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Traditionally, much of the debate about government services focused on the appropriate level of resources. More recently, greater attention has been paid to how governments can better use those resources to deliver more or superior services. Partly reflecting this shift, the Prime Minister, State Premiers and Territory Chief Ministers agreed in July 1993 to establish the Review of Commonwealth/State Service Provision, for which the Productivity Commission is now the Secretariat.

A key activity of the Review in the past two years has been to research and report on the implementation of innovative approaches to the delivery of government services. The Steering Committee seeks to highlight approaches to the implementation of reform which can help governments secure more of the benefits, while reducing adjustment costs and distributional concerns.

This report comprises case studies of recent reforms in different government service areas in four jurisdictions. It also details the results of surveys covering developments in each case study area in other jurisdictions, to situate the reforms in a national context.

The Steering Committee hopes these studies will be of interest to a wide audience, but mainly aims to reach people at the coalface of reform implementation. The Steering Committee has developed checklists on some common issues arising in the course of implementing these reforms to assist others facing this difficult task.

The Secretariat prepared the case studies and the surveys on behalf of the Steering Committee, with the cooperation of the agencies involved in implementing the reforms.

The Steering Committee would like to thank all those who assisted in this work.

Gary Banks
Chairman

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1 IMPLEMENTING REFORM

1.1 Introduction

Improving the performance of government funded (and largely government delivered) human services such as health care, education and services for the aged has become a significant issue in Australia. Much of the debate about how to improve government services has focused on increasing the financial and other resources available (the level of inputs). But throughout the wider economy, increasing the level of inputs accounted for only one third of the improvement in living standards (measured by per capita output) over the past 30 years (IC 1997a). The remaining two thirds of the improvement largely resulted from finding better ways of using what we have — that is, through higher productivity.

Governments can improve the productivity of their resources by developing new ways of providing services. Often productivity improvements occur through innovating — that is, taking existing knowledge about service delivery and applying and adapting it to new situations.

1.2 Review of Commonwealth/State Service Provision

A key objective of the Review of Commonwealth/State Service Provision is to aid the innovation process by informing governments that are contemplating or initiating reforms about the reform experience in other areas of service provision. The Review does this in a number of ways.

First, *Implementing Reforms in Government Services* presents case studies on reforms in government services which aim to develop checklists covering practical issues associated with implementing reforms.

Second, the *Report on Government Services* (SCRCSSP 1995, 1997c and 1998) contains performance information on 12 key service areas. This information helps identify the effects of reform on the efficiency and effectiveness of government service delivery. It also assists in highlighting differences in performance, and seeks to stimulate improvements in productivity through identifying those who are performing well and those who could be doing better.

Third, the Review encourages the use of innovative tools to assess the performance of government services. The report *Data Envelopment Analysis: A Technique for Measuring the Efficiency of Government Service Delivery* (SCRCSSP 1997a), for example, explains how to apply this sophisticated tool as a complement to the performance data contained in the *Report on Government Services*.

Finally, the cooperative nature of the Review facilitates innovation in service delivery by providing a forum for the interchange of ideas. Since the Review commenced in 1993, specialists from Departments responsible for each service have shared ideas on how to improve services through the Review's Working Groups. A number of service areas have also established groups to develop detailed operational indicators in areas similar to the ones covered by the Review.

1.3 Role of the case studies

Implementing reform of a government service is a difficult process. It involves identifying ways to maximise the benefits while addressing adjustment and equity issues. The benefits of reform include improving efficiency through reducing the costs to government of providing a given level of services. Benefits may also stem from enhancing the effectiveness of service delivery through providing new services to client groups, for example. But against these benefits, reform may also impose adjustment costs on providers, clients and the wider community.

Often there is no accepted model for implementing particular reforms. There may be some common aspects, but in many instances each jurisdiction and service area must tailor the implementation of reforms to account for their particular circumstances or issues.

This publication comprises case studies on reforms in government services. The case studies, which are initially nominated by the member jurisdictions, focus on reforms that change the incentives facing those funding and/or delivering government services. They are reforms that have potentially wider applicability both across jurisdictions and across service areas.

The 1998 report comprises four case studies:

- devolving decision making in Victorian Government schools;
- using competitive tendering for NSW public hospital services;
- offering consumer funding and choice in WA disability services; and

- pricing court reporting services in Commonwealth courts.

The case studies in the previous report covered the shift from grant funding to purchasing of community services in SA; output based funding of public acute hospital care in Victoria; and competitive tendering and contracting of the management of correctional services in Queensland (SCRCSSP 1997b).

Both reports focus on:

- key issues involved in implementing a reform (such as timing reform implementation, and accurately costing inputs and outputs);
- the options for addressing particular issues (such as choosing whether to require non-government hospital operators to provide acute and community care or acute care only);
- the reasons for particular options being chosen (such as using a pilot program to test effectiveness or introducing the reform gradually to minimise disruption for clients and to facilitate re-training of employees); and
- the effect of choices on the implementation of the reform (such as who benefited most from the reforms and who may have been adversely affected).

The case studies drew on the experiences of departmental officers from the participating jurisdictions, as well as input from some providers, client groups and other stakeholders. A survey of the relevant agencies in the other jurisdictions was also undertaken to place the case studies in a broader context. (These are included as attachments to the relevant case studies).

There are differences in the circumstances surrounding each reform, such as budgetary pressures, political climate, changes in industrial relations and technological change. All reforms were examined in the context of the environment at the time and how these factors may have affected the implementation process.

1.4 Lessons from the case studies

Notwithstanding differences in the nature of reforms and the circumstances in which they were implemented, common issues have arisen out of the case studies. Each reform brought about a change in the relationship between the government (as purchaser) and the agencies delivering services. Government focuses on specifying the appropriate set of services and monitoring service providers to ensure that high quality services are provided. Increasingly, many operational decisions, such as choosing the mix of inputs employed, are being

left to the providers. The reforms also highlight shortcomings in performance information, leading to greater incentives to improve output specification and monitoring.

Drawing on the experiences of case study participants, the Review identified some key issues common across jurisdictions and service areas:

- timing program implementation;
- decentralising decision making;
- measuring and assessing performance;
- measuring quality;
- directly linking funding to performance; and
- charging users.

The Steering Committee of the Review developed a set of draft checklists covering such practical issues associated with implementing reform and these are presented in chapter 6. The Steering Committee plans to refine the principles over time, drawing on its research and the work of others. It is hoped that the lessons learned so far can be transferred across jurisdictions and across services. They may also prompt further reform. The openness of agencies and governments in the Review environment shows that government services can be improved through a national cooperative approach.

Taken together, the case studies, survey material and checklists are intended to aid better implementation of reforms in government services as governments respond to their particular challenges.

2 DEVOLVING DECISION MAKING IN VICTORIAN GOVERNMENT SCHOOLS

In late 1992, the Victorian Government introduced a package of reforms to restructure government schools under the banner of Schools of the Future. These reforms devolved greater decision-making power to local school communities and introduced a new performance monitoring system. This case study focuses on the implementation of these reforms.

2.1 This case study

This case study examines the devolution of decision making to the school community under the Victorian Government's Schools of the Future program. It examines the program's design and implementation, environmental factors that affected implementation, its key features and lessons that arise from its implementation. To place this case study in a broader context, attachment 2A provides background information on similar services in other jurisdictions. The Victorian Government school system is summarised in box 2.1.

Box 2.1: The Victorian Government school system

There were 517 000 students (304 000 primary students and 213 000 secondary students) enrolled in government schools in Victoria in 1996. They were enrolled in 1300 primary schools, 280 secondary schools, 39 combined (prep to year 12) schools and 83 special schools. The full-time equivalent of 40 700 staff were split evenly between primary (20 286) and secondary (20 414) schools in that year.

Total government expenditure was \$2.7 billion in 1995-96 — \$1.3 billion on in-school primary, \$1.3 billion on in-school secondary and \$126 million on out-of-school expenses. The Victorian Government provided 89 per cent of these funds and the Commonwealth Government provided 11 per cent. Government expenditure made up around 96 per cent of total school expenditure, with other sources of revenue such as voluntary fees and fund raising making up the remaining 4 per cent. The government school education sector employed capital stock of over \$5 billion in 1996.

Sources: SCRCSSP (1998), DEETYA (unpublished data), RMIT University Business (1997).

2.2 The reform

The Schools of the Future program provides for greater devolution of management responsibility to individual government schools than existed in the past. Schools are provided with a global or single line budget and may spend it on staff and other resources as determined by the school council and the principal. The Board of Studies, a statutory authority, develops the curriculum and standards framework and the Learning Assessment Project (LAP) and Victorian Certificate of Education (VCE) tests. The Department of Education uses the Board's work as the basis for the schools' accountability framework, making the curriculum and standards framework and VCE mandatory, and encouraging participation in the LAP.

The program commenced in 1993, with an initial intake of 325 primary and secondary government schools. These schools accounted for one third of all students in government schools. Following four phased inductions, nearly all 1750 government schools had joined the program by the middle of 1995 (Department of Education 1996). Entry to the program is not compulsory and is decided by school councils.¹ Schools that joined Schools of the Future received increased funds for administrative support and a computerised administrative system (CASES) to assist with administration and other management functions. CASES is linked electronically to the information technology systems of the Department.

The Schools of the Future program was a significant development in both scope and pace of change. However, some elements of the reform package were evolutionary in character and built on almost two decades of increasing school autonomy — for example, school councils already existed, although with different composition and fewer decision-making powers. Further, the existence of a significant non-government school sector which had embraced decentralised management provided some evidence of the practicality of the reform.

2.2.1 Government objectives

The locally managed school is the focus of the Schools of the Future program. The underlying rationale for this structure is the belief that 'quality' outcomes of schooling can only be assured when decision making takes place at the local

¹ Only one school (an urban primary school) had chosen not to join the program as at August 1998.

level (Directorate of School Education 1994a).² The Department has identified the objectives of the program as being to:

- [p]rovide every child with education and skills to give them the best chance for the future including the need for all students to be literate, numerate, adept at information technology and to have a strong knowledge base;
- staff all schools with gifted and inspirational teachers able to enhance the quest for knowledge and understanding so that young people can prosper and become productive citizens; and
- enhance education opportunities through innovative technologies and wherever appropriate reduce the current emphasis on traditional capital infrastructure with investment in technological infrastructure. (Directorate of School Education 1994a, p. 2)

2.2.2 Development of the Schools of the Future program

The following four key elements underpin the Schools of the Future policy framework:

- a *curriculum and standards framework* which sets curriculum outcomes that all students are expected to achieve;
- a *people framework* which specifies the level of local control over selection of staff, performance management, professional development and new career structures;
- a *resources framework* which allocates 90 per cent of the total recurrent budget for schools (\$2.6 billion in 1996-97) to individual schools; and
- an *accountability framework* which aims to make schools more accountable for learning outcomes of students through the introduction of a school charter, an annual school report and a triennial review.

2.3 Reform environment

Amendments to the *Education Act 1958* in 1975 gave school councils legal status and increased their responsibilities for managing the finances and facilities of the school and advising the principal on issues of school policy. Moves in the 1980s gave school councils additional responsibility for determining school policy and, together with the Department, selecting the

² The link between school autonomy and academic performance is discussed in Gannicott (1998).

school principal. The rate of change in government school education in Victoria increased after the change of government in 1992 (box 2.2).

Box 2.2: Related developments in Victorian Government schools

Major changes to the Victorian Government school system since October 1992 have included:

- disposing of around 300 school sites (15 per cent of schools), reducing the total number of schools from over 2000 in 1992 to around 1700 in 1997;
- reducing administrative staff of the Department of Education from around 4000 to about 1200 (with some of the released resources subsequently redirected to school control); and
- reducing the total number of teachers employed in the State system from around 40 000 to 34 000 at June 1996.

The Department stated that rationalisation of the State school system was necessary to reflect declines in enrolments since 1982.

Source: Victorian Auditor General's Office (1997, p. 13).

Concurrent with post-1992 school reform, the industrial relations framework in Victoria changed substantially. Given the approach of unions (which opposed many elements of the reform package), changes to industrial relations arrangements that reduced the influence of teacher unions — including removal of the deduction of union dues from the pay of State Government employees and no longer forwarding details of new State Government employees to the relevant union — are seen as having facilitated the introduction of the reform.³

The newly elected Victorian Government introduced the Quality Provision strategy in 1992, under which around 300 'small' school sites (out of a total of 2000 sites) were closed. The Department stated that the strategy aimed to:

- ensure cost-effective provision of a sufficiently broad curriculum by all schools;
- reflect demographic and enrolment changes that had not been addressed since 1982; and
- address the high cost of maintaining deteriorating or underused schools (Quality Provision Taskforce 1993).

³ Teachers' unions had also opposed some similar reforms proposed by the previous Labor Government (Pascoe and Pascoe 1998, p. 5).

The Commonwealth Government introduced grants to non-government schools in 1970 and placed them on a systemic basis in 1973. This contributed to rapid growth in the non-government school sector; enrolments at non-government schools in Victoria increased by 35.8 per cent between 1970 and 1996, compared with 1.3 per cent at government schools over the same period. According to ABS figures, the proportion of students enrolled in Victorian non-government schools grew from 24.6 per cent in 1970 to 33.4 per cent in 1996 (ABS 1971 and 1997).⁴

The Victorian Government school environment continues to change. The Commonwealth Government relaxed the conditions under which non-government schools could receive federal funding in 1997. It abolished limitations on minimum and maximum enrolments, and removed restrictions locking new non-government schools into particular funding categories. Under the Enrolment Benchmark Adjustment arrangements, Commonwealth funding 'follows the student' and grants to government and non-government schools are based on the proportion of students enrolled in each sector.⁵

2.4 Key implementation issues

2.4.1 How reform was introduced

Well planned and managed implementation can improve a reform's chances of success, while poor implementation can reduce its effectiveness. Costs associated with the reform process must be weighed against the potential benefits of the reform. Adjustment costs borne by government, clients, employers and other parties in the system can be minimised through well reasoned and executed implementation.

⁴ Total (State and Commonwealth) government expenditure per student in Victoria remains higher in government schools than in non-government schools. Average total government recurrent expenditure per student in government schools was \$5160 in 1995-96, compared with total government grants per student of \$2800 for non-government schools in calendar 1996 (SCRCSSP 1998 and DEETYA unpublished).

⁵ Commonwealth recurrent grants for Victorian Government schools will be reduced by \$1480 for every full-time equivalent enrolment in a non-government school should the proportion of students in non-government schools rise above the deemed 1996 Victorian benchmark of 33.15 per cent plus an additional buffer of 500 full-time equivalent enrolments (DEETYA correspondence 6 August 1998).

Speed and extent of change

The Schools of the Future program comprises several related but independent elements. The Victorian Government adopted a combination of approaches to introduce these elements:

- comprehensive (or 'big bang') systemwide change, with simultaneous implementation of some elements of the reform for all participants. This was adopted for the local selection of staff under the human resources framework;
- phased introduction of some elements of the reform for selected groups of participants, with the reforms extended to other participants over time. This was adopted for the broad Schools of the Future program, with schools entering in four phases from 1993; and
- piloting of some elements, such as the school review program. The annual report guidelines were trialed by 200 schools in 1994, and the triennial school review process was trialed in 10 schools in 1995 and in a further 59 schools in 1996.

The Department regarded the overall program introduction as being closest to a comprehensive approach, despite using different approaches for implementation of some individual elements. The speed of implementation was partly determined by the ability of central administration to manage change of such magnitude, but the Department intended to have a critical mass of schools moving forward from the initial intake, and to accomplish the reform in a relatively short period. Over 700 schools expressed interest in being involved in the first phase, and 325 schools were selected to participate in that intake. Remaining schools elected to take part in intakes two, three and four, and by June 1994 all but three schools had voluntarily signed up to the reform timetable.

Rapid implementation reduced the adjustment costs associated with maintaining dual procedural arrangements during the period of transition. It also reduced the uncertainty for participants in the system. However, where the potential for error was high, or the consequences of mistakes were likely to be serious, small-scale pilot programs were used. The Minister for Education at the time of the reform, Don Hayward, stated that rapid implementation also had other benefits. Although many principals suggested a 'slow, gradual, uniform pace' of reform, the Minister rejected this approach because he considered that:

- all schools should not have to proceed at the pace of the least ready schools, which would only hold back more advanced schools;

- it would be important to move quickly to make a fundamental change before those interested in the status quo could organise their opposition;
- the most effective way to achieve change would be to have some schools at the forefront of change to act as exemplars for the remainder; and
- the program would work only if schools wanted to be part of it — that is, a school's involvement should be voluntary rather than forced to fit a timetable (Caldwell and Hayward 1998, p. 34).

Consultation

Consultation early in the reform process can assist the implementation of reform and reduce adjustment costs. It can do so by collecting input from a broad range of interest groups and identifying least cost strategies for implementation. It can familiarise people with the proposed reform and instil 'ownership' in the reform. However, consultation may also introduce costs such as unnecessary delays and lead to unrealistic expectations among those consulted that their views always will prevail.

Prior to the election of the Victorian Government in 1992, the then Shadow Minister of Education consulted with principals and academics to develop strategic objectives and implementation plans for the Schools of the Future reform (Caldwell and Hayward 1998, p. 36). He also chose a Chief Executive Officer. The key aspects of the reform constituted part of the then Opposition's election policy. Further consultation was undertaken during 1992 and 1993 to detail many areas of the reform.

Rather than dealing through intermediaries such as unions, the new Government communicated directly with principals, teachers and councils. Communication about the reform was through an education newspaper entitled *Victorian Education News*. It was provided free by the Department to every teacher and school councillor in government schools and had a weekly distribution of 63 000.

The new Victorian Government identified principals as key players in the proposed reforms, and actively pursued their support. The Minister stated:

My first public act as Minister for Education was to write to each school principal and advise them concerning the Schools of the Future program. We followed this up with frequent communications from the Department to school principals concerning developments and progress with Schools of the Future. The purposes of these communications were not only to keep school principals informed about developments, but to seek their advice and recommendations as well. Also, the Schools of the Future Task Force held extensive consultations with principals to gain their input on specific aspects of the program. (Caldwell and Hayward 1998, p. 70)

The Minister stated that teachers' unions, a significant interest group, were 'sidelined' in most respects (Caldwell and Hayward 1998, p.17). A study for the World Bank noted that unions no longer had the use of an office in the Department and that the Minister determined that unions were not to be consulted on education matters. (Pascoe and Pascoe 1998 p. 13). This situation reflected the Minister's view that the unions were ideologically opposed to the reform and would not be prepared to contribute to its implementation.

2.4.2 Decentralisation

The principle of subsidiarity holds that decisions affecting individuals should be made as close as possible to those whose interests are affected. This allows improved efficiency and flexibility, increased choice and improved responsiveness. However, this principle must be balanced against government's desire for accountability, consistent quality and equity (in particular, equal treatment of clients with equal needs).⁶

Economies of scale associated with some activities also may mean that there is some minimum size unit below which decentralising those activities becomes inefficient.⁷ The Quality Provision strategy (under which schools deemed to be unable to provide an adequate curriculum were 'rationalised') was introduced to facilitate more cost-effective provision of a sufficiently broad curriculum by all schools (Quality Provision Taskforce 1993).

Economies of scale in school administration may help to explain why the first intake for the Schools of the Future program included many larger schools, and why more principals of larger schools than of smaller schools preferred the Schools of the Future arrangements (Cooperative Research Project 1998 p. 78).⁸ The Department noted that this was reflected in the overrepresentation of secondary schools — on average, larger and traditionally more independent-minded than primary schools — in the first intake for the Schools of the Future program.

⁶ Administrative and regulatory mechanisms affecting school autonomy in Australia are discussed in Caldwell (1998).

⁷ 'Economies of scale' refer to the situation where a large producer can provide a given level of services at a lower cost than can a number of smaller producers.

⁸ Queensland and the NT note that the range of school sizes, geographical placement and cultural diversity make it difficult to establish a single model for schools in their jurisdictions. Approximately 90 per cent of students in Queensland, for example, are enrolled in larger 'Leading Schools' with non-teaching principals, but almost half the State's schools are small schools whose principals also have teaching responsibilities (table 2A.7).

Decentralising the management of schools leads to several issues:

- Which areas of decision making should be decentralised and which should remain centrally determined?
- Is it appropriate to decentralise decision making to local officials or to devolve decision making to persons outside the bureaucracy?
- If decision-making powers are devolved to persons outside the bureaucracy, to whom should they be given?

Which areas of decision making to decentralise

The newly elected Victorian Government in 1992 inherited a school system that it considered was overly large, powerful and centralised (Caldwell and Hayward 1998, p. 22). The Department assigned staff to schools, handled much of schools' financial administration (although schools were responsible for the administration of cash grants), and provided regionally delivered support services (such as visiting teacher services for disabled students). There were minimal requirements for accountability to the State Government (inspectors and prescribed syllabuses were phased out in the early 1970s) and severe budget overruns.

The Schools of the Future program devolved certain decision-making powers to elected school councils, while delegating others to principals (who remain subject to Departmental direction) and leaving others centralised (or, arguably, transferring some decision making from schools to the centre).⁹

The program has decentralised many of the functions previously undertaken by the central bureaucracy. It has given school communities much greater responsibility for managing their resources with funds now allocated to each school under a global budget which covers all operating costs including salaries, curriculum expenses, maintenance and minor works.

The composition of school councils has altered in the process, and the influence of teachers and teacher unions has been reduced greatly. The number of Department of Education employees (including the principal) on school councils has been limited to no more than one third of the council membership,

⁹ School councils and principals in Victoria have a wider range of responsibilities than those in other jurisdictions. Principals in Queensland have a broad range of responsibilities, while in WA the Department retains control over most areas of decision making (table 2A.4).

thus increasing the influence of principals and parents. Previously, teachers (Department employees) tended to have a greater voice on school councils.¹⁰

Some decision-making powers have not been devolved because the Government believes that some decisions involve factors beyond the control or predictive capacity of the school. Decisions about capital works and maintenance of buildings and grounds beyond a designated financial limit, for example, remain the responsibility of the Department.¹¹

It has been argued that the traditional roles of schools and the administrative centre have been reversed in some areas. Townsend argued that the centre in the past oversaw staffing and finance, while the schools, through teacher dominated school councils, were responsible for their own educational policy and teachers were heavily involved in developing, implementing and assessing curriculum. Now schools are responsible for allocating resources, but the State Government is more involved in determining specific educational objectives such as literacy, learning technology and civics education, and the Department is taking greater responsibility for curriculum and assessment (Townsend 1997, p.210) (box 2.3).

The Victorian Government has acknowledged that greater devolution is possible in several areas of decision making and may be desirable for some schools. It announced further reforms in March 1998 as a result of the Schools of the Third Millennium Taskforce. Stating that ‘one size does not fit all’, the Department noted that:

... the Schools of the Future model may be appropriate for many, perhaps even most schools, and they would continue to be encouraged and supported in the self-management given to them by that model ... Some schools, however, are in a position to take the extra step to self-governance. (Education Victoria 1998, p. 3)

Box 2.3: Centralisation of curriculum and educational objectives

Before the Schools of the Future program, individual schools and teachers had greater scope to determine curriculum and priority learning areas within broad departmental

¹⁰ Councils are compulsory in most jurisdictions, but differ significantly in composition. In most jurisdictions, there are limits on staff representation to between one third and one half of the council. In some jurisdictions (Queensland, WA), ‘staff’ refers only to teachers at a particular school. In other jurisdictions (the NT, Victoria), it includes any employee of the education department (table 2A.3).

