to government on the role and capacity of the sector.