¹¹ School councils control the management of capital grants for major upgrades after Departmental approval of a proposal.

guidelines. Under Schools of the Future, the Department imposed more detailed and prescriptive guidelines through the curriculum and standards framework and set specific educational objectives to be pursued by all schools.

Curriculum

The Board of Studies developed a curriculum and standards framework for the eight Key Learning Areas (Mathematics, Science, English, the Arts, Languages other than English, Technology, Studies of Society and Environment, and Health and Physical Education). The frameworks covered curriculum content (in seven different levels to be attained over eleven years of study) and the learning outcomes for students for each of those levels. Related course advice and support materials were developed to assist the implementation of the curriculum and standards framework. The Board of Studies was also responsible for the VCE, a two-year (years 11 and 12) completion certificate.

Specific educational objectives

The Victorian Government allocated \$52 million over two years (about \$20 for each primary student each year) to the Keys to Life literacy program in September 1995, and a further \$50 million for another two years in 1998. In 1996-97, SOFNet (an interactive educational television service) broadcast more than 700 hours of curriculum and professional development programs, including Science and Technology Education in Primary Schools (STEPS) and Primary and Secondary Access to Languages via Satellite (PALS and SALS), accompanied by classroom support materials linked to the CSF. The Government also developed programs and strategies aimed at gifted students, Koorie education, gender equity, students with disabilities and impairments, counter-racism, languages other than English, multicultural education, English as a second language, physical and sport education, drug reform and youth development.

Source: Department of Education (1997b).

Victorian Government schools will be able to apply (from the 1999 school year) to join a self-governing schools program under which the school council (rather than the Department) will be the direct employer of all staff (including the principal) and the school will be able to enter external financial partnerships. Self-governing schools will continue to be funded under the existing school global budget system, but will be required to enter into an 'educational service agreement' with the Secretary of the Department that sets out expectations about performance, curriculum and workforce plans. It is anticipated that only a small number of schools will wish to become self-governing, at least initially (Education Victoria 1998, p. 6). The economies of scale associated with increased self-governance may make it mainly suitable for larger schools, multi-site schools or 'clusters' of smaller schools acting in concert. This level of

devolution for self-governing schools is close to that adopted in ‘charter schools’ overseas, although charter schools also are freed from curriculum and staffing restraints (box 2.4).

Box 2.4: Charter schools

Charter schools are publicly owned and financed, but are self-governed under the terms of a performance contract. They allow any qualified group to start schools free from regulatory and administrative constraints governing curriculum, teaching methods and the hiring of staff. The schools, in exchange, are held accountable for student performance through a performance contract with the education authority.

The United Kingdom and New Zealand have used charters mainly as a tool for managing government schools within the existing framework of public education. Charters in the United States have been used to establish new schools. Arizona allows any public body, private person or private organisation to organise a charter school, which is exempt from all State and local controls (except those regarding health, safety, civil rights and insurance) and is not required to hire certified teachers.

Source: Gannicott (1997).

To delegate or devolve management

A policy of decentralisation may be pursued either by delegating decision-making power to local branches of the bureaucracy or by devolving that power to people or institutions outside the bureaucracy.

Delegation — whereby the central government redistributes administrative responsibilities by creating semi-autonomous agencies — may be appropriate where:

- there is great diversity in input markets and the central agency does not have sufficient information to operate most efficiently; or
- policy making can be separated from policy administration.

Devolution — whereby persons outside the bureaucracy exercise decision-making power — may be appropriate where:

- non-government provision is a more efficient/effective use of government resources;
- preferences as to various aspects of the service vary widely and even local branches of the central agency are unlikely to be able to offer sufficient choice or flexibility; or
- client groups mistrust the bureaucracy.

The Schools of the Future reform has been promoted as a major exercise in devolving decision-making power to persons outside the bureaucracy. Local school communities, through restructured school councils, were given decision-making powers previously exercised by the central authority (see chapter 6 for a list of key issues in delegating or devolving decision-making powers).

Councils now have responsibility for:

- developing the school charter;
- developing the education policy of the school;
- appointing the school principal (with the Department);
- employing non-teaching staff;
- developing a student code of conduct;
- reporting to the school community and the Department;
- managing school funds;
- contracting for services such as financial and student services and school cleaning; and
- contracting for minor repairs and maintenance work and managing capital grants for major capital work (after Departmental approval).

The role of the principal has expanded significantly under the Schools of the Future program. The principal serves as the executive officer of the school council and is responsible for implementing its policies.

Given that the Department is involved in selecting (with school councils), assessing and remunerating principals, it has been argued that the principal is part of the central authority rather than being outside the bureaucracy.¹² This may create a certain amount of tension because the principal reports to both the school council and the Department, which may have differing and conflicting objectives.¹³

The Department recognises that there is potential for tension between the principal and the Chair of the school council, but considers that the balance of responsibilities is analogous to that between the Managing Director and Board of a company. Caldwell and Hayward (1998, p. 55) stated that ‘there have only

¹² The principal is selected by a panel comprising two Department of Education representatives (usually principals) and two school council members.

¹³ Under the self-governing schools program, school councils will select and monitor the performance of principals.

been one or two instances where a dispute has occurred between the principal and the school council that has required the intervention of the Minister'.¹⁴

2.4.3 Human resources issues

The reform exercise has changed the roles of principals and school councillors. This created significant adjustment issues. There were several options for dealing with human resources issues. The Government could have allowed those already in the roles to 'sink or swim', then replaced those who failed or left the system. Alternatively, the Government could have supported those already in the roles through training, guidelines, transitional assistance, bureaucratic support and/or support networks. Another alternative would have been a 'spill' of all positions, to ensure that all position holders had the required skills and abilities.

The Victorian Government chose the second option for implementing the Schools of the Future program. It has funded additional professional development for principals, teachers and school councillors and put schools through a six-month induction program as they joined Schools of the Future. Funding for training school councillors has totalled more than \$1.6 million since 1992. Professional development for principals has included areas related to the global budget, leadership and management. Administrative staff have undertaken programs to improve their understanding of the new computer system and the global budgeting process (including personnel management). Teachers have been involved in programs related to curriculum leadership in response to school charters. School councillors have been helped to understand the implementation of Schools of the Future, particularly in terms of developing school charters. The Government has spent an additional \$2.2 million on professional development for Schools of the Future over three years, plus \$8.8 million to be included in school global budgets for teachers' professional development.

Further, the CASES computerised administrative system, installed in all schools to assist with management functions, also aids central monitoring because it is electronically linked to the information technology systems of the Department.

¹⁴ In several jurisdictions principals report to both the Department and the school council, although the Department is always responsible for assessing principals' performance (table 2A.5).

Principals

The Department identified principals as critical to a successful implementation, and has taken particular care to engage principals with the reform. Devolution has made the role of school leadership a more complex, difficult and responsible task. This has affected existing principals — some have been happy to embrace the new roles created by the program; others, unhappy with the nature of the reform, have moved to alternative employment, returned to teaching or taken on the new role unwillingly.

There was a relatively high turnover of principals during the period in which the Schools of the Future was introduced, allowing a critical mass of new appointees for effective cultural change to take place.

A study of principals' perceptions found that the workload for principals had increased from an average of 56.8 hours to 59 hours per week between 1993 and 1995, with 81.5 per cent working between 50 and 69 hours. Job satisfaction had decreased from an average of 5.3 (on a scale of 1 to 7) to 4.3. Despite this, 88 per cent of primary principals and 94 per cent of secondary principals in 1996 indicated that they would not wish their schools to return to pre-Schools of the Future arrangements (Cooperative Research Project 1998).

Recognising the additional workload and responsibilities associated with the reform, the Department provided a number of incentives for principals to embrace the Schools of the Future program. School councils were restructured to increase the role and influence of parents relative to teachers.¹⁵ Principals were given the ability to hire their own staff and to manage a much greater proportion of their own budgets. They were granted freedom from many of the regulations of the central bureaucracy (within clear expectations of standards). Increased accountability requirements and enhanced managerialism were offset by a new career structure (implemented in 1994), professional development, improved remuneration, administrative support, and funding for information technology (Pascoe and Pascoe 1998, p. 12). The principal class has received a pay increase of 17.1 per cent since 1992. Further, principals are eligible for performance bonuses of up to 15 per cent of their salary if they meet the targets

¹⁵ There was a perception that teachers' unions dominated decision making. The Minister for Education during the Schools of the Future reform described principals at the time as 'captives of teacher union officials, who could veto their decisions' and said that 'local union dominated committees could veto any decision by a school principal' (Caldwell and Hayward 1998, pp. 22, 73).

of an annual performance plan. The Department has budgeted for an average 8 per cent bonus.¹⁶

The Department also has developed an ongoing support structure for principals. Sixty District Liaison Principal positions were created to provide advice and assistance to principals. (These District Liaison Principals have since been replaced by 41 Regional Principal Consultants.)

The Australian Principals Centre was established in 1995 to provide professional support for school principals and assistant principals. It operates as a partnership between the Victorian Association of Secondary School Principals, the Victorian Primary Principals Association, the University of Melbourne and the Victorian Department of Education.

Further, the Department has published a set of four *Guides to establishing best practice teaching support function*, covering:

- models for management and administration;
- ways to improve teaching support service delivery;
- strategies to improve effectiveness; and
- ways to plan for in-house efficiency (Department of Education 1997a).

Teachers

The Department has introduced a Professional Recognition Program (PRP) for teachers. It aims to:

- provide a working environment that encourages and rewards skilled and dedicated teachers;
- encourage the further development of an ethos that values excellence and high standards of achievement; and
- provide formal feedback on performance so appropriate career development may occur through professional development and other means.

The Professional Recognition Program offers teachers an enhanced pay and career structure, but requires leading teachers to create an annual performance plan and requires all teachers to undergo an annual performance review and agree to promotions based on assessed merit rather than seniority.¹⁷

¹⁶ Only Victoria and Tasmania offer performance bonuses (table 2A.5).

¹⁷ Only Victoria and SA directly link teacher pay and career to performance assessment. Most jurisdictions have merit based promotion, but many retain automatic annual salary increments (table 2A.5).

Workforce management

The Department introduced workforce management to selected schools under the title ‘full staffing flexibility’ in 1995, extending it to all schools in 1997. It requires principals to manage their human and financial resources within their school global budget allocations.

Workforce planning is an integral part of the process, with each principal having to complete a workforce plan that demonstrates how the school will manage its workforce over at least a three-year period. The principal must determine (within guidelines) the desired number and mix of positions (classification level and term of tenure), accounting for school charter goals and priorities, legislative or award requirements, Statewide curriculum or other guidelines, and funding available in the school budget.¹⁸

According to the Department and surveys of principals, the introduction of full staffing flexibility has been one of the most difficult implementation issues (Corporate Research Project 1998). The simultaneous introduction of the reform with significant reductions in the education budget and the early return to work of many teachers from long service leave (partly resulting from concerns about the impact of the reform on job security) meant that many schools were ‘overstaffed’ according to the funding guidelines. The ability of schools to choose their own staff was restricted because ‘excess’ staff (still employed by the Department) were granted priority for placements in schools seeking additional staff.

The staff funding formula adopted to minimise the adjustment costs associated with restructuring the level and mix of teacher positions also created some perverse incentives in workforce planning. The Department originally intended to fund schools at an *average* teacher salary and to allow schools to select their own mix of staff within that budget. However, because schools had existing workforces that they could not readily change without incurring very high redundancy costs, schools are *nominally* funded on an ‘averages in’ and ‘averages out’ basis but the Department pays teachers according to their *actual* salaries.

¹⁸ Principals cannot implement any arrangements that breach provisions of relevant awards; for example, the *Teachers’ (Victorian Government Schools Conditions of Employment) Award 1995* regulates teacher workload provisions. The full staffing flexibility guidelines recommend a mix of approximately 70 per cent ongoing and 30 per cent fixed-term employment to meet enrolment fluctuations or other contingencies (Education Victoria 1997).

The practical effect is that schools with less experienced staff (on below-average salaries) effectively subsidise schools with more experienced staff (on above-average salaries). That is, the *actual* salaries of teachers at schools with less experienced staff are less than the *nominal* amount credited to the school for salaries, while the *actual* salaries of teachers at schools with more experienced staff are greater than the *nominal* amount credited to the school for salaries. Further, schools employing new teachers have no incentive to consider cost, but are encouraged to employ the best (and most likely highest cost) teachers available.

Teachers' unions have expressed some concerns about the arrangements for workforce planning, but these are disputed by the Department (see comments in parentheses):

- initially, future salary increases for teachers were conditional on teachers joining the Professional Recognition Program (*The Industrial Relations Commission ruled in 1996 that all teachers should be eligible for salary increases.*);
- because the principal of the school determines which teachers, if any, are to receive promotion, favouritism may occur (*Merit-based selection applies, including a mandatory selection panel, and promotions are subject to Merit Protection Board review.*); and
- schools must pay for promotions from within their global budget, so there may be a tendency to hold back promotions to save the school money (*Each school is required to provide a minimum number of senior or promotion positions and the minimum rule has not been necessary in practice. Schools now have more people in promotion positions than required by the rule, and more than under the previous arrangements.*).

2.4.4 Funding arrangements

Each school under the Schools of the Future program receives a school global budget for all school-based costs, including staff salaries and on-costs, operating expenses and school maintenance. The budget comprises a base element per student enrolled at the school plus an additional amount for each student likely to be subject to specified educational disadvantages (box 2.5). There is no explicit allowance for economies of scale (although rural schools, which typically are small, receive additional funding).

Box 2.5: The school global budget
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The school global budget includes six components:

- core funding (at least 80 per cent of the total budget);
- additional funding for students with disabilities and impairments;
- additional funding for students at educational risk;
- additional funding for students from non-English speaking backgrounds;
- additional funding for rural location (depending on size and isolation); and
- additional funding for specific programs such as:
 - science and technology
 - professional development
 - instrumental music
 - languages other than English
 - physical and sport education
 - arts in Australia.

Source: Directorate of School Education (1994b, p.6).

Funding arrangements help to define the relationship between the central authority and the decentralised manager. A first step in funding is to identify the outputs or outcomes that are to be funded. A school's unit of output could be categorised as a year of school services for a student. This definition could be further refined to deal with the situation where a year of schooling for a student with a particular learning disadvantage may require different inputs and may be a very different output from a year of schooling for a 'typical' student. Identifying the factors that influence the cost of providing school services will help to define the different outputs. The main cost driver is teachers' salaries, which in turn reflect the number of students. Other cost drivers may include the education level (primary or secondary), school characteristics such as location (urban, rural or remote), age and size, and student characteristics (such as non-English speaking background or socioeconomic status).

Once factors that influence the cost of the service are determined, the funding arrangements can establish the appropriate cost relativities to ensure equitable opportunities for students who are more costly to service than the average student. The Department can then monitor the characteristics of each school and the characteristics of its students and fund the school according to those characteristics (see chapter 6 for a list of key issues in directly linking funding to performance).¹⁹

¹⁹ Different proportions of school funds are distributed according to a funding formula in different jurisdictions (from 11 per cent in WA to 90 per cent in Victoria and Queensland),

A transparent and predictable funding formula allows schools to plan ahead and allows for informed discussion of the appropriate funding necessary to provide services to students with particular characteristics. As the Department obtains better information about cost drivers or as new cost drivers (such as developments in educational techniques) emerge, it may be necessary to modify the formula but to recognise that this will affect the ability of schools to plan.²⁰

There are numerous ways of determining cost drivers and their relationship to total cost, including:

- allocating current budgetary allocations for special purposes among students with a particular need on a *pro rata* basis. However, there is no guarantee that existing programs are appropriately funded;
- surveying students with a particular learning need to assess the resources required to compensate for that need. Such surveys could be undertaken locally, or the Department could rely on overseas or historical studies; or
- adopting or adapting an existing funding formula such as the Commonwealth Government's funding formula for private schools.

The Department developed the Schools of the Future funding formula using a combination of the first two methods. To minimise the adjustment costs at the school level, the Department made a commitment that no school would be worse off under the funding formula. Additional funding was provided to ensure that funding under the formula at least equalled previous funding levels.

During a two-year research and cost-modelling exercise, an Education Committee (chaired by Professor Brian Caldwell) developed a series of educational principles that underpinned the development of the school global budgets:

- educational pre-eminence is the single most important factor in determining the structure of school global budgets;
- the allocation of school global budgets should be fair — that is, schools with the same mix of students with similar learning needs should receive the same total resources;
- the arrangements and structure of school global budgets should be easily understood by every school;

and different proportions of those funds vary according to school and student characteristics in different jurisdictions (from 90 per cent in Queensland to 45 per cent in Tasmania) (table 2A.8).

²⁰ Issues in output-based funding are discussed more fully in the case study into casemix funding of public hospitals in Victoria (SCRCSSP 1997b).

- only decisions that cannot be made locally should be made centrally;
- schools should be accountable because they obtain more flexibility and responsibility; and
- new arrangements should be introduced strategically to minimise disruption (Education Committee 1995).

The Caldwell Education Committee proposed two further principles — efficiency and effectiveness.

Other sources of funding

Government policy affects schools' access to sources of funds other than government funding. Policy options include allowing schools to raise money from parents through voluntary or compulsory fees and levies, or from sponsorship arrangements with private businesses. Government could allow schools complete freedom or could restrict external fund raising by setting an overall cap or not allowing some options (such as compulsory fees). Further, government funding levels could be linked to perceived fund-raising capacity.

Victorian schools may levy 'voluntary fees and charges' and may seek sponsorship and community support for purposes consistent with the school charter. Schools may charge levies to enhance the available curriculum, but the Department has stated that any levies are voluntary and that a school cannot deny a student participation in a subject because they have not made a contribution. School councils may enter into financial contracts, including sponsorship, for purposes consistent with the school charter.²¹

Concerns remain that higher voluntary contributions in schools in richer suburbs allow their students to choose from a wider range of options and facilities than are available to students in poorer suburbs (The Smith Family 1998). The Department commissioned a study which demonstrated that the reduced capacity of schools in areas of social and economic disadvantage to raise local funds is more than offset by the additional government funds provided to disadvantaged students via increased funding in school global budgets according to the Special Learning Needs (SLN) index characteristics of their students (table 2.1) (RMIT University Business 1997). The Department also noted that the use of averages disguises the different fund-raising capacities of schools — schools can do well or poorly in fund raising irrespective of the SLN

²¹ Government funding meets, on average, 96 per cent of total operating costs (salaries plus operating expenses) of State Government primary and secondary schools. Local funds meet the remaining 4 per cent (RMIT University Business 1997).

characteristics of their students. Further, locally raised funds are only a small proportion of total school funds (around 4 per cent on average).

Table 2.1: School funds (\$ per student)

	SLN1 ^a		SLN2 ^a		SLN3 ^a	
	Primary	Secondary	Primary	Secondary	Primary	Secondary
Government funds	3574	4722	3963	5100	4192	5677
Local funds	204	248	118	236	115	131
Total funds	3778	4970	4081	5336	4307	5808

a The SLN (Special Learning Needs) index reflects the characteristics of a school's students such as the proportion of students who speak a language other than English at home and the proportion of families receiving the Education Maintenance Allowance or Austudy. The schools grouped in SLN3 have a higher degree of disadvantage than have those in SLN2, and SLN2 schools have a higher degree of disadvantage than have schools in SLN1.

Source: RMIT University Business (1997).

2.4.5 Measuring school performance

Many interested parties assess the services delivered by schools. Under the Schools of the Future program:

- teachers assess individual student performance as part of the learning and teaching process;²²
- parents assess how their child is performing relative to other students in the same school and students in other schools, and how the school as a whole is performing relative to other schools in the same area and against Statewide benchmarks;
- the principal and school council assess the school's performance relative to previous years and against Statewide benchmarks and 'like' schools; and
- the Department assesses the performance of individual schools over time, relative to schools with similar characteristics and against Statewide benchmarks. The Department also assesses the performance of the system as a whole.

Each of these levels of assessment is important, but the focus of this case study is on arrangements for assessing school and system performance. The Department and Victorian Government are ultimately responsible for the efficiency and effectiveness of the government school system, even where

²² All jurisdictions have agreed to implement external assessment of years 3 and 5 students against national benchmarks in literacy and numeracy (table 2A.5).

significant decision-making powers are devolved to the local level. They therefore have an interest in ensuring schools are accountable for both their financial management and their effectiveness in providing schooling services.

The Department imposes strict financial accountability requirements on schools, which allow it to monitor schools' financial positions (although schools have broad decision-making powers on how they allocate resources). The Department also has mechanisms to deal with budget overruns. Measuring school effectiveness in providing services (outcomes) is more problematical; it is difficult to estimate the 'value-added' which a school provides to a student.²³ Broad, systemwide outcomes (such as student learning) are the most important indicators of system performance. However, a range of intermediate outcomes and input measures provide useful partial indicators of performance. These partial indicators also may allow the Department to assess the contribution of different inputs to performance (for example, to assess the nature of any link between class sizes and learning outcomes). School councils and principals also can use the comprehensive information generated for school assessment to manage their increased responsibilities.

The Schools of the Future program measures school performance through the establishment of a comprehensive system of performance monitoring and feedback, called the accountability framework. It has several functions:

- to improve management by the principal and school council;
- to provide the major means of central supervision of schools;
- to increase transparency and public scrutiny;
- to increase incentives for improvement by allowing comparisons among schools and the identification of schools performing below their potential; and
- to provide measures that can be used to calculate student Tertiary Entrance Ranks for entry into tertiary studies.

The Department uses the curriculum and standards framework developed by the Board of Studies as the basis for the schools' accountability framework. Following trials in selected schools, the accountability framework was adopted in February 1997. It comprises three key elements:

²³ 'Value added' refers to measuring a school's direct contribution to student learning by removing the effects attributable to external factors such as students' prior learning, peer group influences and socioeconomic pressures — that is, whether a school educated its students below, up to, or above the students' potential.

- a school charter which formalises a school's goals and priorities over a three-year period;
- an annual report which informs the Department and the local community of the school's performance against its planned goals; and
- a triennial review consisting of self-assessment by the school and an external review (Office of Review 1997a).

The Department had to address several key issues when developing a performance assessment framework (see chapter 6 for a list of key issues in measuring and assessing performance):

- establishing goals and targets;
- choosing appropriate indicators;
- assessing performance; and
- publishing performance data.

Goals and targets

The Schools of the Future accountability framework assesses school performance against internal targets set as part of the school charter, and against external targets through comparisons with Statewide standards (the LAP and VCE) and benchmarking against other schools. Schools are also assessed on responses to surveys of parent and staff opinion (compulsory) and student opinion (optional).

The school charter, developed by the school council with the support of the principal, staff and the rest of the school community, is a key aspect of the accountability framework. The charter has a three-year timeframe and must be endorsed by the school council president, the principal and the Director of Schools before it takes effect. It is developed within guidelines issued by the Department of Education (box 2.6).

Box 2.6: Guidelines for school charters

A school charter contains four key elements:

- the school profile describes the school, its context, its educational and social values and beliefs, and its particular characteristics and identity;
- the school goals define the key purposes of the school and the improvement focuses that relate to its core operations: educational programs and outcomes, the school learning environment, and school financial and human resource management processes and systems;

- the school priorities define the school's strategic areas for sustained improvement, including a statement of intended outcomes; and
- codes of practice (including the student code of conduct) outline behavioural expectations and the contribution of the various groups making up the school community.

The key elements include the following components:

- a budget plan containing projected student numbers, income and expenditure;
- an accountability plan detailing the monitoring and reporting of performance; and
- an agreement by the school to commit to the terms and conditions of the charter, Ministerial Orders, the Education Act and regulations, and to meet the goals and objectives it has set itself.

Source: Office of Review (1997b).

The Office of Review publishes aggregate indicators for all schools and nine sub-groups of 'like' schools (compiled from school annual reports).²⁴ The Office of Review groups 'like' schools according to the proportion of families in a school who receive the Education Maintenance Allowance or Austudy, and the proportion of students who speak a language other than English at home. (Families receive the Education Maintenance Allowance when family income falls to a level at which they qualify for a Commonwealth Government Health Card.)

School performance averages and the distribution of results were published for the following indicators in 1997:

- student achievement in the VCE;
- student achievement in preparatory to year 10;
- time allocated to each Key Learning Area by year level;
- student absence rates;
- student post-school destinations (for exit years 10, 11 and 12);
- staff opinion;
- staff absence rates;
- staff participation in professional development;
- student accidents by location and severity; and

²⁴ The Office of Review refers to these averages as 'benchmarks'. However, for most indicators, they do not explicitly identify 'best practice' levels of performance (although these may be implied).

- student apparent retention.

The Office of Review stated that a school comparing any data should consider its own performance against past years' performance before comparing its performance with the averages. Continued improvement over time is regarded as the primary aim of any school improvement initiative. The Office of Review also provides a hierarchy or guide to the range of indicators: Level 1 data relate to student achievement; Level 2 data include opinion surveys, attendance, finance and destination data; and Level 3 data include enrolment, accidents and staff professional development (Office of Review 1997c).

Choosing appropriate indicators

The school annual report is the main instrument for assessment under the accountability framework for Schools of the Future. Each school's annual report includes statements concerning the level of student achievement, progress reports on school priorities, the results of surveys of parent and staff satisfaction levels, an audited financial statement, a report of the school council's stewardship of the school's assets and resources, and the school council's targets and priorities for the current year.²⁵

The key quantitative elements of the accountability process include teachers' judgements of students' progress and student performance in the LAP and the VCE.

The LAP assesses the progress of every primary student in years 3 and 5 against Statewide standards in English, mathematics and one other Key Learning Area each year. The Department plans to introduce an additional test of 'readiness to read' at the end of preparatory year in primary school.

External assessment of secondary students takes place through the General Achievement Test (GAT) (which attempts to measure a student's 'potential') and students' actual results from the final year of VCE studies. The combination of these assessments provides a proxy measure of the 'value added' by a school — that is, after accounting for students' innate ability, whether a school educated its students below, up to, or above their potential. The GAT is also used to provide a check on the distribution of student grades for school-based Common Assessment Tasks.

As yet, there is no external assessment of learning outcomes for secondary students who do not complete VCE (75 per cent of Victorian children stay at

²⁵ All jurisdictions require schools to provide some form of annual report, but the content varies greatly across jurisdictions (table 2A.6).

school until VCE). The Board of Studies is trialing a Victorian Secondary Assessment Monitor (VSAM) for years 7 and 9 students, and has tentatively broached an ‘end of compulsory schooling’ assessment for year 10.

Schools must report on qualitative goals of school education as outlined in their school charter (such as student welfare and social and cultural development) through compulsory surveys of teachers and parents and optional surveys of students. These surveys investigate views on the quality of service and teaching and learning conditions at the school.

The Auditor General found that the accountability framework provided a suitable foundation for measuring system and individual school performance, but suggested some improvements. The Auditor General expressed concern about the quality of some data collected at the school level, and about the expertise and understanding of those responsible for collecting and analysing the data. These may be short-run implementation issues, while teachers, principals and councillors become familiar with the information being collected.

There has been no comprehensive study of the cost of the accountability framework (Victorian Auditor General’s Office 1997). A general issue in performance monitoring is determining when the benefits of greater precision in data collection and analysis (for example, better decision making) are outweighed by the costs of collecting and reviewing the data. The development and implementation of an improved accountability framework can involve significant resources — the external review program in Schools of the Future currently costs \$1.8 million (out of a total education budget of \$2.6 billion). Further, there were costs associated with implementing the review program at the school level, although the Department believes that these costs would have been incurred as part of schools’ internal management systems. The Department estimates that the Victorian system costs \$5000–6000 per school review (including both Department costs and school compliance costs).²⁶

Assessing performance

The Schools of the Future assessment process has two key elements:

- each school must publish an annual report (based on the Department’s guidelines) in the first two years of a school charter; and

²⁶ No jurisdiction had made a formal costing of its assessment system, but estimates ranged from \$3000–4000 (Department cost only) per assessment in Queensland to \$6000 (Departmental costs only) per assessment in Tasmania and \$5000–6000 (Department and school costs) per assessment in Victoria (table 2A.6).

- these reports form the basis of the triennial review (in the third year of the operation of the school's charter) of the school's progress in achieving the goals and priorities of the charter.

There were several possible methods of review. The Government could have chosen self-review by each school, departmental review or external review by contracted reviewers.

The Department chose a combination of self-review and external review, driven by the systemwide 'benchmark' reports. Each school conducts a self-assessment according to Departmental guidelines using information collected for the school's annual report. An independent contracted reviewer, representing the Department, then verifies the self-assessment. The school uses the findings of the review to help frame its subsequent three-year charter.

The emphasis on self-review increases the number of people who must develop skills in collecting, analysing and interpreting data, and thus the cost of training. However, school councils which have developed these skills may apply them to their other tasks of policy development and evaluation at the school level. Other transitional challenges include ensuring that formal checks and balances are in place so performance data are accurate and complete.

Publishing performance data

Options for disseminating performance information include not publishing at all, publishing individual school annual reports and publishing a set of consolidated schools' results. Consolidated results may identify all schools in a 'league table' or present Statewide benchmarks. Results may be presented relative to all schools or relative to schools with similar characteristics (called 'like' schools in Victoria).

The Schools of the Future program requires schools to publish annual reports which are provided to parents and which are publicly available. The Department publishes annual school performance averages for all schools and for groups of 'like' schools. It provides information listing schools by student-teacher ratios, additional funding available for teaching staff, and total school global budgets on an *ad hoc* basis. The Board of Studies publishes a VCE achievement index and a tertiary preparation index (a measure of a school's 'value adding') by school.²⁷

²⁷ All jurisdictions required schools to publish annual reports. Only Victoria and Queensland published all schools' averages; Victoria, Queensland and Tasmania published 'like' schools' averages (table 2A.6).

Not publishing the results of individual schools for all performance indicators reduces opportunities for direct comparison of schools. However, the Department argues that individual schools can compare themselves to the benchmarks to assess their relative performance and to set improvement goals, and that the relevant important comparison for most parents is between a small number of local schools (a comparison which is best made by comparing the suite of information in annual reports).

2.4.6 Measuring program performance

Improving the operation of a complex system, such as school education, requires systemwide indicators and evaluation in addition to that available for comparing and assessing the performance of individual schools.

The Department has chosen to fund independent reviews of different elements of the Schools of the Future reform and to make those evaluations public. A consortium monitored the Schools of the Future program over a five-year period to 1997.²⁸ The consortium undertook seven Statewide surveys of principals and seventeen research projects by postgraduate research candidates at the University of Melbourne (Cooperative Research Project 1994, 1995a, 1995b, 1996, 1997). Other research has examined the early literacy program and the global budgeting system. General findings about the implementation of the reform (as opposed to the reform itself) include concerns about the intensity and breadth of change, with suggestions that some teachers and principals have suffered from 'reform overload'.

Making the evaluations independent and public has exposed the Department and Minister to significant external scrutiny. The Department argues that this approach has facilitated the reform by creating the perception that it was confident that its approach was broadly right, and that it was prepared to listen and respond to suggestions for improvement.

Victoria is participating in a national literacy and numeracy benchmarking exercise being conducted under the auspices of the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA). This exercise will provide comparable information on learning outcomes under the various State and Territory school systems. However, this exercise has been subject to significant delays, so comparable information is not yet available.

²⁸ The Cooperative Research Project was made up of a consortium of the Victorian Primary Principals' Association, the Victorian Association of State Secondary Principals, the Department of Education and the University of Melbourne.

2.4.7 Managing underperforming schools

Improvements in the measurement of school performance should enable the Department and parents to better identify the level of performance of all schools, and to determine any that are ‘underperforming’.²⁹ Key issues in managing ‘underperforming’ schools are:

- setting the criteria for identifying underperforming schools;
- deciding whether underperforming schools should be publicly identified; and
- choosing and implementing remedial strategies designed to improve the performance of underperforming schools.

The Department does not use the term ‘underperforming’, but has adopted a philosophy of ‘continuous improvement’ of all schools through the accountability framework and school performance benchmarks. It attempts to identify those schools performing below expectations and judges schools against published performance averages in five key areas:

- student learning achievement (curriculum and standards framework, Statewide tests and student post-school destinations in exit years 10, 11 and 12);
- curriculum provision and participation (time allocated to the eight Key Learning Areas by year level and apparent retention rates);
- school environment (student absence and accident rates);
- management of staff (staff opinion survey, staff absence rates and participation in professional development); and
- financial and asset management (Office of Review 1997a).

Schools identified as performing below expectations relative to the Statewide average and/or ‘like’ schools are targeted for remedial action. The Department considers that currently 3–8 per cent of schools could be described as performing below expectations in some (but not necessarily all) key areas.³⁰

Several options exist for managing underperforming schools. These include:

²⁹ An ‘underperforming’ school is one that fails to produce educational outcomes that may be reasonably expected of it. For this reason, it is important that any assessment of a school’s educational performance take into account the level of resources and the school and student characteristics that may affect educational outcomes. It has been argued that it is not possible to measure educational standards over time and thus underperformance cannot be established against a benchmark or expected standard (Hill and Goldstein 1996).

³⁰ No jurisdiction has formal criteria for identifying ‘underperformance’, although this approach has been adopted in England (table 2A.7).

- employing the ‘name and shame’ strategy (identifying underperforming schools to create external pressure for improvement);
- providing resources and assistance (which may range from significant additional resources to strategic assistance to improve the use of existing resources);
- appointing a new leadership team (including the principal, other leadership positions and school council); or
- closing the school (which may be reopened on the same site as a ‘new’ school).³¹

Apart from dealing with salaries that are over budget, the Department has not announced any strategy for action by the Department, the principal or school council to deal with schools performing below expectations.

The Department does not believe that it would be constructive to publicly disclose schools performing below expectations, because this strategy would not resolve performance problems and could lead to unnecessary and rapid declines in enrolments. The Department also considers that a ‘name and shame’ policy would have to be tied to rigid criteria to identify such schools, rather than the existing more flexible approach.

To date, Departmental assistance to underperforming schools has consisted of additional support from regional management teams and some assistance in developing action plans for particular problems. The Department annually reviews this additional assistance and the school’s performance.

In addition to the desire to improve outcomes for students, a major incentive for the principal and teachers to address poor performance is to avoid the effect of any resulting decline in enrolments on the school budget. If salary expenditure exceeds a school’s global salary budget, the principal must develop a ‘deficit management strategy’ and, in consultation with the Department, may have to identify staff as excess to workplace requirements.

Principals have other performance incentives. They are appointed to contracts for up to five years, renewable for a further period of up to five years if

³¹ Funding in all jurisdictions is based to some extent on student numbers, but in some jurisdictions (for example, WA) this is not regarded as a tool for creating performance incentives. Some strategies are technically ‘available’ in all jurisdictions (for example, ‘name and shame’ and school closures) but are not used in Australia, although they have been used in England (table 2A.7).

performance has been satisfactory.³² A contract can be renewed again if the regional general manager agrees. Principals may receive performance bonuses of up to 15 per cent of their salary if they meet the targets in an annual performance plan. If performance is considered unsatisfactory, or if there is an allegation of misconduct, the Department can institute a process of investigation and review and appoint a new principal.

The Department is yet to close a school for poor performance, although in one instance it has removed a school council. It may be constrained from closing poorly performing schools by the need to retain reasonable levels of local access. Under the Quality Provision program, the Department closed around 300 schools between 1992 and 1996. Closures were based on the capacity of schools to provide an adequate curriculum, not for reasons of performance.

2.5 Future issues

School-based management is a relatively new phenomenon. There has not yet been a group of students which has progressed through the reformed school process from start to finish. Therefore, there is a lack of research evidence about the impact of restructuring on final outcomes. However, indicators such as those in the accountability framework and the Cooperative Research Project provide emerging evidence about the effect of the reform.

Educational attainment relies on a complex interaction of factors, and it is difficult to establish a clear causal relationship between any program of reform and improved outcomes. The Victorian Auditor General's Office (1997) recommended continued research into value-added concepts, so as to include these in the accountability framework.

2.6 Conclusions

The principle of subsidiarity holds that efficiency and flexibility can be improved if decisions are made at the closest possible level to those whose interests are affected. The Victorian Government aimed to put this principle into practice when greater decision-making powers were decentralised as part of the Schools of the Future program. The following broad lessons about

³² In the first year of a principal's contract, a whole-day assessment by external consultants follows the induction period. Subsequently, an annual review is conducted by the regional manager.

implementing devolved decision making can be drawn from the Victorian experience.

A fundamental issue is determining who should make the decisions about *what* mix and level of services to provide. A separate issue is determining who should make the decisions about *how* those services are provided. The Schools of the Future program centralised aspects of curriculum and performance assessment (arguably, decisions about *what* should be provided) and enabled school communities to control a greater proportion of their budgets and to determine the school charter (decisions about *how* school services would be provided).

There are practical limits to decentralisation. It allows improved efficiency and flexibility, increased choice and improved responsiveness, but these benefits must be balanced against the need for accountability, consistent quality and equity, and the transaction costs associated with the implementation of the reform. The Schools of the Future reform gave school communities greater decision-making powers, but it also imposed greater accountability requirements which required extensive training of councillors, principals, teachers and staff and school compliance costs. In addition, economies of scale may mean that the costs of decentralising some activities outweigh the benefits. The Schools of the Future program was implemented after the Quality Provision program rationalised the pool of schools to those deemed able to provide an adequate curriculum under the new arrangements.

A policy of decentralisation may be pursued either by delegating decision-making power to local branches of the bureaucracy, or by devolving that power to people or institutions outside the bureaucracy. *Delegation* may be appropriate if the making of policy can be separated from its administration; if there is great diversity in input markets; or if the central agency does not have sufficient information to operate most efficiently. *Devolution* may be appropriate if non-government operators of a service can make more efficient or effective use of government resources; if client preferences vary widely and even local branches of the central agency are unlikely to be able to offer sufficient choice or flexibility; or if client groups mistrust the bureaucracy.

The Schools of the Future program gave greater responsibilities to both school principals (who answer to both the Department and the school councils) and to school councils (which are largely independent of the Department). School councillors and principals received training and support during implementation to minimise adjustment costs.

The program ties school funding to outputs. The Education Committee developed a funding formula designed to provide equal educational opportunity

for all students, with funding related to both the number of students and the characteristics of the students and school.

Schools were made more accountable to reflect their increased flexibility and responsibility. Teachers, principals and schools were subject to more rigorous performance monitoring, and more information became available at the system level. The accountability framework allowed 'underperformance' (relative to both all schools and 'like' schools') to be identified, so additional support and strategic assistance could be provided (although no formal strategies have been established to deal with 'underperformers').

The case study summarises the approach by the Schools of the Future program to implementing devolved decision making. Drawing on the experiences of this and other case studies, the Steering Committee has identified some key issues common across jurisdictions and service areas (see chapter 6).

2A SURVEY OF DECISION MAKING IN GOVERNMENT SCHOOLS

This attachment provides information on the different approaches to the distribution of decision-making power in government schools around Australia. Although the Victorian Schools of the Future program is the focus of the devolution case study, this is not meant to suggest that any particular approach is necessarily 'best' or that devolution is the priority in all jurisdictions. The information covers:

- government schools in context;
- the structure of school councils;
- the extent of decentralisation of decision making;
- human resources issues;
- funding arrangements;
- performance measures; and
- management of underperforming schools.

The Steering Committee Secretariat collected information from the relevant department in each State and Territory using a standard survey. Readers should note that the broad nature of some of the questions has required the simplification of often complex arrangements. The explanatory text and footnotes should be read in conjunction with the summary tables.

2A.1 Government schools in context

School education is provided by both government and non-government schools. Nationally, there were about 2.22 million government and 920 thousand non-government full-time school students in 1996. The focus of this appendix is on government schools, which educated 74 per cent of primary students and 66 per cent of secondary students in 1996.

School education is one of the largest areas of State and Territory government expenditure, with government schools accounting for the majority of this expenditure. The Commonwealth Government also plays a role in funding schools. Commonwealth, State and Territory Governments spent a total of \$12.1 billion on government schools in financial year 1995-96, and \$2.8 billion on non-government schools in calendar 1996 (SCRCS SP 1998). Government

expenditure per full time student was higher for government schools than for non-government schools in all jurisdictions (table 2A.1).

Table 2A.1: Government recurrent expenditure — government schools, 1995-96, and government grants to non-government schools 1996 (\$ per student)

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Aust</i>
Government schools	5122	4807	5030	5063	5115	5211	5587	7308	5063
Non-government schools	3097	2797	3145	3212	2899	2893	3120	4650	3025

Source: MCEETYA 1996

The proportion of the population at school and the breakdown of student numbers between government and non-government schools and between primary and secondary schools varied across jurisdictions in 1996 (table 2A.2).

Table 2A.2: All schools, all jurisdictions, 1996

	<i>Units</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Aust</i>
All students as % of the total population	%	17.2	17.1	16.9	17.4	16.6	17.8	20.0	20.0	17.2
– Government	%	12.3	11.4	12.3	12.7	12.0	13.2	13.0	15.6	12.1
– Non-government	%	4.9	5.7	4.6	4.6	4.6	4.5	7.0	4.4	5.0
Primary students as % of the total population ^a	%	9.9	9.6	10.3	10.7	10.9	10.0	10.7	14.1	10.1
– Government	%	7.3	6.7	7.9	8.3	8.1	7.6	7.3	11.4	7.5
– Non-government	%	2.6	2.9	2.3	2.4	2.7	2.3	3.4	2.8	2.6
Secondary students as % of the total population ^a	%	7.3	7.5	6.6	6.7	5.7	7.8	9.3	5.9	7.1
– Government	%	5.0	4.7	4.3	4.5	3.8	5.6	5.7	4.3	4.7
– Non-government	%	2.4	2.8	2.3	2.2	1.9	2.2	3.5	1.6	2.4
Part-time students as % of secondary students in government schools	%	0.6	1.0	3.7	5.7	10.1	9.3	0.1	11.5	2.7

^a In NSW, Victoria, Tasmania and the ACT, year 7 students are classified as secondary. In Queensland, SA, WA and the NT, year 7 students are classified as primary.

Source: SCRCSSP 1998.

2A.2 Structure of school councils/boards

Table 2A.3: School councils/boards

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>
Compulsory	no	yes	no ^a	yes	yes	no	yes	yes
Principal/Head Teacher member	yes	yes	yes	yes	yes	yes	yes	yes
Other department appointees	no	no	no	no	no	no	no	no
Parent electees	yes	3–13 ^b	1–6	open	1–19	open	3–6	3–12
Staff electees	yes	1–5 ^b	1–6	open	1–3	open	1–3	1–6
Limits on staff members	yes ^c	yes ^b	yes ^d	yes ^e	yes ^f	yes ^g	yes ^h	yes ⁱ
Co-opted members	no	yes ^j	yes ^k	yes ^l	yes	yes	no	yes ^m
Other members	yes ⁿ	no	yes ^o	yes ^p	yes ^q	yes ^r	no	yes ^s
Term of office (years)	—	2	2 ^t	1	1–2 ^u	2 ^v	1	2 ^w
Limits on size of council	no	6–14	5–15	no	5–23	no	7–10 ^x	5–24
Equal voting rights	yes	yes	yes ^y	yes	yes ^z	yes	yes	yes

— not applicable

a Compulsory for schools in the Leading Schools program.

b Elected members are voted for by a single electorate made up of parents and staff. Education Department employees may make up a maximum of one third of a council's members.

c Principals and staff members are not eligible to be president of the council at the school where they work. Parents and members of the community must make up the majority of the members of the council. No one group can be so large as to outvote all the rest.

d The number of staff members (employed at that school) must be less than or equal to the number of parent members.

e The number of staff members (employed at that school, not counting the principal) must be equal to the number of parent members.

f Schools with up to 60 students have no staff representative (excluding the principal). Schools with 60–300 students may have one staff representative; schools with 300–600 students may have two staff representatives; and schools with over 600 students may have three staff representatives.

g School staff plus principal must be less than 50 per cent of the total membership.

h Staff are limited to three members (two members in a 'small' school).

i Teachers who teach at the government school for which the school council is established, elect their representatives to council. The number of members of the school council who are teachers teaching at, or the head teacher of, any government school (but not including the head teacher of the school) must not be more than one third of the number of members of the school council.

j General community members may be invited to join and others may be appointed to fill casual vacancies.

k Up to two people may be invited to join and others may be appointed to fill casual vacancies.

l Some councils may co-opt non-voting members to advise the council.

m A school council may invite any one or more of the following persons to be a member of the school council: not more than three persons who the school council considers to have special qualifications, knowledge or experience which will be able to assist the school council in the exercise and performance of its functions by the giving of information and advice; the member of the Legislative Assembly for the electoral division in which the government school is situated; one person nominated by the municipal or community government council for, or any other body performing functions of local government in the area in which the government school for which the school council is established is situated. A school council must not invite a person who is an employee within the meaning of the Public Sector Employment and Management Act who is employed as a teacher (including head teacher) in a school to be an invited member.

n Some councils include student members.

o In high schools, two year 10, 11 or 12 students may be co-opted. In primary schools, one year 7 student may be co-opted.

p Student members are optional in secondary schools.

q Councils may include their local Member of Parliament or a local government representative.

r Some councils include student members.

s Other members: Where the government school is a school providing primary education which has a pre-school organisation, a member of the pre-school organisation. Where the government school provides secondary education and the constitution of the school council provides for student representation on the school council, not more than two students elected to office by students who attend the school from amongst themselves. Under regulation 15, the head teacher may request the school secretary or registrar to act as either secretary or treasurer or both to the school council. Under this arrangement the school secretary or registrar is not a member of the school council.

t Members are elected for two year terms. Student members are co-opted for one year

u Staff representatives are elected for one year and parent representatives are elected for two years.

v Members are elected for two years. Student members sit for one year. Members co-opted to fill vacancies usually sit until the next election.

w Elected members of the school council: two years — except for pre-school representative which is for one year. Appointed members of the school council: Principal — for duration of contract/employment. Co-opted members of the school council — up to two years.

x A secondary school board may have a maximum of ten members, a primary school board may have a maximum of nine members. 'Small' schools may have a minimum of five members, all other schools may have a minimum of seven members.

y All members except student appointees have equal voting rights.

z Members of Parliament or local government representatives on secondary school councils have full voting rights. These representatives on primary councils have observer status only and do not vote.

Table 2A.4: Major responsibility for decision making — curriculum and standards, and human resources

<i>Area of decision making</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>
Curriculum and standards								
Develop broad educational policy	D	C	D	D	D	D	DC	D
Identify education priority areas:								
– at system level	D	D	D	D	D	D	D	D
– at school level	C	C	C	C	CPT	C	CPT	CPT
Establish course content	D	PT	D	DPT	PT	T	PT	D
Define expected student achievement	DPT	D	DCPT	DPT	DPT	C	DPT	D
Decide methods of teaching	PT	PT	DPT	T	PT	T	PT	PT
Human resources								
Select principal	DC ^a	DC	DC	DC	DC	D	DC	DC
Employ principal	D	D	D	D	D	D	D	D
Choose staff mix	D	P	CPT	DP	P	P	DP	DCP
Manage staff budget	D	P	P	D	P	D	DP	DP
Select permanent teachers	DC ^a	P	P	DP	DPT ^b	D	DP	DCP ^c
Employ permanent teachers	D	D	D	D	D	D	D	DC
Determine teacher workload	DP	D ^d P	P	DP	DP	D	DP	PT
Select temporary teachers	D	P	P	DP	DPT ^b	P	P	DP
Employ temporary teachers	D	DC ^e	DP ^f	D	D	D	DP	DC
Select non-teaching staff	DC	P	P	P	DC	P	P	DCP
Employ non-teaching staff	D ^a	C	D	D	D	D	D	DC
Administer personnel functions	D	P	D	DP	P	D	D	DP

D = Department (or other central agency); C = school council (or board); P = principal (or head teacher); T = teachers. Other mechanisms, such as school parent organisations and teachers' unions, which permit input from parents and the community, are not included in this table.

a Selection panels for principals and permanent teachers include a parent or community representative (nominated by the school parent organisation and endorsed by the school council president). Selection panels for principals also include a teacher representative nominated by the Teachers' Federation. Selection panels for non-teaching staff include a parent or community representative who is not an employee of the Department.

b School choice positions (approximately 10 per cent of staff) are selected by a panel including the Principal and Staff representatives. Other positions are appointed by Departmental transfer.

c School councils' involvement in the selection of permanent teachers only relates to promotion positions.

d The Department determines teachers' maximum workload.

e Casual and relief staff are employed by the council.

f Replacement staff are employed by the Department; additional staff are employed by the principal.

Table 2A.5: Major responsibility for decision making — funding, and assessment of performance

<i>Area of decision making</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>
Funding								
% of school funds managed by: ^a								
– the Department	na	10	5	89	80	80	91	0
– the school council	na	90	0	0	5	0	9	100 ^b
– the principal	na		90 ^c	11	15	20	0	0
Contracting for minor capital works	D ^d	C ^e	C ^f	P ^g	C ^h	P ⁱ	DP ^{jk}	CP
Contracting for major capital works	D ^d	C ^e	D ^f	D ^g	C ^h	D ⁱ	D ^{jk}	DCP
Assessment of student performance								
Assessment of student performance ^l								
primary school students	D ^{mr} T	D ^{nt} T	D ^{ot} T	D ^{pt} T	D ^{qt} T	D ^{rt} T	D st T	D ^t T
years 7 – 9	D ^{mr} T	T	D ^{ot} T	D ^{pt} T	T	T	T	D ^t T
year 10	D ^{mr} T	T	D ^{ot} T	D ^{pt} T	T	D ^{rt} T	T	D ^t T
year 11	T	D ^{nt} T	T	T	D ^{qt} T	D ^{rt} T	D st T	D ^t T
year 12	D ^{mr} T	D ^{nt} T	D ^{ot} T	D ^{pt} T	D ^{qt} T	D ^{rt} T	D st T	D ^t T
Assessment of teacher performance								
Assessment of teacher performance	P	P	P	P	P	P	P ^j	PT ^t
Teacher pay and promotion	D	DP	D	D	P	P	D	PT ^t
Pay and career directly linked to performance?	no	yes	no ^u	no	yes	no	no	PT ^v
Assessment of principal performance								
To whom does the principal report?	D	DC	DC	D	DC	D	DC	DC
Assessment of the principal's performance								
– annual assessment	na	D	D ^w	D	D ^x	no	na	DP
– other period	na	C	D ^w	D	D ^x	D ^y	na	DP
Performance related bonuses								
– % of salary	no	yes	no	no	no	yes	no	no
	—	15	—	—	—	15	—	—

D = Department (or other central agency); C = school council (or board); P = principal (or head teacher); T = teachers

na not available

— not applicable

a These proportions are strongly influenced by whether councils or principals are regarded as having control over staff budgets (typically over 80 per cent of the total school budget).

b All funding other than teacher salaries is devolved to schools for which the school council has 100 per cent responsibility.

c For larger 'Leading Schools' with non-teaching principals. Approximately 90 per cent of students are enrolled in Leading Schools, but almost half the number of schools are small schools whose principals also have teaching responsibilities.

d The Department is responsible for contracting for both minor capital works (under \$50 000) and major capital works (over \$50 000).

e School councils may contract for major works after approval of the project by the Department.

- f** Minor capital works are those valued up to \$40 000. Major capital works are those valued at above \$40 000.
- g** Minor capital works are those valued up to \$25 000. Major capital works are those valued at above \$25 000.
- h** Capital works must be approved by the Departmental Capital Works Loans Committee.
- i** Minor capital works are those valued up to \$20 000. Major capital works are those valued at above \$20 000.
- j** Data have been amended since original publication.
- k** The Department has responsibility for minor capital works valued between \$5 000 and \$250 000 and major capital works valued over \$250 000. Principals have responsibility for minor capital works under \$5 000.
- l** All jurisdictions have agreed to implement external assessment of years 3 and 5 students against national benchmarks in literacy and numeracy.
- m** There is external assessment of years 3, 5, 7, 10 and 12.
- n** There is external assessment of years 3 and 5, with plans to extend this to years 7 and 9. Years 11 and 12 combine internal and external assessment.
- o** There is external assessment of years 3, 5, 7 and 9 students, a year 10 leaving certificate and a year 12 core skills test used to moderate school based assessment for tertiary entry ranking.
- p** There is external assessment of years 3, 5, 7 and 10 students (sampled) and year 12 tertiary entry students.
- q** There is external assessment of years 3 and 5 students and years 11 and 12 students.
- r** In 1996 there was external assessment of year 5 reading. In 1997 there was external assessment of year 9 numeracy. Years 10, 11 and 12 are externally assessed.
- s** There is external assessment of years 3, 5, 11 and 12 students.
- t** The Department sets the student assessment framework and there is external assessment of years 3, 5, 10 and 12.
- u** Promotion is based on merit rather than tenure.
- v** If a teacher chooses to go for promotion or to be part of the Teacher of Exemplary Practice program, the pay and career structure of teachers is directly linked to performance appraisal. If a teacher chooses not to be part of the Teacher of Exemplary Practice program, then the appropriate annual teacher salary increment would apply.
- w** District Directors visit each school three to four times a year and manage principals' performance.
- x** The District Superintendent visits each school several times a year and assesses the principal's performance against the objectives contained in the school's Statement of Purpose.
- y** The performance of principals is assessed against a performance contract based on achieving the objectives of a school 'Partnership Agreement' over a three-year time frame.

Table 2A.6: Assessing school performance

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>
Assessment of school performance								
– annual assessment	CPT ^a	DC ^b	D ^c	D ^d	D ^e	D ^f	D	DCPT
– other period	D ^a	D ^b	D ^c		D ^e	D ^f		D ^g
Criteria								
Benchmarked learning outcomes	yes	yes	yes	no	yes	yes	yes ^h	yes
Parent opinion (surveys)	—	yes	yes	no	yes	yes	yes	yes
Staff opinion (surveys)	—	yes	yes	no	no	yes	yes	yes
Student opinion (surveys)	—	yes	yes	no	no	yes	yes	yes
Student attendance	—	yes	yes	no	no	yes	no	yes
Retention rates	—	yes	yes	no	no	yes	yes ^h	yes
Destination data	—	yes	yes	no	no	no	yes ^h	no
Financial management	—	yes	yes	yes	yes	no	yes ^h	yes
School safety	—	yes	no	no	yes	yes	yes ^h	yes
Equity and access (target groups)	—	yes	yes	no	no	yes	yes ^h	yes
Publication of results								
Annual school report	yes	yes	yes	yes	yes	yes	yes	yes
All schools' average/deviations	no	yes	yes	no	no	no	no	no
'Like' schools' average/deviations	no	yes	yes	no	no	yes	no	no
'League tables' of individual schools	no	no ⁱ	no	no	no	no	no	no
Cost per assessment (\$'000)	na	5–6 ^j	3–4 ^k	na	na	6 ^l	na	na

na not available

— not applicable

a Each school forms a self-evaluation and improvement committee to collect and review school data about performance. The self-evaluation draws on a range of data, including parent opinion surveys, students' surveys, destination data and so on. In consultation with a Chief Education Officer, the committee uses the analysis to set targets, published in an annual report. Selected schools are reviewed in depth following their self-evaluation.

b Each school produces an annual report and is externally assessed every three years.

c Each school produces an annual report and is visited by a District Director three or four times a year.

d Each school is assessed annually by the District Director according to a 'School Performance Framework for Improving and Reporting' which incorporates many of the listed criteria.

e Assessment of the school is implicit in the District Superintendent's assessment of the principal.

f School performance is assessed against a 'Partnership Agreement' between the school and the Department setting out clear objectives to be met over a three year time frame.

g Schools are assessed through an annual report, Departmental triennial reviews and evaluations of programs.

h Data have been amended since original publication.

i An autonomous Board of Studies publishes a VCE achievement index and a tertiary preparation index (a measure of school's 'value adding') for all schools.

j Includes both Departmental costs and estimated school compliance costs.

k The cost of District Directors averaged over the number of schools. Does not include school compliance costs.

l Departmental assessment costs divided by the number of schools. Does not include school compliance costs.

Table 2A.7: Managing school performance

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>
Assessment of underperformance^a								
Formal underperformance criteria	no	no	no	no	no	no	no	no ^b
Management strategies^c								
Base funding on enrolments ^d								
available	yes	yes	yes	no	yes	yes	no	na ^b
commonly used	yes	yes	yes	no	yes	yes	no	
'Name and shame'								
available	no	no	no	no	no	no	no	na ^b
commonly used	no	no	no	no	no	no	no	
Provide significant resources								
available	no	no	no	no	no	no	no	na ^b
commonly used	no	no	no	no	no	no	no	
Provide strategic resources								
available	yes	yes	yes	yes	yes	yes	yes	na ^b
commonly used	yes	yes	yes	yes	yes	yes	no	
Train/support the principal								
available	yes	yes	yes	yes	no	yes	yes	na ^b
commonly used	yes	yes	yes	yes	no	yes	yes	
Replace principal/senior staff								
available	yes	yes	yes	yes	yes	yes	yes	na ^b
commonly used	no	no	no	no	yes	no	no ^e	
Replace school council								
available	no	yes	no	no	yes	no	no	na ^b
commonly used	no	no	no	no	no	no	no	
Close school								
available	no	no	no	no	no	no	no	na ^b
commonly used	no	no	no	no	no	no	no	

na not available

a An 'underperforming' school is one that fails to produce educational outcomes that may be reasonably expected of it. For this reason, it is important that any assessment of a school's educational performance take into account the level of resources and the school and student characteristics that may affect educational outcomes. It has been argued (Hill and Goldstein 1996) that it is not possible to measure educational standards over time, and that therefore underperformance cannot be established against a benchmark or expected standard.

b A formal process for comparing performance is particularly difficult to develop in the NT due to the differences in school size, geographical placement, cultural diversity and a mobile population.

c Some strategies are available (that is, allowable under the existing legislation) in all jurisdictions but not used — for example, 'name and shame' and school closures.

d In all jurisdictions funding is to some extent based on student numbers, but in some jurisdictions this is not regarded as a tool for creating performance incentives.

e Data have been amended since original publication.

Table 2A.8: Funding arrangements

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>
School level funds								
% of funds controlled at school level	na	90	90 ^a	11	20	20	na ^b	100 ^c
These funds allocated via:								
– Dept decision	no	no	no	no	no	no	no	yes
– <i>pro rata</i> per student	no	no	no	no	no	no	no	yes
– funding formula	yes	yes	yes	yes	yes	yes	yes	yes
– other	no	no	no	no	no	no	no	yes ^d
Funding formula								
% of ‘core’ funding (non-variable)	na	80	90	27	na	45	na ^b	75
Characteristics and weightings^e								
Primary versus secondary students								
Primary	yes	yes	yes	yes	yes	yes	yes	yes
– weight	na	na	na	na	100	100	na ^b	na
Secondary	yes	yes	yes	yes	yes	yes	yes	yes
– weight	na	na	na	na	150	125	na ^b	na
Student characteristics								
Disabilities and impairments	yes	yes	no	yes	yes	no	yes	yes
Non-English speaking background	no	yes	no	no	yes	no	yes	yes
Indigenous	no	yes	no	yes	yes	no	yes ^b	yes
Economic disadvantage	no	yes	yes	yes	yes	yes	yes ^b	yes
Small school	yes	yes	yes	yes	no	no	yes ^b	yes
Rural area	yes	yes	yes	yes	no	yes	na	yes
Remote area	yes	yes	yes	yes	no	yes	na	yes
Age and condition of building	yes	no	na	no	na	yes	yes ^b	yes

na not available

a For larger ‘Leading Schools’ with non-teaching principals. Approximately 90 per cent of students are enrolled in Leading Schools, but almost half the number of schools are small schools whose principals also have teaching responsibilities.

b Data have been amended since original publication.

c All funding other than teacher salaries is devolved to schools for which the school council has 100 per cent responsibility.

d Relief teacher allocation

e Although the funding formula does not explicitly account for all factors, in most jurisdictions specific programs exist to address various learning disadvantages.

3 USING COMPETITIVE TENDERING FOR NSW PUBLIC HOSPITAL SERVICES

Historically, the publicly owned facilities managed by Wentworth Area Health Service provided acute hospital and community health services in the Hawkesbury region. The NSW Government decided in 1992 that it would contract for a not-for-profit hospital to provide these services.

3.1 This case study

This case study examines how the NSW Health Department and the Wentworth Area Health Service (Wentworth) contracted with a not-for-profit operator to provide health services for public patients. The case study examines the means by which the NSW Government influenced the incentives facing the not-for-profit operator, including the allocation of risk. It also discusses some of the risks facing the hospital operator.

To place this case study in a broader context, attachment 3A provides background information on similar services in other jurisdictions.

3.2 The reform

The NSW Health Department in July 1992 (under the previous NSW Government) announced its proposal to replace the publicly owned and operated Hawkesbury Hospital by contracting the ownership and operation of hospital services to a not-for-profit operator (box 3.1). The new Hawkesbury Hospital is operated by Hawkesbury District Health Service (HDHS) — a wholly owned subsidiary of Catholic Health Care. It will provide acute hospital and community health services to public patients for 20 years, after which the NSW Government will assume ownership of the facility (a so-called build-own-operate-transfer arrangement).

The NSW Government decided to contract public health care services to a not-for-profit operator after it announced that public funds would not be available to construct a new public hospital in the immediate future.

The Government indicated that its decision was based on three objectives:

- to accelerate the upgrade of health service infrastructure by gaining access to private funds;
- to optimise the efficiency and effectiveness of service delivery through:
 - introducing a measure of competition between service operators; and
 - enabling greater flexibility in operational management; and
- to improve accountability of the delivery of health services through:
 - separating the role of service operator from those of purchaser and regulator;
 - specifying the nature and quantity of services and the criteria for assessment of quality; and
 - introducing guarantees of access and sanctions for nonperformance (WAHS 1993, p. 1).

Box 3.1: Hawkesbury Hospital contracting process

July 1992 — The NSW Government announced that a new hospital in the Hawkesbury region would be owned and operated by a not-for-profit organisation.

September 1993 — The NSW Health Department called for expressions of interest.

February 1994 — The NSW Public Accounts Committee released its report, *Expansion of Hawkesbury District Health Service*.

August 1994 — The NSW Government awarded the contract for Hawkesbury Hospital to Hawkesbury District Health Service Ltd (a not-for-profit operator and wholly owned subsidiary of Catholic Health Care). HDHS is responsible for operating the facility, but subcontracted responsibility for design and construction to Fletcher Construction. The project was financed through debt and equity.

December 1994 — The contract was signed by Wentworth and HDHS.

August 1996 — The new Hawkesbury Hospital opened.

Sources: Personal communication with Wentworth and HDHS.

3.3 Reform environment

Several factors influenced the development and implementation of the contracting process for public health care services in the Hawkesbury region. These included: the potential for significant community opposition to a non-government operator; the experience of contracting the Port Macquarie Base

Hospital; the general funding arrangements for public hospital services in NSW; and rapid changes in health care technology.

Possible community opposition to a non-government operator underpinned the Government's decision to limit the tendering process to not-for-profit operators (box 3.2). The Health Department stated that it had no preference for the status of the operator but that it gave considerable weight to community expectations. Public consultations indicated that only a not-for-profit operator would be accepted in the absence of a government-run public hospital (PAC 1994).

Box 3.2: Implications of restricting competition

The Hawkesbury Hospital tender was restricted to not-for-profit operators. The *Call for Expression of Interest* document (WAHS 1993) indicated that three organisations or consortia would be requested to submit detailed tenders for the provision of health services. By restricting the process to not-for-profit operators (few of which had experience in operating major acute care hospitals), the NSW Government limited the number of potential bidders and thus received only two expressions that met this criterion. This may have limited the efficiency gains from the competitive process and the distribution of efficiency dividends between the Government and the operator.

But tangible efficiency improvements from competitive tendering and contracting are not the only consideration for a government determining the degree of competition for services. The NSW Government stated that it had no preference regarding the for-profit/not-for-profit status of the operator, but that it was very aware of community concerns about for-profit operators. Ensuring effective and efficient service provision was important to the Government, but so was meeting community preferences.

Limiting potential operators to not-for-profit organisations may offer some long-term benefits that offset the short-term costs of excluding capable for-profit operators. Successfully dealing with a not-for-profit operator may demonstrate the ability of the NSW Government to manage effectively contracts with external operators. This may allay the concerns of some community groups regarding contracting, thereby allowing the Government to include for-profit operators in future contracting and increase the degree of competition.

The NSW Health Department's experience with contracting the Port Macquarie Base Hospital influenced the structure of the contract for Hawkesbury Hospital and the level of scrutiny of the contracting process. The Hawkesbury Hospital contract was based on that used at Port Macquarie, but with significant differences relating to the types of services included and the funding of services:

- first, the contract for Port Macquarie Base Hospital did not include community health services (despite original intentions) and the Hawkesbury Hospital contract did;
- second, the service charge for Hawkesbury Hospital includes all diagnostic and medical services; these services are charged separately at Port Macquarie Base Hospital;
- third, Wentworth pays all finance charges for areas of Hawkesbury Hospital devoted to public patients and that proportion of total bed days occupied by public patients in areas used by public and private patients; the Government pays all the finance charges at Port Macquarie Base Hospital; and
- fourth, recommendations in the Public Accounts Committee Report on Port Macquarie Base Hospital were reflected in the Hawkesbury Hospital contract (such as the inclusion in the contract of a community board of advice and the production of an annual report) (PAC 1992).

The funding arrangements for public hospital services in NSW affected the way in which the non-government operator was reimbursed. Some State Governments use casemix funding to encourage greater efficiency in providing public hospital services. However, the NSW Health Department claimed the quality of data used to develop cost weights in Australia was not yet high enough. Thus, casemix funding has not been introduced on a Statewide basis in NSW.

Uncertainty about the future pace and nature of technological change in health care may also have affected the contracting environment. Technological developments can affect the mix of treatments offered by the operator. A technological change may increase the probability of success of a particular procedure, leading to increased demand for those services. Technological change may also affect the mix of service types offered by the operator. A change in technology may decrease demand for inpatient services (by reducing the length of stay) but increase demand for post-acute services (such as community health services). This is one factor that may have affected the decision to include hospital and community health services in the contract.

3.4 Managing the risks to service delivery

A government may competitively tender and contract the development and operation of a service for many reasons. These include: to achieve cost savings through economies of scale by allowing operators to produce public and private services in a single operation; to access skills and technologies available to

private operators; to create competitive pressures to achieve better service levels and quality and/or lower costs; and to improve service levels without out-laying significant public capital.

The contracting process clarifies the respective roles of the government (which specifies the service and selects an operator) and an operator. Government has greater incentives to focus on its desired outputs and/or outcomes by specifying the appropriate set of services and monitoring operators to ensure quality is maintained. Thus, government can relax its controls on process, leaving many operational decisions to the operator's management.¹

The contracting process can also result in stronger incentives for efficient service delivery through the explicit allocation of risk. An integral part of the contracting process involves identifying each risk associated with the project, then allocating the responsibility for the risk to the party that can most appropriately manage and/or bear it. One party may be more able to bear a risk because it has more influence over the likelihood of the adverse event occurring, or because it would have a cost advantage in remedying such an event.

The Hawkesbury Hospital operator bears the risks associated with industrial relations at the site because it can best influence the potential for a major disagreement, and it can best deal with any industrial matters. Another example is the risk of changes in input costs. The risk of higher input costs is shared between both parties. The NSW Government is responsible for changes in line with the general inflation rate, perhaps because it can change its tax revenue to offset any effect on the nominal cost of the service. But HDHS has some influence over changes in costs because it can control the mix of inputs. Therefore, it is responsible for any cost rises above the general rate.

The party that is allocated the risk accepts any costs of dealing with that risk. It also captures the benefits of managing the risk well. Thus, the allocation of risk can strengthen incentives for both parties to act more efficiently.

3.4.1 Overview of risk allocation for Hawkesbury Hospital

The builders of the Hawkesbury Hospital facilities (Fletcher Construction), as in many contracting arrangements, accepted most of the risk associated with the

¹ This separation of roles is being introduced through the public system more generally via purchaser/provider arrangements. However, the NSW Government retains full control over some operational issues for public operators, such as wages and salaries of public staff.

project's design, construction and finance. The operator of the service, HDHS, accepted most of the operating risk (table 3.1).

The NSW Government also accepted a range of risks throughout the life of the contract. During the construction phase, the Government accepted the risks of changes in laws, government-initiated variations, changes in interest rates and *force majeure* events. During the operational phase of the contract, the Government was responsible for pre-existing environmental costs, changes in Government policy and law, and some of the demand risk (particularly that associated with non-admitted patients or community health services).

Further, the NSW Government must deal with risks in the contracting process — for example, the risk of default, maintaining efficiency and effectiveness (and any unintended side effects of dealing with these risks) and transitional issues. This case study focuses on these risks to the Government (box 3.3).

3.4.2 Creating incentives to improve performance

A driving factor in reforming government services is the desire by governments to make better use of their resources. The competitive tendering process can result in stronger incentives to improve performance. However, because it involves devolving some decision-making powers to a non-government operator, government must exercise care to ensure it maintains improvements in service delivery.

The funding formula (how the price is set, the unit of payment and variations in price over time) can motivate operators to make greater efforts to seek out ongoing efficiency gains in service delivery. It can also ensure government captures a share of any gains.

Basis of payment

Government may provide funding on many different bases, including the cost of inputs used or the number of outputs produced (say, per bed day) or the treatments completed (say, per patient treated, classified by diagnosis). A different approach is to fund health service provision to meet all the health needs of a defined group by funding on a per person basis, adjusting for age, sex and other characteristics of the average annual cost of treating that group.

Box 3.3: Key features of the Hawkesbury Hospital contract*Services*

- Public patients
- All emergency and non-elective patients (Non-emergency and elective patients will be treated while funds remain within the budget.)
- Acute inpatient, outpatient and community health services

Build-own-operate-transfer contracting arrangement with a not-for-profit operator

- Wentworth has a number of options at the end of the contract:
 - to extend the current contract;
 - to contract with a different non-government operator; or
 - to operate the hospital publicly.

Funding

- Capped fee-for-service for acute inpatient services
- Capped block grants for outpatient and community health services

Quality control

- Accreditation
- Monthly reports against clinical indicators
- Peer review of high volume clinical treatments
- Penalty clauses for non-compliance

Equity and access provisions

- Regular monitoring of the mix and level of services
- Regular monitoring of waiting lists
- Guarantee by Wentworth of the provision of some services
- Meeting community needs within funding constraints of the public health system

Input-based methods, such as cost reimbursement, were used to fund public hospitals for many years. A hospital's annual budget was based on its budget for the previous year, with some adjustments for changes in the prices of inputs. More recently, some governments have moved to output-based methods (which

link funding to specified services or treatments) or needs-based methods (which link funding to the expected cost of servicing a specific population) (box 3.4).²

Acute care services at the Hawkesbury Hospital are currently paid on a fee-for-service basis within a capped budget, unlike at most other NSW public hospitals. However, unlike traditional fee-for-service arrangements, there is some bundling of services at Hawkesbury Hospital. The fee per day includes the accommodation fee, medical fees, pharmaceutical fees and diagnostic and imaging fees. The payment also varies with the category of service (advanced surgery, ordinary surgery, other surgery, medical, obstetric or day surgery) and the length of stay (less than 15 days or 15 days and over). Outpatient, emergency and community health services at Hawkesbury are funded through block grants, as at all other public hospitals in NSW. Funding for these services in public hospitals is determined by Health Services or hospital administrators as part of their global budget.

There is some debate between HDHS and Wentworth regarding the best basis of payment. The contract allows parties to move to casemix funding and HDHS would prefer casemix payments to ensure stability in funding. Wentworth acknowledges the benefits of casemix funding for the purchaser. However, at this stage, it has two main concerns: first, the reliability of data used in Australia to develop case weights; and second, the incentives for 'gaming' inherent in casemix funding. Wentworth recognises that similar problems may arise from fee-for-service payments, but argues that the risk is greater with casemix funding.³

Setting the price level

The level of payment for each unit of service under output-based funding can affect the level of servicing and thus the overall performance of the service. If the price for a particular service is too high, an operator may be encouraged to admit patients unnecessarily and prevent the government from gaining maximum savings from competition in service delivery. If it is too low, an operator may be encouraged to limit the number of high-cost patients.

² Needs-based funding is used to reimburse public hospital operators in NSW for inpatient care. Casemix funding is used in all other States and Territories (table 3A.3).

³ The incentives for 'gaming' are discussed in more detail in the case study on implementing casemix funding in Victoria in *Reforms in Government Service Provision 1997* (SCRCSSP 1997b).

Box 3.4: Approaches to funding health services

Criticisms of input cost-based funding methods for health care services focus on the perverse effects on efficiency:

- funding based on inputs provides few incentives to improve resource allocation;
- funding based on historical budgets and spending:
 - creates an incentive to spend (regardless of the impact on outputs or outcomes) so as to protect future budgets; and
 - discriminates against new service delivery methods (such as community health services) and against health services in new locations.

Output-based funding methods, such as fee-for-service and casemix funding, link funding to a particular level of output, providing stronger incentives to reduce the cost of providing each service unit. Governments using fee-for-service arrangements (such as those used by insurers to reimburse most private hospitals) pay the operator a set price for each unit of service (such as an X-ray, drug dispensed or bed day) irrespective of the patient's treatment or other characteristics.

Governments using casemix funding determine a price for hospital services, then adjust the price to reflect the severity and/or complexity of different diagnoses. This distinguishes between costs involved with treating patients with different illnesses.

Some argue that casemix funding has a greater impact on efficiency by creating stronger incentives for hospitals to improve resource allocation. Casemix funding provides hospitals with an average price for treating patients with a particular illness, so hospitals are rewarded for improvements which allow them to treat patients at below the average cost. But fee-for-service arrangements based on patient bed day rates (which are the same for the first day, when the patient may need more care as for the last day) dull incentives for efficiency gains which result in a shorter length of stay.

A major criticism of output-based funding is that it may encourage unnecessary admissions (and unnecessary treatments in the case of fee-for-service arrangements). That is, inpatient services are emphasised at the expense of other, perhaps more cost-effective types of care. Other criticisms include the potential to encourage reduced quality and to favour more profitable services and/or clients.

Needs-based funding linked to achieving specified health outcomes can address this issue by allocating funds based on the characteristics of a defined population. Operators may vary the types of services available to meet the health needs of their clients. However, needs-based approaches are technically difficult (given problems of measuring population need) and provide no direct incentives to produce services at the least cost.

Sources: Eagar (1995) and SCRCSSP (1997b).

Wentworth constructed benchmark costing models — based on the best practice and average costs of public sector operation — for a specified set of services. The successful not-for-profit operator had to deliver the specified set of services at a cost below these benchmark costing models.

Varying the price over time

A purchaser, by modifying the prices for each service from year to year, may be able to encourage ongoing efficiency gains by an operator and capture a share of these gains. One option is to vary prices paid according to changes in the benchmark prices paid to other operators (say, similar publicly operated hospitals). An operator competing for the contract may accept benchmark prices less X.⁴ This method of determining variations in price has the advantage of directly linking the performance of an operator which competed for a contract with that of the system generally.

An alternative approach is to vary prices paid to an operator to reflect changes in its costs of production. Allowances could be made for changes in wages and salaries and non-labour expenses such as pharmaceuticals, technology and equipment. In this instance, the performance of a non-government operator is not directly linked with that of the system generally.

This method is used to determine changes in the prices paid for services at the Hawkesbury Hospital. Parties to the contract account for a number of factors when negotiating the budget at the beginning of every period, including the costs at peer public hospitals (box 3.5). However, the global operating budget for the Hawkesbury Hospital cannot be less than it received in the previous period. Further, HDHS is not obligated to comply with changes made by the NSW Government to hospital operating guidelines or directives. If it does agree to comply, HDHS can seek reimbursement of costs incurred.

3.4.3 Creating incentives to manage supply

Contracting public hospital services to a non-government operator exposes the government to the risk that the clinical services supplied by the operator may not best meet the community's needs. This has implications for equity (section 3.4.7) and efficiency.

4 X may be constant over the life of the contract, or it may be higher at the start of the contract (when a non-government operator's new hospital is younger than the average and thus able to yield significant efficiency gains over the average public hospital) and become smaller over time to reflect the difficulty of achieving efficiency gains in ageing facilities.

Box 3.5: Annual funding of the Hawkesbury Hospital

The process for determining the annual funding of the Hawkesbury Hospital is primarily based on a fee-for-service approach (section 3.4.2). Wentworth developed an approximate level of funding in the first year by projecting demand based on anticipated casemix and agreed prices. It then adjusted this initial payment projection to reflect the funding expected under the Health Department's resource allocation formula.

The maximum service budget in subsequent years must be equal to or greater than that of the previous year, but may account for changes in any of the following:

- demographics;
- the demand for services;
- casemix during the previous contract year;
- waiting times;
- the incidence of private health insurance;
- the cost structure of other hospitals;
- income received by the operator from rent or subcontracting for services;
- increases in wages and salaries; and
- the level of rebates under private health fund schedules.

The maximum service budget is set at the beginning of every year, but the level of payment to the operator is not guaranteed. HDHS does not receive any payments until services are provided.

Source: WAHS (1993).

Accurately predicting patient volume and mix in a given year (that is, the number of patients and the nature and severity of their conditions) and how they may change over time will improve efficiency by ensuring supply is better matched to demand (Mulligan, Shapiro and Walrod 1996). But this task is difficult for a number of reasons. First, changes in the nature and severity of illnesses are influenced by changes in a range of factors (such as income, levels of education, age and sex). Second, purchasers and operators have limited access to historical data on patient volume and mix (although improvements in disease classification and information technology have made data collection and analysis much easier in recent years).

The community has generally borne the cost of inaccurate predictions of patient volume and mix, either through increased waiting times or through a higher total cost of services and thus higher health budgets. This section discusses how

government may provide incentives for an operator to better manage the supply of health services.

Predicting patient volume and mix over a year

A government (and patients) can benefit from accurate predictions of patient volume and mix because the efficiency of service delivery improves. By requiring a non-government operator to bear the costs of dealing with variations in patient volume and mix, a government can strengthen incentives for the operator to allocate resources more efficiently. The funding arrangements can affect incentives for an operator to predict patient volume and mix better.

A government could set the budget at the beginning of each year based on the input costs. However, because payment for services would not be linked to the provision of a specified level of services, an operator could pass on any additional costs of variations in patient volume and mix to prospective patients and/or the wider community.

Alternatively, the budget may be based on expected casemix. If an operator is reimbursed a fixed amount for each output provided, there would be greater incentives for it to accurately predict patient volume and mix. If the level of throughput is significantly less than expected, for example, an operator would not receive the level of payment expected. Similarly, if the casemix is significantly different from that expected (for example, medical versus surgical), an operator must bear the cost of those inputs that are not transferable.

Griffiths (1997) argued that generally a new operator taking over an existing public hospital is better able to predict patient volume and mix than can an operator at a greenfield development. First, the casemix of the existing public hospital provides a solid basis for predicting future patient volume and mix. Second, the referral patterns of doctors are established and the community has developed a relationship with the existing staff of the facility.

However, other factors make it more difficult to predict patient volume and mix. Uncertainty about changes in Commonwealth Government policies on private health insurance complicates predictions of the level of coverage and thus patient volume and mix (both public and private).⁵ There are also events that affect patient volume and mix that cannot be predicted — for example, a natural disaster or a disease epidemic. Expecting a non-government operator to bear all of these risks may lead potential operators to include a greater risk premium in

⁵ The State Government may be better able to manage this risk through its influence on changes to Commonwealth Government policy via negotiations over Medicare Agreements.

their bid prices, or may expose the community to greater likelihood of disrupted services through operator default.

Thus, government generally bears some costs of variations in patient volume and mix, often to ensure that a minimum level of services is available to meet the needs of the community.⁶ Government may limit the non-government operator's exposure by:

- guaranteeing payment for a minimum number of bed days in a year (subject to negotiation from year to year);⁷
- restricting a non-government operator's obligation for treating public patients to those requiring emergency and non-elective services. Access to other elective and non-emergency services is rationed via waiting lists as it is for public operators;⁸
- constraining the degree of competition from other operators (for example, by agreeing not to contract with other operators in the area) for the period of the contract;⁹
- including escape clauses which oblige both parties to enter negotiations for an increase (or decrease) in the level of services provided if patient throughput goes above (or below) pre-set levels;
- allowing an operator to compensate for any shortfall in public patient throughput by attracting private patients; and/or
- structuring prices differently according to the location of the service. To ensure a minimum level of services in rural areas (where there may be greater demand variability), government may accept some demand risk by paying for some costs of retaining spare capacity.

Wentworth allocated most of the risk of unexpected changes in patient volume and mix in a given year to HDHS by negotiating a budget at the beginning of the year based on expected casemix and agreed fee-for-service prices (box 3.3). HDHS only receives payments for services actually provided within the capped budget, thereby bearing the costs where patient volume and mix vary from those expected.

However, Wentworth accepted some of the risk by limiting competition for public health care services in the region and by restricting HDHS's obligation to treat public patients to those requiring emergency and non-elective services.

⁶ Usually, the same concessions are made for public operators of health care services.

⁷ This was done at Latrobe Hospital in Tasmania (table 3A.4).

⁸ This was done at Latrobe Hospital in Tasmania (table 3A.4).

⁹ This was done at Latrobe Regional Hospital in Victoria (table 3A.4).

There are also contract provisions which require both parties to negotiate if patient throughput exceeds a level that requires an expansion of hospital facilities. However, there is no guarantee that Wentworth will provide funding for any expansion.

HDHS can also manage variations in the number of its public patients by varying the admission of private patients. Public patient throughput in the first year of the hospital's operation was less than that estimated by HDHS and Wentworth due to problems with attracting doctors and community reluctance to use the new facility. HDHS partly offset this by increasing the number of private patients. However, the decline in private health insurance may make it harder for HDHS to attract additional private patients in future.

Predicting patient volume and mix over several years

An operator must also manage the supply of services throughout the life of the contract. The availability of capital is a critical factor in these decisions.

Traditional government capital funding arrangements can distort the incentives to predict demand over the life of a project (and therefore the timing of capital investments). Hospitals, like most government-funded services, have traditionally received separate funding for recurrent and capital expenditure, with Treasury meeting all of the costs of borrowing. Once an asset has been acquired, the ongoing capital costs are zero from a public hospital's perspective. Duckett (1994) commented that this could not be expected to lead to rational investment decisions. Some consequences of not including capital in the funding arrangements for hospitals have included:

- excessive capital expenditure in the design, construction and commissioning phases of some new capital projects;
- inadequate provision for maintenance and replacement of capital; and
- overbids for capital funds by public operators in the expectation that they will have only one opportunity to obtain the funds (Foley 1992).

Including capital in the funding arrangements for health care services would enhance incentives for an operator to introduce new capital as required and to dispose of any surplus assets. HDHS receives an 'availability' charge from Wentworth to cover the cost of capital.¹⁰ Expanding capacity well ahead of actual patient throughput would be costly because payments for services would

¹⁰ Wentworth pays all the finance charges for areas of the hospital devoted to public patients and for that proportion of total bed days occupied by public patients in areas open to public and private patients.

not be sufficient to cover the extra capital cost. Thus, HDHS has a strong incentive to phase expansion in response to changes in demand.

3.4.4 Creating incentives to provide the appropriate mix of service types

A health service that best fulfils community expectations not only provides the appropriate mix of treatments at the lowest cost, but also supplies the appropriate mix of service types (for example, inpatient services versus outpatient services). To encourage the appropriate mix of service types, a government may make one operator responsible for all health outcomes and allow it to use a range of health care services (including inpatient, outpatient and community health services) to achieve overall outcomes.

This bundling of responsibilities has the advantage of reducing incentives to shift the cost of care between different operators and may encourage the use of more cost-effective types of care. Further, cost savings may arise from centralising the administrative functions for each service type.

The integration of different service delivery methods was an important component of the Services Agreement for the Hawkesbury Hospital (PAC 1994). It reflected community attitudes to the provision of health care services; the general trend of trying to coordinate acute care and community care services to improve the mix of the services; and the impact of rapid development and diffusion of new technology on demand for acute care and post-acute care services.¹¹

3.4.5 Creating incentives to maintain service quality

The effect of competition on the quality of health care services exposes the government to significant political risk. According to Owens (1993), introducing competition for public hospital services exposes operators to incentives that may affect the quality of the services they supply. These incentives may be positive and negative.

For example, stronger incentives to improve efficiency brought about by competition may encourage health care operators to simply lower costs by reducing the quality of services supplied (for example, by using lower-cost but less-effective treatments), rather than by improving resource use.

¹¹ Community-based health care services were also included in the contract for Modbury Hospital in SA. The contracts for most other hospitals were confined to hospital-based services (table 3A.3).

Alternatively, quality may become an important component of product differentiation as operators compete for clients (patients and/or future contracts with governments). Further, because the clients of non-government operators (including doctors who can admit their patients elsewhere and/or patients themselves) have greater choice, non-government operators may be more aware of the importance of some quality dimensions and thus focus on these issues.

Developing quality of care indicators is difficult for a number of reasons. First, there are several dimensions to the quality of health care services. A clinical view of quality can include ensuring that the correct treatments are supplied and performed at a high standard. A patient's view of quality may include the level of information they receive regarding their treatment. Second, the lack of consensus among clinicians regarding appropriate treatments for patients and the difficulties of collecting information from patients has hindered the development of quality indicators and measuring any changes over time. Thus, quality standards are generally monitored using a suite of methods.

One strategy for ensuring quality under a contract may be to subject the non-government operator to the same quality standards and monitoring regime enforced for public operators (Griffiths 1997). This may entail:

- requiring that a service operator achieve and maintain accreditation (for example, the Australian Council on Healthcare Standards or ISO 9000);¹²
- comparing the performance of a service operator (in terms of a set of quality indicators) against a set of peer hospitals;
- conducting detailed performance reviews for particular treatments; and
- establishing clinical pathways for procedures and monitoring variations from the standard (box 3.6).

Additional strategies for ensuring quality standards may include:

- selecting an operator that has a reputation for quality services;
- requiring clinical services for public patients to match those for private patients, while allowing 'hotel' type services to differ;
- involving a third party in contracting arrangements (such as a medical school) that is interested in accessing high-quality services;¹³ and
- encouraging community involvement.¹⁴

¹² Accreditation was compulsory for contracted hospitals in all jurisdictions (table 3A.6).

¹³ Latrobe Regional Hospital in Victoria provides teaching facilities for medical students from Monash University, which the University funds. To ensure this arrangement continues, the hospital operators will need to maintain the quality of care (table 3A.6).

Box 3.6: Improving quality indicators

The challenge of specifying and measuring quality of health care services is an issue for private health insurers, governments contracting services to non-government operators, and the public system more generally (SCRCSSP 1998).

The difficulties of accurately monitoring the quality of care in hospitals are not limited to identifying the important aspects of quality and defining indicators to measure performance over time. There are also problems with relating performance to a standard and procuring meaningful data from hospitals.

HBA, one of Australia's largest health insurers, explicitly requires hospitals contracted under preferred provider arrangements to develop clinical pathways (or recommended sequences of treatment) for each major procedure in order to establish standards of care. Clinical indicators are used to measure variations from standards; thus indicators relate to specific procedures. This now occurs in a number of large private hospitals throughout Australia.

Another problem with monitoring the quality of care relates to the reliability of the data supplied by hospitals. Any variation in indicators across hospitals may indicate variations in clinical practice, or may point to variations in the quality of the data supplied by hospitals.

To improve data quality, HBA's preferred provider hospitals are:

- required to maintain accreditation. This ensures that good clinical records are maintained; and
- reimbursed on the basis of output. HBA considers that data collections which are not linked to payment mechanisms tend not to produce data of a high standard. Output-based funding methods which specify quality characteristics tend to improve the standard of data provided by hospitals.

Source: Personal correspondence, Ms Marie Colwell, Hospital Operator Relations Manager, National Mutual Health Insurance, 4 May 1998.

Wentworth monitors the quality of care at the Hawkesbury Hospital using accreditation, peer hospital comparison and performance review for high-volume treatments. It also requires clinical services for public patients to match those for private patients and encourages community involvement.

Hawkesbury Hospital had to be accredited with the Australian Council on Healthcare Standards within 18 months of commissioning and must maintain

¹⁴ Community involvement was encouraged in most jurisdictions as a means of maintaining the quality of care (table 3A.6).

that status throughout the life of the contract. Its community health services had to achieve and maintain similar standards under the Community Health Accreditation and Standards Program. Financial penalties applied if accreditation was not achieved within the specified period and the contract may be terminated if the facilities fail to maintain accreditation.¹⁵

The Hawkesbury Hospital reports monthly to Wentworth against a set of quality of care indicators developed by the Australian Council on Healthcare Standards for accreditation purposes.¹⁶ The hospital's performance must be equal to or better than the average of five NSW public peer hospitals. If Hawkesbury Hospital fails to meet quality standards for three consecutive months, it receives formal notification from Wentworth that it has three months to raise the quality of care. Failure to do so could lead to termination of the contract.

Wentworth reviews the quality of high-volume clinical treatments twice a year.¹⁷ These reviews focus on training standards for staff, procedures and outcomes and may highlight instances where individual patients receive too many or too few services. The review may recommend changes to training or procedures, or it may invite the relevant medical specialist college to make recommendations. If the recommendations are not implemented within three months, HDHS incurs financial penalties until it demonstrates compliance.

The contract also stipulates a community role in ensuring the quality of services provided at Hawkesbury Hospital. The Hawkesbury Community Board of Advice, which has a majority of community representatives, assists:

... the management in delivering a range of services with the quality and responsiveness expected by the local community ... to provide advice and counsel to the Service Operator in order to achieve and maintain the standard of patient care required under the Services Agreement, to present community views and to assist in governance of the affairs of the Health Service. (PAC 1994)

3.4.6 Creating incentives to maintain equity of access

Equity of access is an important consideration in the provision of government-funded services. In the context of health service delivery, equity of access is relevant to:

¹⁵ Accreditation is not compulsory for publicly operated hospitals in NSW. Only 60 per cent of public hospital beds in NSW were accredited at 30 June 1998 (SCRCSSP 1998).

¹⁶ Comparisons with peer group hospital against an agreed set of indicators are used to monitor the performance of contracted hospitals in all jurisdictions (table 3A.6).

¹⁷ Reviews of high-volume clinical treatments are done in WA and Tasmania (table 3A.6).

- the mix of services; and
- the mix of ‘profitable’ and ‘unprofitable’ patients.

The funding arrangements can inadvertently provide non-government operators with some incentives to favour some patients (or potential patients) over others. If left unchecked, government may face the additional costs of providing alternative arrangements for some services and of dealing with reduced community confidence in the ability of government to provide necessary services.

Mix of services

If a non-government operator has full discretion in selecting the mix of services, there is a risk that it may not provide the services required to meet community needs. Options for avoiding this behaviour include: specifying the level and mix of clinical services, then monitoring the provision of these services by a non-government operator; including a third contractual party, such as a medical school, which has an interest in maintaining the mix and level of services; and having a government operator provide some services separately.

Wentworth employed two of these options in the Hawkesbury Hospital contract. First, Wentworth specified the mix and level of services to be provided, including outpatient care, hospital services that are integrated with community-based services, and primary community-based health services.¹⁸ Most levels of services required are at least equal to, and often greater than, the levels that were available at the old hospital.

To ensure compliance, Wentworth compares the broad mix of services supplied by HDHS with services offered by peer hospitals throughout the State. Wentworth also monitors the mix of services by looking at waiting lists.

Second, Wentworth agreed to provide some services directly. The level and mix of services specified by bidders was an important selection criteria in the Hawkesbury Hospital competitive tendering process, but Wentworth recognised that it may continue to provide some services. HDHS did not include some services in its tender for ethical reasons, so Wentworth has ongoing responsibility for delivering these services to eligible patients.

¹⁸ Most jurisdictions specified the mix and level of services as a means of maintaining equity of access for public patients (table 3A.7).

Mix of 'profitable' and 'unprofitable' services

Another risk is that a non-government operator will only provide services to 'profitable' public patients — that is, those public patients whose costs are equal to or less than the payment received by the operator. The Public Accounts Committee considered that a complaints mechanism and a community board of advice may reduce the incentive for such behaviour, and these features were included in the Hawkesbury Hospital contract (PAC 1994).

A non-government operator may also give preference to private patients over public patients if the former are more profitable to treat. Government can seek to diminish incentives for this behaviour by: setting the payment for public patients equal to that for private patients (as was done initially at Port Macquarie Hospital in NSW); limiting the proportion of private patients that may be admitted; and/or setting clear access guidelines for public patients.

Wentworth regularly monitors public waiting lists as a means of ensuring public patient access to services.¹⁹ Further, the contract specifies access requirements for public patients — all emergency, urgent and non-elective patients requiring admission must be admitted, and non-emergency admissions must be admitted while funds remain available within the budget (box 3.7). Any failure to do so constitutes a default by HDHS and the contract may be terminated. Wentworth also monitors the level of reported complaints about access to services.

3.4.7 Other issues for government

Contractor failure

Government can usually reduce the risk of contractor failure by upholding the quality of the tender process and by monitoring the successful operator. Key criteria in selecting the Hawkesbury Hospital service operator included:

- demonstrated experience in successfully designing, constructing and financing major projects;
- proven availability of design, construction, finance and operational resources for the project; and
- demonstrated financial capacity to meet likely contractual obligations associated with the project (WAHS 1993).

Griffiths (1997) suggested evaluation of any tender against such criteria should account for the significant differences between public and private provision of

¹⁹ Waiting lists are also monitored at contracted hospitals in SA and Tasmania (table 3A.7).

services. That is, an experienced operator of private hospitals may not have all the skills required to provide public services. Non-government operators may have little or no experience in managing an accident and emergency service or in dealing with public sector data gathering and casemix management.

There were some adjustment costs in moving from the old facility to the new one at Hawkesbury Hospital. The majority of staff, who were familiar with working together in a hospital setting, transferred to the new facility. However, the differences in the physical environment (and their impact on working arrangements and social interactions) raised problems. In addition, some key management did not transfer, which may also have affected the transition from the old hospital to the new one.

Box 3.7: Equity of access requirements for public patients

The operator must ensure that everyone has access to public services.

- Any person requiring urgent attention or essential treatment will be provided with the appropriate care, regardless of any budgetary considerations.
- Public patients will be provided with the same level of clinical care provided to private patients, regardless of insurance status.
- Public patients will be provided with equity of access, regardless of sex, race, marital status, sexual preference, physical or intellectual impairment or religious belief and age.
- The Health Service is required to provide sufficient beds for public patients up to the limit of its budget.
- Any eligible person (as defined in the *Health Insurance Act*) shall be entitled to elect to be treated as a public patient.
- Every person is eligible for community health services.

Source: PAC (1994).

Transitional issues at the end of the contract

The contracting arrangements discussed in this case study are collectively termed BOOT-type schemes — that is, a service which is privately built, owned and operated during the term of the contract, but whose assets are transferred to the government at the conclusion of the contract. However, there are other

options, including build-own-operate (BOO) schemes where the operator retains ownership at the end of the contract.²⁰

In considering the merits of a BOOT scheme relative to the BOO alternative, much depends on the length of the contract. If the contract period is much shorter than the economic life of the key assets, the transfer prices of the assets at the end of the contract become an issue. An option for dealing with this response is to transfer the facilities back to the government at a 'fair' price, reflecting the economic value of the assets. However, difficulties associated with agreeing to a future price may lead to financiers requiring higher returns on their capital investment in the project.

The contract for Hawkesbury Hospital covers 20 years. Borrowings from financial institutions must be repaid over 15 years. The balance of funds for the project was provided through subordinated debt which will be paid out over the last five years of the contract.

The transferral of ownership at the end of a BOOT arrangement may reduce the incentives for a non-government operator to undertake maintenance of the assets towards the end of the contract. Government often addresses this concern by specifying the standard or quality of asset required at the time of transfer, but this may limit the scope for flexible management practices. BOO schemes, by contrast, have an in-built incentive for the operator to continue to manage assets in the most efficient manner.

Wentworth monitors the service maintenance schedule for the buildings and equipment at Hawkesbury Hospital to ensure that these assets are maintained properly. Wentworth also uses its internal auditors to monitor the condition of assets.

BOOT projects provide government with greater flexibility at the end of the contract. Wentworth has a number of options under the Hawkesbury Hospital contract. It could keep the existing hospital operating and:

- extend the contract with HDHS;
- contract with a different operator; or
- run the hospital itself.

Alternatively, Wentworth could build a new hospital on the existing site, or sell the land and contract with an operator who operates or plans to operate from another site.

²⁰ BOO schemes were used at Port Macquarie Base Hospital in NSW and Latrobe Regional Hospital in Victoria (table 3A.3).

3.5 Other issues for the operator

The issues for any prospective operator of public health care services range from dealing with the risk of changes in patient volume and mix (as discussed earlier) to obtaining finance. The government, in recognising and understanding these issues, can develop a contract that better meets the needs of both parties.

Some risks facing non-government operators, such as obtaining finance, maintaining buildings and equipment, and dealing with industrial relations issues, are similar to those faced by most enterprises. More significant to prospective operators are issues such as government commitment to providing public health care services and the regulatory environment within which they must operate (Griffiths 1997; Velins 1997).

A non-government operator of public health care services depends on the payment stream from government to meet its operational and borrowing costs. Thus, any non-government operator expects a credible commitment from government that it will continue to fund the system at some reasonable level (Velins 1997).

Another issue for non-government operators is the regulatory environment in which they will operate. The monitoring requirements for public health care services may be significantly different from those familiar to non-government operators (Griffiths 1997).

Government regulations, such as the restriction on pharmacy services for private patients, may also affect the operating efficiency of non-government operators. HDHS is able to provide pharmacy services to public patients because these are included under the current Medicare agreements between the Commonwealth and the NSW Government. But it is unable to use its pharmacy to supply drugs on a fee-for-service basis to its private patients.

Private hospital operators supply pharmaceuticals to private patients through the Pharmaceutical Benefits Scheme (PBS). These pharmaceuticals must be sourced through an independent pharmacy (the number and locations of which are also tightly regulated). A 1995 agreement between the Pharmacy Guild and the Commonwealth Government precludes the opening of a new pharmacy within two kilometres of an existing pharmacy. The regulation of pharmacies means that HDHS cannot receive a licence to dispense PBS drugs to its private patients.

Thus, a potential source of efficiency gains for contracting with a non-government operator (that is, sharing any fixed costs of providing some services across public and private patients) cannot be tapped.

3.6 Future issues

The efficiency gains achieved through competitive tendering and contracting at one hospital may spur improvements at other hospitals if there is an effective link — for example, through yardstick competition (SCRCSSP 1997b). That is, publicly operated hospitals may be encouraged to improve their performance when the cost and quality of services are compared with those of contract operators.

Effective yardstick competition requires good comparative information and a mechanism for translating such information about achievable performance into incentives for other operators in the public system. Wentworth and the NSW Health Department generally have access to a considerable amount of information provided by HDHS and public operators on the cost and quality of hospital services (for performance monitoring purposes).

However, there may be scope to further strengthen the relationship between the observed performance of the Hawkesbury Hospital (and possibly the other privately operated public hospital at Port Macquarie) and the incentives for improved performance facing other NSW hospitals. Public disclosure of relative performance or greater linking of funding to observed performance (by introducing the casemix funding system adopted in other States) are two approaches. Such developments may encourage other NSW hospitals to more quickly adopt any changes or practices at the Hawkesbury Hospital which lead to improvements in efficiency or effectiveness.

3.7 Conclusions

This case study focused on the process of competitively tendering and contracting public hospital services. The reform process illustrated a number of lessons.

First, the allocation of risk will affect incentives facing a non-government operator of public hospital services. If the operator has to accept risks it is not best placed to manage, it may include a high-risk premium in its price. If it does not accept those risks it is best placed to manage, there may be no strong incentives to improve performance. Therefore, an important part of any contract negotiation is identifying the risks associated with the project and allocating those risks in such a way as to maximise the benefits of competitive tendering and contracting.

Second, there is the issue of how to choose a funding mechanism which provides the greatest incentive for efficient behaviour. Methods range from funding on the basis of inputs (for example, cost reimbursement) to funding on

the basis of outputs (for example, casemix funding). The closer funding is to service outputs, the greater the incentive for the operator to produce those services at the lowest cost. There is some debate about the reliability of data used in Australia to construct cost weights and the unintended side-effects of casemix funding, and about whether these costs outweigh the possible benefits of more stable funding arrangements and stronger incentives for efficiency (box 6.5).

Third, any move to devolve responsibility for decision making from a centralised authority raises question of how government can create incentives to maintain the quality of care and access to services. Government may introduce formal monitoring arrangements or other incentives (by including a third party in the contracting arrangements, for example) to offset any incentive for an operator to shave quality and access to services (box 6.4).

Fourth, the government may need to consider how its choice of incentives for improved performance by a non-government operator are transmitted to the rest of the public hospital system. Comparative performance measurement with appropriate rewards and sanctions would be one strategy, or an output-based funding mechanism could be introduced. Both aim to strengthen incentives for wider adoption of innovations introduced in one hospital.

Table 3.1: Allocation of key risks — construction

<i>Risk</i>	<i>Wentworth Area Health Service (Wentworth)</i>	<i>Hawkesbury District Health Service Ltd (HDHS)</i>	<i>Fletcher Construction</i>	<i>Comments</i>
Design and construction			✓	Fixed price/time contract
Cost overruns			✓	Fixed price/time contract
Delays in completion:				
– authorised (<i>force majeure</i> , change in law)	✓			Two year <i>force majeure</i> delay but liquidated damages (LDs) payable by HDHS
– unauthorised			✓	LDs payable by HDHS backed by Fletcher LDs
Variations:				
– government initiated	✓			
– unauthorised		✓	✓	Wentworth approval required
Subcontractor performance			✓	Fletchers responsible for construction subcontractors
		✓		HDHS responsible for other subcontractors (for example, equipment)
Industrial action:				
– site specific			✓	LDs payable for delay by HDHS backed by Fletcher LDs; Fletcher to assume cost of site-specific strike
– off-site	✓			Extension of time only; no cost reimbursement
Changes in interest rates	✓			
Inflation			✓	No escalation in construction contract
Failure to meet commissioning criteria		✓		LDs payable by HDHS to Wentworth if late
			✓	Fletcher to pay back-to-back LDs if it caused delay

(cont.)

Table 3.1: Allocation of key risks — operations (cont.)

<i>Risk</i>	<i>Wentworth Area Health Service (Wentworth)</i>	<i>Hawkesbury District Health Service Ltd (HDHS)</i>	<i>Fletcher Construction</i>	<i>Comments</i>
Market/demand:				
– non-inpatient	✓			Cost-reimbursement funding
– inpatient		✓		HDHS to assume risk of – public patient levels – casemix – public/non-government mix
– private patients		✓		Private patient revenue capped at MBF top table
– excess demand/urgent and/or essential cases		✓		HDHS obliged to take ‘urgent’ public patients but to receive no fees in excess of maximum service budget
Operating costs				
		✓		HDHS reimbursement for public patients capped by maximum service budget
		✓		Balance of operating costs must be covered by non-government patients
Environmental:				
– pre-existing	✓			Focused indemnity to HDHS by Wentworth
– resulting from change in law/regulations	✓			Wentworth to take environmental change in law risk
– compliance		✓		
Industrial action:				
– continuity of employment		✓		HDHS to employ existing employees at same terms and conditions
– on-site strikes		✓		

(cont.)

Table 3.1 Allocation of key risks — operations (cont.)

<i>Risk</i>	<i>Wentworth Area Health Service (Wentworth)</i>	<i>Hawkesbury District Health Service Ltd (HDHS)</i>	<i>Fletcher Construction</i>	<i>Comments</i>
Service quality/failure to meet standards			✓	Default regime/LDs/step-in/Termination
Changes in government policy:				
– shift to casemix funding	✓			Contract to be renegotiated but HDHS not obliged to accept
– other	✓			Contract to be renegotiated for unforeseen circumstances
Changes in law	✓			Service charge to be increased or decreased as appropriate
Interest rate risk			✓	Availability charge fixed at outset with no provision for changes in interest rate (HDHS to deal with any interest rate risk)
Inflation	✓		✓	Any cost increases above CPI not covered by Wentworth
<i>Force majeure:</i>				
– operating			✓	Default excused during <i>force majeure</i>
– non-core			✓	Extension of time — operating <i>force majeure</i> limited to three months Wentworth not required to pay any charges during <i>force majeure</i> period

Source: Personal correspondence, Christopher Rigby, Managing Director, Hawkesbury District Health Service, Wednesday 8 April 1998.

3A SURVEY OF COMPETITIVE TENDERING AND CONTRACTING ARRANGEMENTS FOR PUBLIC HOSPITAL SERVICES

This attachment identifies the use of competitive tendering and contracting arrangements for public hospital services. The survey focuses on instances where the process involves an entire hospital, except for the ACT and the Commonwealth Department of Veterans' Affairs.

Contracting in the ACT has been limited to specific clinical services. The Commonwealth Department of Veterans' Affairs sold three of its repatriation hospitals to private operators and contracts with these operators to provide health care services for veterans.¹ The Department also contracts with public sector hospitals and other private operators to provide health care services for those eligible. However, the information in this attachment is confined to the Department's relations with former repatriation hospitals that have been sold to private operators.

The survey provides information on the extent to which the methods used in NSW (detailed in the case study) are being used elsewhere. The information provided canvasses a range of issues, including:

- the size and structure of the public hospital sector;
- the use of competitive tendering and contracting;
- the model used; and
- monitoring arrangements.

The Steering Committee Secretariat collected information from the relevant department in each State and Territory.

¹ The Department of Veterans' Affairs (DVA) competitively tendered two Repatriation General Hospitals (Greenslopes and Hollywood) and one Repatriation Auxiliary Hospital (Lady Davidson).

Table 3A.1: Public hospital sector in each jurisdiction, 1995-96

	<i>Public hospitals</i>	<i>Competitively tendered and contracted hospitals (as at 30 June 1998)</i>	<i>Total system separations</i>	<i>Recurrent expenditure^a</i>
	no.	no.	'000	\$ million
NSW	173	2	1 210	4 316
Vic	115	1	897	2 628 ^b
Qld	144	2	632	1 723
WA	87	3	352	991
SA	75	2 ^c	317	871
Tas	15	1	72	274
ACT	2	0 ^d	56	220
NT	5	0	46	130
Comm ^e	0	0	93 ^f	433 ^g

a These data are indicative of the size of the public hospital sector in each jurisdiction. They are not fully comparable because accounting and reporting methodologies vary across States and Territories.

b Recurrent funding for acute care services in public hospitals.

c SA competitively tendered two hospitals but contracted only one.

d ACT has not contracted a whole hospital to a private provider. However, it has contracted some day surgery services to private operators.

e Commonwealth Department of Veterans' Affairs (DVA). DVA competitively tendered the ownership and operation of three Repatriation Hospitals which were not integrated into State public hospital systems.

f Total separations funded by DVA. There may be some double counting of separations where DVA has contracted with public acute care hospitals in States and Territories to provide some health care services.

g Recurrent expenditure on hospitals services. Recurrent expenditure on services purchased from privately owned former repatriation hospitals accounted for 20.7 per cent of the total (\$90 million).

Sources: ANAO (1988), SCRCSSP (1998) and survey.

Table 3A.2: Use of competitive tendering and contracting

	<i>Motivation for using competitive tendering and contracting</i>								
	<i>Do you use service agreements?</i>	<i>Do agreements specify outputs?</i>	<i>Do you use competitive tendering and contracting?</i>	<i>Increase competition for right to operate</i>	<i>Increase incentives for efficiency</i>	<i>Gain access to private sector capital</i>	<i>Gain access to new technology</i>	<i>Gain access to new management skills</i>	<i>Other</i>
NSW	yes	yes	yes	yes	yes	yes	no	no	—
Vic	yes	yes	yes	yes	yes	yes	no	yes	—
Qld	yes	yes	yes	*	*	*	*	*	*
WA	yes	yes	yes	yes	yes	yes	no	yes	—
SA	yes	yes	yes	yes	yes	yes	yes	yes	—
Tas	yes	yes	yes	no	yes	yes	no	no	—
ACT	yes	yes	yes ^a	no	no	no	no	no	Clear patient waiting lists
NT	yes	yes	no	—	—	—	—	—	—
Comm	yes	yes	yes ^b	no	no	no	no	no	To devolve the responsibility for ownership and operation of hospital services

— not applicable

* Contractual obligations prohibit the release of information.

a The ACT has not contracted a whole hospital to a private provider. However, it has contracted some day surgery services to private operators.

b Hospitals owned and operated by DVA were offered to State and Territory Governments in the first instance. Those not accepted were competitively tendered to private hospital operators.

Table 3A.3: Contracted hospital services

	<i>Clinical activities</i>	<i>Hospital</i>	<i>Operator</i>	<i>Size (beds)</i>	<i>Location</i>	<i>Opened</i>	<i>Contract length (yrs)</i>	<i>Activities contracted</i>
NSW	A, Out, E, M ^a	Port Macquarie	Health Care of Australia	160	Rural	November 1994	20+2	D, Con, F, Op
	A, Out, E, C	Hawkesbury	Catholic Health Care	127	Urban	August 1997	20+5	D, Con, F, Op
Vic	A, Out, E, C, M	Latrobe	Australian Hospital Care	257	Rural	August 1998	20+5	D, Con, F, Op
Qld	*	*	*	*	*	*	*	*
	*	*	*	*	*	*	*	*
WA	A, Out, E, M	Joondalup	Health Care of Australia	265	Urban	January 1998	20	D, Con, F, Op
	A, Out, E	Peel	Health Solutions	110	Urban	September 1998	20	F, Op
	Oncology, renal dialysis, palliative care	Bunbury	SJOG Healthcare	120	Rural	December 1998	3 months	D, Con, F, Op
SA	A, Out, E, C, M	Modbury	Healthscope ^b	235	Urban	February 1995	15+5+5	Op
	—	Port Augusta	ABN Amro ^c	87	Rural	October 1997	25+5+5	D, Con, F
Tas	A, Out, E	Latrobe	Health Care of Australia	110	Rural	July 1995	15	Op
ACT	Plastic surgery	—	Lydia Perrin Day Surgery	—	Urban	—	—	—
	Ophthalmic surgery	—	Canberra Eye Surgery	—	Urban	—	—	—
Comm	A, Out, E, C, M	Hollywood	Ramsey Health Care Group		Urban	February 1994	ongoing	Op
	A, Out, E, C, M	Greenslopes	Ramsey Health Care Group		Urban	January 1995	ongoing	Op
	Rehabilitation services	Lady Davidson	Australian Hospital Care		Urban	October 1995	ongoing	Op

— not applicable

* Contractual obligations prohibit the release of information.

A – acute inpatient; Out – outpatient; E – emergency; C – community health; M – mental health; D – design; Con – construction; F – finance; Op – operation.

^a Excludes gazetted inpatient beds.

^b Healthscope commenced management of an existing public facility.

^c ABN Amro is the builder and owner of the facility. Operation of the facility was awarded to the existing inhouse provider.

(cont.)

Table 3A.3: Contracted hospital services (cont.)

Competitive tendering process open to:									
Hospital	Contract structure	Private for-profit	Private not-for-profit	Government	Benchmark cost model used	Basis for benchmark model	Funding for inpatient services for private providers	Funding for inpatient services for other providers	
NSW	Port Macquarie BOO	yes	yes	no	yes	A, B	Fee-for-service/ casemix ^a	Needs based	
	Hawkesbury BOOT	no	yes	no	yes	A, B	Fee-for-service	Needs based	
Vic	Latrobe BOO	yes	yes	no	yes	C	Casemix	Casemix	
Qld	* BOOT	*	*	*	*	*	*	*	
	* BOOT	*	*	*	*	*	*	*	
WA	Joondalup BOOT	yes	yes	no	yes	A	Casemix	Casemix	
	Peel O	yes	yes	no	yes	A	Casemix	Casemix	
	Bunbury Collocated	no	yes ^b	no	yes	A	Casemix	Casemix	
SA	Modbury O	yes	yes	no	yes	C	Casemix	Casemix	
	Port Augusta BOT	yes	yes	yes	yes	C	—	Casemix	
Tas	Latrobe O	yes	yes	no	yes	C	Casemix	Casemix	
ACT	—	yes	yes ^c	no	yes	C	Casemix	Casemix	
Comm	Hollywood OO	yes	yes	no	—	—	Casemix	Casemix	
	Greenslopes OO	yes	yes	no	—	—	Casemix	Casemix	
	Lady Davidson OO	yes	yes	no	—	—	Casemix	Casemix	

— not applicable

* Contractual obligations prohibit the release of information.

A – average performance of a sample of hospitals; B – best practice; C – standard casemix payment; BOOT – build, own, operate, transfer; BOO – build, own, operate; BOT – build, own, transfer; OO – own, operate; O – operate.

^a Payment for some surgical services is on a casemix basis and the purchaser is currently investigating the use of casemix for some medical services.

^b A private not-for-profit hospital (and the only non-government provider of acute hospital services) participated in the collocation of Bunbury hospital.

^c Excludes hospital services for children dependent on technology in the community.

Table 3A.3: Contracted hospital services (cont.)

		<i>Sanctions for poor performance</i>						
	<i>Hospital</i>	<i>Penalty clauses</i>	<i>Financial penalties</i>	<i>Contract termination</i>	<i>Other</i>	<i>Price made public</i>	<i>Contract publicly available</i>	
NSW	Port Macquarie	yes	yes	yes	—	no	no	
	Hawkesbury	yes	yes	yes	—	no	yes ^a	
Vic	Latrobe	yes	yes	yes	Replacement operator regime	no	no	
Qld	*	*	*	*	*	*	*	
	*	*	*	*	*	*	*	
WA	Joondalup	yes	yes	yes	—	no	yes ^b	
	Peel	yes	yes	yes	—	no	no	
	Bunbury	yes	yes	yes	—	no	no	
SA	Modbury	yes	yes	yes	Replacement operator regime	no	yes ^c	
	Port Augusta	—	—	—	—	no	no	
Tas	Latrobe	yes	yes	yes	—	no	no	
ACT	—	—	—	—	—	no	no	
Comm ^d	Hollywood	yes	yes	no	—	no	no	
	Greenslopes	yes	yes	no	—	no	no	
	Lady Davidson	yes	yes	no	—	no	no	

— not applicable

* Contractual obligations prohibit the release of information.

a A contract summary for Hawkesbury Hospital was prepared in accordance with government guidelines and tabled in Parliament.

b All financial data are excluded.

c The contracts were tabled in Parliament.

d DVA monitors the performance of private operators contracted to provide health care services for veterans. It relies on State and Territory governments to monitor the performance of public operators contracted to provide health care services for veterans.

Table 3A.4: Patient volume risk

		<i>If the government does accept some of the patient volume risk, what options were used by the government?</i>						
	<i>Does the government accept any of the patient volume risk?</i>	<i>Require all patients to be treated on a clinical needs basis</i>		<i>Negotiate if throughput goes above and/or below certain levels</i>		<i>Structure prices differently according to location</i>		<i>Guarantee minimum payment of operator each year</i>
		<i>Limit competition for public services</i>	<i>yes</i>	<i>no</i>	<i>yes^a</i>	<i>no</i>	<i>yes^b</i>	
NSW	yes	yes	yes	yes ^a	no	no	yes ^b	yes
Vic	yes ^c	yes	yes	no	no	no	no	no
Qld	*	*	*	*	*	*	*	*
WA	no	—	—	—	—	—	—	—
SA	no	—	—	—	—	—	—	—
Tas	yes	yes ^d	no	no	no	no	yes	yes
ACT	no	—	—	—	—	—	—	—
Comm	yes	no	no	yes	yes	yes	no	no

— not applicable

* Contractual obligations prohibit the release of information.

a The NSW Government may negotiate with the provider if throughput goes above a certain level. The Government is under no obligation to finance an expansion.

b The amount received by the operator in a given year cannot be less than the amount received for the previous year.

c The hospital operator must bear the risk in any given year of the patient volume and mix varying from those targets set at the beginning of the year.

d The Tasmanian Government accepts the responsibility for any throughput above the number of weighted separations negotiated at the beginning of the year.

Table 3A.5: Monitored aspects of private operator performance

	<i>Casemix</i>	<i>Quality of care</i>	<i>Waiting lists</i>	<i>Access</i>	<i>Financial performance</i>
NSW	yes	yes	yes	yes	yes
Vic	yes	yes	yes	yes	yes
Qld	*	*	*	*	*
WA	yes	yes	yes	yes	yes
SA	yes	yes	yes	yes	no
Tas	yes	yes	yes	yes	yes
ACT	no	yes	no	no	no
Comm ^a	yes	yes	yes	yes	no

* Contractual obligations prohibit the release of information.

a DVA monitors the performance of private operators contracted to provide health care services for veterans. It relies on State and Territory governments to monitor the performance of public operators contracted to provide health care services for veterans.

Table 3A.6: Options for maintaining quality of care

	<i>Accreditation</i>	<i>Peer review of high volume treatments</i>	<i>Comparison with peer hospitals</i>	<i>Third party (such as a university)</i>	<i>All patients receiving same clinical services</i>	<i>Community board of advice</i>	<i>Clinical pathways</i>	<i>Other</i>
NSW	yes	yes	yes	no	yes	yes	yes ^a	—
Vic	yes	no	yes	yes	yes	yes	no	—
Qld	*	*	*	*	*	*	*	*
WA	yes	yes	yes	no	yes	yes	no	full audit
SA	yes	no	yes	no	yes	yes	no	—
Tas	yes	no ^b	yes	no	no	yes	no	—
ACT	yes	—	—	—	—	—	—	—
Comm ^c	yes ^d	no	yes	no	no	yes ^e	no	—

— not applicable

* Contractual obligations prohibit the release of information.

a Clinical pathways are being developed internally, but are not required under the terms of the contracts.

b Peer reviews are conducted internally, but are not required under the terms of the contract.

c DVA monitors the performance of private operators contracted to provide health care services for veterans. It relies on State and Territory governments to monitor the performance of public operators contracted to provide health care services for veterans.

d Private hospitals contracted to provide services to veterans must be accredited by the Australian Council on Healthcare Standards.

e Treatment monitoring committee.

Table 3A.7: Options for maintaining equity of access for public patients

	<i>Role delineation specified in contract</i>	<i>Casemix compared with peer group hospitals</i>	<i>Same payment for public and private patients^d</i>	<i>Third party (such as a university)</i>	<i>Community board of advice to monitor complaints</i>	<i>Monitoring waiting lists</i>	<i>Other</i>
NSW	yes	yes	no ^b	no	yes	yes	—
Vic	yes	yes	no	yes	yes	yes	—
Qld	*	*	*	*	*	*	*
WA	yes	yes	no	no	yes	no	Monitoring hospital activity by locality
SA	yes	no	no	no	yes	yes	—
Tas	yes	yes	no	no	yes	yes	—
ACT	—	—	—	—	—	—	—
Comm	—	—	—	—	yes	—	—

— not applicable

* Contractual obligations prohibit the release of information.

a The fee the hospital operator receives for providing services to public patients is equal to the amount it receives from private health insurers for private patients.

b Initially the payment for public patients at Port Macquarie Base Hospital was based on the amount received by the operator for private patients. However, the Port Macquarie payment rates have been modified for escalation and additional volume paid on a casemix basis.

4 OFFERING DIRECT CONSUMER FUNDING AND CHOICE IN WA DISABILITY SERVICES

Local Area Coordination helps people with disabilities to develop sufficient support to remain with their family and community. The aim is to ensure services are based on meeting individual need and complementing community-based support networks, rather than on people having to fit into existing services.

4.1 This case study

This case study focuses on the introduction of Local Area Coordination (LAC) by the Disability Services Commission (DSC) in WA. This development is placed in the context of broader reforms occurring in the services of the DSC in WA. Specifically, it reflects a growing recognition of the need to create services that are more focused on the needs of individuals and more responsive to customer demand.

To place this case study in a broader context, attachment 4A provides background information on similar services in other jurisdictions.

4.2 The reform

LAC places local area coordinators into areas where people with disabilities live to help those people receive services and achieve independent living (see box 4.1 for a description of the size of LAC).

The local area coordinator operates as a service coordinator rather than a service provider and, as such, aims to help the person with a disability (and his or her family/carer)¹ to plan, select and receive needed services (DSC 1994b). The two main aspects of the scheme are:

- limited case management, whereby the task of the local area coordinator is to provide people with disabilities with information, planning, some assistance in coordinating other services they use, and advocacy; and
- individualised and direct funding, whereby funding is provided to

¹ The term ‘family’ is used throughout the chapter to refer to either family, guardian or carer.

individual consumers² or their family to purchase services, rather than through the direct provision of government or other organised services.

The original aim of the scheme was to provide assistance in country WA, where the lack of appropriate services was forcing a number of people with disabilities to transfer to Perth. This removed them from family and other networks, so most then went into relatively intensive residential care.

Box 4.1: Size of local area coordination

As at 1 July 1997, 3926 people with disabilities were registered with the service (1739 in the country and 2187 in the Perth metropolitan area). These consumers comprised 3345 people with intellectual disabilities and 581 with physical or sensory disabilities.

Consumers were assisted by 73 local area coordinators (33 in rural and remote areas and 40 in metropolitan areas). LAC aims for around 50 consumers per local area coordinator.

The average cost per person of the LAC service was \$2798 in 1996-97, including:

- service coordination and administration (\$1681),³ which includes all activities of the local area coordinator (such as undertaking needs analyses, planning and arranging needed services, costing and funding those services where required, briefing service providers, monitoring the services, advocating for consumers, liaising with other agencies, and raising community understanding and acceptance of people with disabilities) and central administration; and
- individualised funding (\$1128), which includes funds distributed at the local area coordinator's discretion (\$213) and funds sourced from outside the local area coordinator's initial funding allocation (but within DSC) (\$915).⁴

Total Statewide expenditure for LAC was an estimated \$11 million in 1996-97. Total DSC expenditure was \$149 million.

Source: Unpublished data and DSC (1997a, p. 13).

² LAC refers to a recipient of the service as a consumer, so this term is used throughout this chapter. Others may use terms such as client or customer.

³ Separate figures for administration are not readily available for 1996-97. Central administration costs were around 12 per cent of service coordination and administration costs in 1994-95 (DSC 1996b, p. v).

⁴ This individualised funding figure excludes funding obtained by consumers from other agencies with the assistance of their LAC coordinator.

LAC was first trialed in 1988 in certain parts of country WA. Its early mission was:

To build individual, family and community self-sufficiency so that individuals with an intellectual disability can choose to live with their families or in their local community without compromising quality of life. (DSC 1994a, p. 6)

The overarching philosophy of the scheme is to aim to improve consumer choice. Moving the decision making closer to individuals helps ensure that the level and mix of assistance better meets the needs of individuals with a disability and their families. Consumers are funded rather than organised service providers, and they can choose to spend this on non-traditional services:

A significant proportion of the funds expended by consumers was used to purchase informal supports — by which is meant practical, everyday supports that can be provided by people who don't necessarily have specialist knowledge, skills or qualifications. These natural helping networks can be found or developed in almost any community. It is more difficult to purchase formal services that require suitably qualified practitioners in communities where those services or specialists do not exist. Thus local area coordination and specialist services are complementary, rather than alternative, services. (DSC 1996b, pp. 187–8)

The categories of support funded under LAC are listed in box 4.2.

Box 4.2: Supports funded under LAC

Local area coordinators can fund a diverse range of services including the following.

1. Respite support — in-home respite, out-of-home respite
2. Domestic support — domestic help, domestic appliances
3. Carer support — carer training, counselling and help
4. Personal support — personal care, holiday assistance, transport assistance, advocacy, personal development
5. Professional support — physiotherapy, occupational therapy, speech therapy, psychology/social work, medical/dental care, specialised support
6. Employment support (information and advocacy only) — job support, vocational development
7. Leisure support — leisure fees, leisure support
8. Accommodation support — independent living training, community living support, co-resident support, home establishment costs
9. Education support (information and advocacy only) — tutoring, education fees, school support, preschool support, child care support
10. Equipment support — home modifications, assistive devices

Source: DSC (1996b, p. 133).

LAC has changed since 1988, adjusting both its stated aim and its coverage. The initial mission of LAC focused on achieving self-sufficiency of people with

disabilities, but not all consumers and their families may want to be completely self-sufficient (some may want accommodation services provided, for example). Thus, the DSC introduced a new LAC charter in early 1996:

To support people with disabilities and their families to identify their own needs, determine their preferred services and control the required resources, to the extent they desire, so that they can pursue their chosen lifestyle. (DSC 1997c, p. 1001)

The emphasis on consumers pursuing their chosen lifestyles placed a greater emphasis on choice. Where consumers are unable to exercise or communicate choices, the local area coordinator works closely with their families and/or guardians.

During the past decade (see box 4.3), coverage of LAC has evolved in two areas. It now includes metropolitan areas and covers not only people with intellectual disabilities but also those with physical and sensory disabilities. (Mental Health Services, within the Health Department of WA, provide services for people with psychiatric disabilities).

4.3 Reform environment

The most significant factors influencing the development and implementation of LAC were the gap in rural services in WA and the shifting focus of disability services (both at the national level and in WA) away from institutionalised care and towards support for people to live in the community.

4.3.1 Gap in rural services in WA

The initial impetus for the introduction of LAC was the number of people with intellectual disabilities, and sometimes their families, who needed to move from country WA to Perth to receive the services they required (intensive residential care in most instances).

Country WA is sparsely populated. Around 500 000 people live in an area of 2.5 million square kilometres (compared with 1.2 million persons in Perth). The people of country WA reside predominantly in rural towns, none of which have a population in excess of 30 000 people and only 10 of which have a population in excess of 10 000 (DSC 1996b, p. 3).

Box 4.3: Chronology of LAC

Decision made to trial LAC in a rural area

- 1988 — LAC trialed in Albany
Following evaluation, decision made to phase implementation across all rural areas (achieved in 1994-95).

- 1989 — coordinator positions introduced in Kalgoorlie, Geraldton and Northam
- 1990 — one coordinator position introduced in Broome
- 1991 — 40 per cent coverage of eligible consumers achieved in country WA as at June (with 86 per cent of these consumers having been contacted by a coordinator)

Decision made by Authority for Intellectually Handicapped Persons (AIH) to pilot LAC in metropolitan areas in 1991

- 1991 — coverage expanded to consumers in metropolitan areas via a pilot project (ten positions funded by AIH, one position funded by the Commonwealth)

Following pilot, in-principle decision (subject to funding) made to phase implementation across all metropolitan and rural areas (to be achieved by June 2000)

- 1992-93 — 27 coordinators located in country divisions and 11 located in metropolitan areas

Commonwealth decision made to fund a pilot project to expand coverage to people with physical and/or sensory disabilities

- 1993 — pilot conducted, involving a further 11 coordinators (full time and part time)

Following pilot, decision made to expand coverage to people with physical and/or sensory disabilities (merging of the AIH and Bureau of Disability Services to form the Disability Services Commission in 1993)

- 1993-94 — five additional coordinators appointed in the metropolitan area
- 1994-95 — 50 coordinators operating out of 28 offices
- 1995-96 — 15 new coordinators appointed in the metropolitan area; 2478 people receiving the service

WA Government decision made to fund a doubling of the existing service size, aiming to make it available to all people with disabilities across the State by June 2000

- 1998 — 82 coordinators (48 located in metropolitan areas and 34 located in rural areas) working by April

Sources: DSC (1996a and 1996b), various DSC annual reports and unpublished information.

There were virtually no services for people with disabilities in rural WA before 1971. Later, teams of specialists visited regional areas quarterly, half yearly or yearly.

4.3.2 Shift in the focus of disability services

Governments have increased funding for a range of community-based human services in recent years, partly as a substitute for government-operated intensive institutionalised care.

Institutionalised care for people with disabilities typically offers broadly similar and relatively intensive levels of services — including housing, food, medical, education and recreation — to all consumers. Consequently, the cost to government per individual is high, about \$60 000 a year (SCRCSSP 1998).⁵ Further, such care may weaken consumers' links to the broader community. And, although many individuals (and/or their families) may not be able to cope independently, many do not need or want all services provided in an institutional setting.

To address the shortcomings of institutional care, governments have been increasing the overall level and range of services available for people staying in the community. Governments have separated particular services and supplied them at varying levels of intensity which better reflect individual need, facilitating a customised bundle of services for each consumer. Services such as those provided under Home and Community Care (HACC) (for the aged and people with disabilities) include home help and maintenance, food services and transport, and allow people to remain in their home rather than institutions.⁶

These developments have helped meet demands from people with disabilities, and from their carers, for a greater say in what services are provided and how. Governments have sought to provide services that support rather than replace existing or potential community-based support networks, thereby building 'social capital'.⁷

A parallel development has been the attempt to 'mainstream' services for people with disabilities, to ensure these consumers are integrated into the broader community where possible. This has meant, for example, that many more

⁵ The average cost to government per LAC consumer (\$2798, see box 4.1) is significantly lower than the cost to government of institutional care. One reason is that the average level of disability of people in institutional care would tend to be higher than the average level of disability of LAC consumers. Also, the average level of funding under LAC relates only to the cost to government. It excludes unpaid support from family and friends which would, at least in part, be provided by paid carers in institutions.

⁶ In other settings, concerns have been expressed about reducing the availability of institutional care ('de-institutionalisation'). These concerns have often focused on whether the reduction has been accompanied by appropriate levels of support in the community.

⁷ Social capital refers to features of social organisation such as networks, norms and social trust that facilitate coordination and cooperation for mutual benefit (Putnam 1995).

children with disabilities are supported in regular schools, that psychiatric services are increasingly provided in general hospitals, and that local libraries provide materials suitable for those with poor sight. All public authorities in WA are required under the *Disability Services Act 1993* to ensure their services are accessible to people with disabilities (DSC 1997a).

The services are now arguably better but more complex. Consequently, people with disabilities whose institutionalisation meant that they had most needs met by only one service provider, now may come into contact with a significantly larger number of service providers and government agencies. Examples include the DSC, community organisations such as the Activ Foundation, and the Commonwealth and WA departments for services such as education, health, housing and transport.

4.4 Key implementation issues

This section discusses a number of key issues and the options available to decision makers in implementing LAC. The issues relate to the introduction of the LAC service through a pilot followed by phased implementation, the merits of directly funding consumers, improved coordination of other services, the caseload of coordinators, staff recruitment, and measures for maintaining and enhancing performance.

4.4.1 Introduction of service

New programs are often introduced via a pilot, followed by full implementation. Options for full implementation include phasing or immediate implementation (the ‘big bang’ approach). The approach chosen, and whether the new service replaces a previous service, will affect the extent to which transitional or adjustment issues emerge for consumers, government and staff (staff issues are also discussed in section 4.4.3).

The implementation of LAC has involved both piloting and phasing (see box 4.3 for details).⁸

⁸ Other jurisdictions have used pilots to trial similar programs. In NT, Care Coordination is being piloted in Darwin with further pilots expected in other regions. In Victoria, Making a Difference was originally piloted in metropolitan Melbourne and now operates on a Statewide basis (attachment 4A, section 4A.3).

- LAC was initially piloted for people with intellectual disabilities in a country area in 1988, then phased across country areas (achieving total coverage in rural areas in 1994-95).
- LAC was piloted in metropolitan areas in 1991, then phased across metropolitan areas (with the DSC planning full coverage by 2000).
- An extension of LAC was piloted for people with physical and sensory disabilities in 1993, then the scope of LAC was extended to include people with physical and sensory disabilities.

Unlike the rural service (which was funded from an additional allocation), the initial funding (apart from one position funded by the Commonwealth) for LAC in metropolitan areas came from a reallocation from other metropolitan services. The expansion since 1995 has resulted from an injection of further funding outlined in the DSC's five-year business plan (DSC 1996a).

The use of pilots and the phased introduction of new programs has both advantages and disadvantages.

Pros and cons of piloting

A pilot provides a chance to test if the program is feasible in a practical sense, and withdraw it if necessary. A pilot also allows program designers to learn from experience and modify the program before full implementation, based on the success of the trial. However, proceeding to full implementation without a pilot may mean that the gains are realised sooner, and it reduces uncertainty for consumers and providers.

Pros and cons of phasing

Once the in-principle decision has been made to fully implement a program, pre-announced phasing allows the government more time to demonstrate the benefits of the program to potentially less enthusiastic consumers. If it is a significant change in service, gradual implementation may generate more community support in new areas once benefits have been demonstrated in other areas. It also avoids the logistical challenge of recruiting, training and supervising new staff for all positions at one time. If a program is in the process of being phased in, it may be easier to withdraw the program if implementation shows the program is not achieving its objectives (but this should not be needed if the program has been piloted properly). Another benefit of pre-announced phasing is the scope to learn from experience and thus refine the program as it is implemented. This requires effective feedback mechanisms, such as regular monitoring or formal evaluations. LAC has been evaluated regularly, leading to modifications over time (section 4.4.5).

There are advantages to commencing phasing in an area without existing services or where a new service does not replace existing services. Consumers tend to be very positive and the new service does not threaten existing providers or their employees (and consequently adjustment costs are not an issue). This can create a more positive environment in which to debug or refine the program.

Introducing LAC in rural areas also had the potential to generate the greatest upfront social and monetary benefits, because it was more likely to reduce the need for institutional care. When phasing the introduction of a service across regions, there will be boundaries to where the program is available. There may be problems when consumers who are not living in the allocated areas or suburbs are aware that the program is available in other suburbs (potentially the 'next street') and seek to be included. Phasing LAC in rural areas initially meant fewer of these boundary problems and fewer equity concerns because people who had previously had very few services would have been less concerned with slight differences in service levels.

On the other hand, immediate full implementation has several advantages over phasing, including: (a) some groups do not have to wait longer to receive the benefits of the program; (b) it avoids the political considerations of choosing where to introduce the program initially; and (c) if the program replaces a previous program, it avoids the problems of running both programs in parallel until the new program is fully implemented.

The DSC argues that piloting and phasing were the most appropriate options for implementing LAC. This was because it was a different service and thus needed to demonstrate benefits before attracting significant funding. Phasing the introduction in rural areas generated important upfront benefits.

4.4.2 Direct consumer funding

Government support can be categorised in a number of ways, including the type of service (from more standardised to more individualised) and the system through which the government provides the service (cash payment system, voucher-type system or direct supply of government-funded service)⁹ (table 4.1). The variety of options available can be compared across these two dimensions.

⁹ Direct supply of government-funded services is the allocation of a specific service from a specific service provider (which may be a government or non-government agency) to the consumer.

Standard (quantity or value of) services are universally available in the same form to a target group, regardless of other characteristics (such as income or assets). The typical advantages of standard services are that they are administratively simpler and less open to accusations of bias.

Individualised services mean that a provider can tailor a service or a package of services to a person’s needs — for example, the level of in-home support can vary from three hours per week to 72 hours. This is more flexible when the needs of consumers vary, and it can provide better targeting (given that individuals may not need or want all services that are available). It also helps satisfy individuals with greater than ‘average’ service needs (the level that would be provided if everyone received the same level of service).

Table 4.1: Examples of different mechanisms for assisting people with disabilities to meet their service needs

<i>System of provision</i>	<i>Type of service</i>	
	<i>More standardised</i>	<i>More individualised</i>
Cash payment	Non-means-tested benefits	Means-tested benefits
Tied cash/vouchers	Taxi concessions	LAC funding
Direct supply of government-funded service	Special schools	DSC Attendant Care Scheme ^a

a This scheme provides support for people with severe physical disabilities to enable them to live independently in their own home in the community (DSC 1997b).

It may be appropriate to move the service-related decision making closer to the individual concerned, depending on the extent to which the services are individualised (or tailored). Options include delegating decisions (within the bureaucracy) or devolving them (outside the bureaucracy). LAC delegates decisions about the spending of discretionary funding to local area coordinators; for example, coordinators may provide funds for someone to purchase special equipment, or assist with vacation respite for a family. Decisions about choice of service provider are devolved to consumers; for example, a coordinator may help a family advertise for someone to assist with in-home support, but the family makes the final decision about whom they hire (see box 6.2 for a general discussion about decentralising decisions).¹⁰

¹⁰ Consumer choices in relation to service providers in similar programs vary across jurisdictions. NSW, Queensland and SA require consumers to use department approved providers only (attachment 4A, table 4A.9).

The spectrum through which governments assist people to meet their service needs ranges from cash payments to direct supply of service. The type of system selected will usually depend on how much the government wants to influence the services provided and/or the supplier of that service.

Cash payments or benefits, such as Commonwealth social security benefits, give recipients total discretion over what they purchase and from whom, and as such are not linked to particular services. This is a flexible system which signals more confidence in the consumer's ability to select services. These types of payments are typically provided as, or perceived to be, an entitlement.

Consumers can use tied cash (or vouchers) to obtain services from public or private operators. This system can be related to particular services or activities, or to particular service providers. Schemes in some States provide people with disabilities with vouchers to obtain half-price taxi fares (with the government paying the other half), for example.¹¹ If related to particular services or activities, tied cash can provide for contestability between service providers. This system ensures funds are directed to particular activities.

Direct supply of service means the government chooses the supplier and usually the array of services they will provide (such as special schools). This system can have benefits when, for example, it is more efficient to have only one supplier in a particular area (that is, when significant economies of scale exist).

Delivery of direct consumer funding

LAC aims to provide funding that is tailored to a consumer's needs. Delegating the decision making about funds distribution closer to consumers (that is, to lower levels within the organisation) can improve flexibility and responsiveness. However, these benefits must be balanced against the costs of ensuring accountability, consistent quality and equity.

LAC addresses this issue by providing two forms of funding. The first is an upfront budget allocation to each local area coordinator, which is allocated by the coordinator on a discretionary basis. (This funding is designed to be used for low cost or emergency one-off payments.) Each local area coordinator is currently provided with about \$10 000 a year (equivalent to about \$200 per consumer). The choices about to whom to provide these funds and for what purpose have been delegated to coordinators (although local area coordinators can only approve payments up to \$5000). In general, about one third of eligible consumers use this type of funding (DSC 1997c).

¹¹ See attachment 4A, table 4A.3.

The second form of funding is assigned to specific individuals or families for particular services or activities. This is based on a funding plan established by the coordinator and consumer together,¹² then approved by a review panel chaired by LAC senior managers. Thus, the decision about who receives funding is made at a higher level.¹³

There is a general principle that the latter type of funding (referred to as ‘tied funding’) is to be used when the annual recurrent cost is above \$3000. To receive this funding it must be demonstrated that ‘the individual is currently residing in the community and is at risk of institutionalisation in the short or longer term’ (DSC 1994a, p. 10), or that the person’s family is at risk of breakdown. A prioritisation process ensures that funding goes to those most in need (generally those most in risk of reaching crisis point) if there is a budget shortfall. LAC aims to ensure that family support involves a proactive and preventative funding strategy.

There are three methods of providing funding for consumers in LAC. The most common method is to make payments to the consumer in arrears (that is, after the goods or services have been purchased). A second way is to make payments to the consumer in advance (before the goods or services have been purchased). LAC can pay the good or service provider in arrears, although this is the least preferred option and is strongly discouraged for providers of personal support.

Determining individual funding levels

Options for determining individual funding levels include an objective funding formula (depending on measurable and targeted characteristics such as income or assets, degree of individual disability and degree of geographical difficulty) or more flexibility or subjectivity depending on circumstances.

Using an objective funding formula with tight guidelines means funding allocations are more transparent. An objective formula can help ensure horizontal equity (for example, ensuring that those with similar disabilities receive the same amount) and vertical equity (for example, ensuring that those

¹² Similar programs in Victoria and Queensland devolve decisions regarding funding plan development to independent bodies and consumers (attachment 4A, table 4A.9).

¹³ Victoria is the only jurisdiction that devolves some funding approval decisions to an independent non-government coordinator (for funding levels up to \$5000). For all other jurisdictions, all funding decisions are made within government (attachment 4A, table 4A.9).

with more severe disabilities receive more assistance). Being more transparent, the process should also be less open to accusations of bias.¹⁴

However, a funding assessment that is more flexible can adjust for the level of community and/or family support, and thus is potentially better targeted. It is also more likely to satisfy those with (financial) needs greater than the average consumer.

The aim of LAC is not to ensure equal funding for equivalent levels of disability, because it is not about entitlements. Financial support is provided under LAC to offset the additional costs of having a disability, but these costs differ among individuals. The DSC argues that this requires funding to be allocated in a more flexible way than under some other programs.

The DSC believes LAC has a number of mechanisms to avoid problems from allowing significant flexibility in funding allocations. To apply for nondiscretionary funding (that is, funding allocated at a level above individual coordinators), a funding plan needs to be submitted. When preparing funding plans, local area coordinators have guidelines on the maximum reimbursement rates for services (for example, up to \$12 per hour for personal assistance and up to \$3.50 per hour for overnight and longer term support for people with high support needs).

A panel of LAC staff initially assesses these funding plans. The panel meets once or twice a year to assess all new funding plans together. According to the DSC, these peer review panels perform a number of important roles, including:

- assessing whether a plan provides the most cost-effective option while meeting needs;
- improving consistency across individuals; and
- operating as a learning mechanism (for example, local area coordinators share their approaches to solving particular problems).

LAC does not apply a formal means test, but individualised funding principles state that consumers are expected to contribute a proportion of their available allowances and/or benefits towards related supports (DSC 1997c).¹⁵

¹⁴ The DSC has been refining a more objective funding instrument for supported accommodation. The aim is to use the Estimated Resourcing Staff Support Instrument (ERSSI) to help determine ‘which resident characteristics require which different types and amounts of staff and services and at what cost’ (DSC 1997a, p. 27). This has some similarities to the casemix funding formula used to fund acute care public hospitals (for more detailed discussion of these issues, see the case study on casemix funding of public hospitals in Victoria — SCRCSSP 1997).

Level of discretionary funding

The level of discretionary funding provided to each local area coordinator on a 'per consumer' basis has fallen in real terms over the past decade (although it has remained at similar levels in nominal terms). The DSC argues that constraining discretionary funding compels local area coordinators to be more resourceful in finding other sources of services or funding. The LAC handbook (DSC 1997c, p. 8010) notes a number of issues when local area coordinators use discretionary funding as a support strategy:

- formal paid support options may become the first option rather than the last;
- it may encourage a quick fix rather than develop more enduring supports;
- local area coordinators may be seen as cheque book case managers;
- local area coordinators may be criticised for their distribution of discretionary funding;
- discretionary funding may be used as *de facto* long-term funding for ongoing needs; and
- local area coordinators' time could be spent processing claims and managing the budget.

However, the availability of some discretionary funding (although limited) allows local area coordinators to respond to some immediate, emergency needs.

Level of flexibility

Funding plans can be set for long periods or be flexible over time to adjust to changes in needs. A fixed funding plan may need less ongoing monitoring and assessment if consumers want to change their plan. There is also less likelihood of funding being used inappropriately. However, flexible funding plans can more easily accommodate changes in needs or circumstances, and may also empower consumers.

Individuals and families are required to use funds obtained through LAC for the 'intended purpose' that is described in the plan. However, there is some flexibility if needs change. Funding for an individual is one allocation to meet the various support needs. The local area coordinator then administers those funds and has some flexibility in changing the funding plan if consumers' needs change (such as requiring less respite and more home help). This flexibility also

¹⁵ Most similar programs in other jurisdictions are not means tested. In SA, means testing is applied for only one element — equipment support (attachment 4A, table 4A.10).

extends to LAC being able to shift funding between consumers where changes in needs mean spending may be over or under their specific funding level.

4.4.3 Service delivery

Caseload of coordinators

Deciding on the number of consumers to allocate to each local area coordinator involves several issues. A higher number of consumers per local area coordinator would lower salary costs per consumer. But a caseload that is too high could reduce the service to crisis management (for example, arranging emergency respite following a family breakdown). A lower number of consumers per local area coordinator would allow more contact between individual local area coordinators and their consumers, giving them more scope to be proactive and avoid crises; but involve higher salary costs per consumer.

An important role of local area coordinators is to help create and maintain natural support networks in communities (box 4.4). A lower caseload would allow coordinators to develop and assist these networks; although, according to the DSC, caseloads that are too low may lead coordinators to take a service provider role rather than focus on developing support networks.

Developing and assessing LAC over time, the DSC has reduced the typical caseload from an initial 100 consumers per coordinator to 50 consumers to allow the service to be more personalised and responsive. According to the most recent evaluation, typically one third of these consumers require minimum involvement at any time, one third have a number of matters in progress and one third have a number of pressing, unresolved needs that require immediate attention (DSC 1996b).

Recruiting coordinators

In implementing a new program that requires new staff, an agency needs to consider whether to recruit from existing staff in other programs of the agency, or to also seek external applicants.

Box 4.4: Natural support networks — ‘social capital’

Government-funded services for people with disabilities are important but not the only source of help. People with disabilities and their carers receive most help from informal sources, such as relatives, partners, friends and neighbours. Of those receiving help in

1993, over 90 per cent of people with a handicap living in households received informal help and 40 per cent received formal help (ABS 1995).^{16,17}

A key aim of LAC is to promote and assist the operation of natural support networks (that is, informal networks of family and friends).¹⁸ Naturally formed networks are more likely to be sustaining in the longer term. But historically, natural support networks have not comfortably co-existed with professional or specialist services. Confronted with teams of experts from specialist agencies, people providing informal support have felt underqualified to continue their helping role (Lewis 1989). Local area coordinators can perform two important roles: first, they can help create natural support networks in communities, and second, they can help provide limited funds to maintain existing networks that are struggling with the burden of support.

There are a number of ways in which local area coordinators can establish networks or help people with disabilities become involved with existing networks. They may introduce families with similar interests or assist people with disabilities in joining local clubs and establishing relationships.¹⁹

The implementation of LAC in rural areas did not replace any previous service, so there were no significant adjustment issues for staff. The DSC decided to open the selection process to external applicants, given that the skills required of local area coordinators are not necessarily the same as those sought by the DSC in selecting staff for other roles.

If a new program replaces an existing program, and if staff with different skills are also needed, there may be adjustment costs. These may be borne by existing staff (who must develop new skills or seek alternative employment) and by government (which must fund any redundancy payments).

The implementation of LAC in urban areas has been at the expense of more traditional service provider positions within the DSC. This has raised some

¹⁶ People with a handicap are people who have a disability that limits their ability to perform certain tasks associated with daily living (ABS 1995, p. 5).

¹⁷ Formal help is help provided by family or friends living outside the house who receive money on a regular basis, and help provided by organisations (government and non-government).

¹⁸ Similar programs in other jurisdictions (except NSW and Tasmania) have an explicit emphasis on the promotion of natural support networks (attachment 4A, table 4A.11).

¹⁹ See attachment 4A, table 4A.11 for further ways in which coordinators can establish and maintain networks. Other jurisdictions employ a range of different measures to assist with the promotion of natural support networks (attachment 4A, table 4A.11).

staffing issues, particularly about the suitability of existing DSC employees for these new roles.

4.4.4 Improving coordination of other services

It was noted earlier that services for people with disabilities in WA are available from, and funded by, a diverse range of organisations (both government and non-government) and individuals.

Consumers do not always have full information about the range of services available and it may be difficult and/or costly for them to investigate these services. Improved information or service coordination could involve:

- providing appropriate information;
- providing advocacy services;
- assessing eligibility for various services through one process; or
- performing a budget holder role.

Providing simple information services can be relatively inexpensive compared with other strategies. And there can be important benefits for consumers from an advocacy service. Local area coordinators have to undertake tasks for several consumers and their families, and their experience and/or training mean they have the knowledge and skills to do this more effectively. A local area coordinator may assist a family in negotiating appropriate schooling for their child, for example.

One agency assessing eligibility for various services could also reduce costs for families in filling in forms. However, for accountability reasons, it may not be possible for some agencies (in both Commonwealth and State jurisdictions) to hand over this function to a single agency.

A budget holder could control a pool of money (collected from all portfolios) on behalf of people with disabilities. A benefit of this approach is that consumers have only one entry point for accessing funding.²⁰

Local area coordinators already perform most of these roles. They can provide information and advocacy and, to a limited extent, act as budget holders when providing funding for people with disabilities and/or their families to purchase

²⁰ This is similar to the approach adopted in coordinated care trials for health services.

services.²¹ An example of how a local area coordinator assisted a family with a child with a disability is outlined in box 4.5.

Different service providers need to consult with each other and cooperate so as to avoid problems such as duplication of services and cost shifting. Cost shifting occurs when an agency that has responsibility for providing services for a certain group withdraws support because it perceives that they are receiving, or can receive, adequate services from another agency.

Funding under LAC is not intended to replace existing services. If HACC services are available, for example, the DSC considers that these should be used instead of LAC funding. HACC can provide services for the frail aged and younger people with disabilities, but LAC managers believe that support for the latter has historically been difficult to obtain. According to the DSC, 30 per cent of funding provided to HACC agencies is notionally allocated for younger people with disabilities but there are limited controls on how it is actually spent. DSC considers that younger people with disabilities may receive less than the notionally allocated proportion of funding because service agencies tend to focus on aged care if the aged are their major consumer group and because agencies perceive that services for people with disabilities are adequately provided by the DSC.

The DSC and the Health Department in WA (which administers HACC in that State) have established a liaison group to resolve some of these issues. One option would be for HACC to fund the DSC to purchase services for younger people with disabilities in a more coordinated and integrated manner.

²¹ Each jurisdiction employs a diverse range of strategies at a departmental level to improve the coordination of multiple services, including information, advocacy and case management (attachment 4A, table 4A.4).

Box 4.5: Individual case study — Karen and her family

Karen (not her real name) and her family reside on a remote farming property more than 100 kilometres from the nearest town. Karen was born with an extremely rare condition which resulted in her having fused elbows, fingers and toes, a concave facial structure and a hole in the heart.

Supports arranged and/or funded by the local area coordinator

- *Respite* — to assist with care when one or both parents were busy with farm work or simply needed a break. The local area coordinator arranged regular respite from a local woman once a week, and also arranged to pay for this support person to visit the children's hospital in Perth to learn therapy techniques which would allow her to care for Karen more appropriately. The coordinator provided \$2560 in direct individualised funding.
- *Medical assistance* — to supplement the funding already received by the family through the Patient Assisted Travel Scheme and other Health Department funds. The local area coordinator assisted with travel needs — accommodation; fuel costs; an escort/co-driver to help with travelling long distances with the children; supplementary funds to allow Karen's three-year-old brother to travel to Adelaide with her and her mother; and reimbursement of the costs of phone calls and faxes to arrange various medical appointments in Adelaide and Perth. The coordinator provided \$2738 in direct individualised funding.
- *Submissions* — to keep the family informed of possible sources of additional funding and support, and to assist the family with applications for funding. The local area coordinator arranged to complete the necessary forms for a government-funded 'Family Grant' of \$500 (provided by the then Bureau of Disability Services), for example. The family used this grant to take a holiday.
- *Kindergarten aide* — to help Karen's educational development. The local area coordinator made a commitment to fund an aide to assist Karen with kindergarten.

Karen's family identified the local area coordinator's ongoing financial assistance and personal support as necessary to maintain the continuous medical treatment that Karen requires.

Source: DSC (1996b).

4.4.5 Maintaining and enhancing performance

LAC delegates considerable decision-making power to individual coordinators (in terms of choosing whom to fund and for what) and to consumers (in terms of selecting and monitoring providers). Delegation can generate significant gains,

but there are risks which must be managed. LAC uses operating procedures and performance monitoring to reduce the likelihood of adverse events, and to minimise their effects where they do occur (see chapter 6 for generic lists of related issues).

Risk management

A number of strategies are available to manage risk and reduce the effect of an adverse event. First, good operating procedures can reduce the likelihood of an adverse event. Second, timely and rigorous monitoring can identify an adverse event early, thereby reducing its effect. Third, remedies can be identified in advance and implemented quickly when an event occurs to reduce the effect.

The most critical adverse event is service failure, either as a result of a decline in service quality (say, failure of a respite carer to turn up) or changes in consumer needs (say, a family crisis due to the pressures of caring for a person). The DSC argues that the regular contact made possible by relatively low caseloads allows coordinators to pre-empt some crises and respond to other crises with pre-agreed strategies using support networks.

LAC also particularly needs to manage the issues of: ensuring funds are being spent appropriately; helping consumers who use unscrupulous suppliers; and solving problems between consumers and their individual local area coordinator.

An important issue concerning direct consumer funding is ensuring it is spent as agreed. Potential problems may arise if a consumer or their family cannot manage their funding, or if a member of the family misappropriates the funds. Consumers are required to sign a funding agreement outlining how the funds are to be spent to highlight their responsibility to comply with agreed funding plans. Local area coordinators monitor the spending via their regular contact with consumers. The DSC considers that this ongoing relationship allows local area coordinators to assess whether funds are being spent as intended. According to the funding guidelines, local area coordinators must have evidence that all but the most recent advance to consumers has been used as agreed, before the next advance is made. If problems do arise, coordinators may apply strategies such as organising for a trusted family member to manage the funding, and providing funding in small frequent grants rather than large infrequent grants (DSC 1997b, p. 8011).

Concerning unscrupulous suppliers, local area coordinators strongly recommend and can assist consumers to undertake checks with the police (criminal conviction checks) and the Department of Family and Children's Service for carers who are not well known to the individual or family. (These checks

require the carer's permission.) Coordinators should identify any problems through their regular contact with consumers. If consumers are unhappy with the person they have engaged, they are advised that they can cease the arrangement.

The LAC aims to encourage consumers or their families who are unhappy with their local area coordinator to raise concerns with the coordinator's supervisor. Supervisors are required to obtain feedback from consumers as part of their role; they may organise face-to-face meetings or informal discussions, surveys or telephone discussions, or accompany coordinators during visits to consumers.

If concerns are raised, the supervisor is obliged to arrange an alternative local area coordinator (usually from the adjacent locality) when the difficulty cannot be satisfactorily resolved.

Incentives to improve performance

The DSC aims to improve the performance of LAC over time through performance measurement and competition.

In competitive markets, information and incentives exist to improve performance. Where competition between service providers is not feasible or appropriate, performance measurement (and feedback) can play an important role in facilitating yardstick competition, and thus lead to performance improvements. Performance can be improved through introducing appropriate incentives, such as linking funding to performance.

Improvements in performance can come in the form of increased efficiency and/or effectiveness.

Increased efficiency means more or better outputs (or services) are provided with the given funding, or the same level of outputs is provided with less funding.²² An example of increased efficiency is when a local area coordinator takes a new approach to performing an advocacy service (such as negotiating with Homeswest) which takes less time. Another example may be when a local area coordinator helps an individual to select a cleaner, or change cleaners if the service is unsatisfactory, and this increases the level of cleaning services provided to the consumer (such as having more rooms of their home cleaned in the allocated time).

²² The impact on efficiency of an increase in the quality of an output, with all other things being equal, is an unresolved issue.

Increased effectiveness can result from a more appropriate mix of services (or outputs) being provided.²³ Consumers can be important judges of whether they are receiving the appropriate mix of services.

Performance measurement and output-based management

Performance of LAC is measured in a number of ways. Both the DSC and LAC seek consumer feedback informally through contact between consumers or their families and their coordinator and/or more senior managers and, more formally, through consumer satisfaction surveys (box 4.6).²⁴ Formal, detailed evaluations have also been used to assess performance (see DSC 1996b; Lewis 1992; Lewis, Dunn and Gilomen 1991).

Box 4.6: Consumer satisfaction surveys

A consumer satisfaction survey conducted for the DSC in 1996-97 encompassed all DSC services, including LAC. The survey was to meet the WA Auditor General's reporting requirements and was conducted by an external organisation, Donovan Research. Local area coordinators recorded the highest level of client satisfaction compared with the other DSC services. All aspects of their service measured (ease of contact, knowledge of services, empathy, ability to organise services) scored strongly (Donovan Research 1997). The survey is to be conducted biennially.

Senior management of LAC also regularly evaluates consumer satisfaction within LAC, through a survey developed for the 1996 evaluation (DSC 1996b). This survey includes benchmarking against nationally agreed Disability Service Standards.

Performance measurement needs to be linked to rewards and sanctions if it is to strengthen incentives for improved performance. LAC now faces greater financial incentives to improve performance because funding is more directly linked to its outputs. This is a result of a shift, across government, to tie funding more closely to achieved outputs (referred to as output-based management in WA and output-based budgeting or funding in other jurisdictions). This is designed to provide greater incentives to deliver services at least cost, resulting in either an increase in the level of services provided with a given funding amount, or a given level of services provided with less funding. It involves

²³ Effectiveness more broadly relates to the extent to which program outcomes are achieving program objectives. Thus an increase in efficiency that leads to better outcomes will also increase effectiveness.

²⁴ Consumer surveys are also used to monitor the performance of similar programs in NSW, Queensland, WA, SA and the NT (attachment 4A, table 4A.12).

purchasers (agencies or departments) linking funding to the supply of specified quantity and quality of outputs at specified prices.

Some services for people with disabilities fit relatively readily into the framework of output-based management — for example, residential accommodation, where funding could be on the basis of \$x per person. But for LAC, a funding framework that focuses on outputs can create tensions and/or issues.

It is difficult to define the quantity and quality of the output of LAC. Local area coordinators provide services to families such as information gathering and advocacy. Thus, those services are an output of LAC. An issue arises with the other role of LAC, to provide funding — is this funding just a transfer payment to consumers, or does LAC control the funds and purchase services for families (even if it devolves decisions about service providers to consumers)? The WA Treasury has classed these payments as controlled by the agency, defining an output which covers both the administration costs and the payments to families (WA Treasury Department 1997, p. 37).

Ensuring that any reduction in unit cost is the result of greater efficiency poses a number of challenges. LAC may fund a package of different services for each person depending upon their need, so a reduction in the cost of a unit of output (say, one person helped) could be the result of people receiving fewer services and therefore not having their needs met, or of a shift in the focus of the program to consumers with lower needs.

The role of competition

In addition to performance measurement, the DSC also uses competition to enhance performance of LAC. The main competitive mechanism is the devolution of service provider choices to consumers. Providing consumers with funding can give them the incentive to obtain the highest level of service for that level of funding. As long as the consumer has access to more than one potential service provider, providers should face incentives to improve the efficiency of the services that families can purchase with LAC funding.

The above discussion of performance measurement primarily relates to outputs. Assessing improved outcomes is more difficult. An initial aim of LAC was to reduce the number of people who were forced to move from country areas to Perth for residential accommodation. Thus, to drive improvements, the number moving into residential accommodation is an aggregate outcome of LAC that can be regularly measured. However, the DSC has found it difficult to draw robust conclusions about the contribution of local area coordination, because the number moving into or out of residential accommodation can depend on other

factors such as changing government policies, budgetary initiatives and the number of available beds in residential facilities (DSC 1996b).

4.5 Future issues

When LAC coverage of the metropolitan area is complete, there may be scope for allocating consumers to particular local area coordinators according to criteria other than geographic region (for example, language, ethnicity, gender).

One benefit of this approach would be a more appropriate service for some consumers. It would allow priority targeting of special needs groups and consumers could have continuity if they moved within the metropolitan area by staying with the same local area coordinator. One disadvantage of such an approach would be that local area coordinators may have less knowledge of local groups and services, being less able to tap into local resources if their consumers are spread over a larger region. There may also be some confusion for local communities in trying to identify their local coordinators. Further, face-to-face contact may be less frequent than if coordinators are allocated on a geographical basis, because coordinators would be required to travel more often.

Local area coordinators are employed by the WA Government. A further future issue may be whether to contract out their role to achieve efficiency gains.²⁵ However, there are costs involved in contracting out, such as costs of service delivery, transition costs and contract monitoring and management costs (IC 1996, p. 29). An overall assessment of the costs and benefits of this approach would need to be made.

4.6 Conclusions

The focus of LAC is on helping people with disabilities to develop sufficient support to remain in their family and community, through direct consumer funding, consumer choice and facilitation of natural support networks. This case study discusses a number of issues from implementing LAC in WA.

First, there can be a number of benefits in piloting and phasing in a new program. The DSC argues that piloting and phasing allowed LAC to be refined as it was implemented. There were also benefits from initially introducing the

²⁵ Services similar to those undertaken by local area coordinators have been contracted out in Victoria and Queensland (attachment 4A, table 4A.9).

service in rural areas that had no existing services: there was the potential for greatest initial benefit; there was a positive environment in which to implement and refine the program; and there was less of an issue among consumers about the boundaries of LAC availability.

Second, devolving and delegating choices closer to consumers may allow a program to be more flexible and responsive. Decisions about an individual's funding levels are delegated to local area coordinators and/or their senior managers, and decisions about choice of service provider are devolved to consumers. Local area coordinators and/or their senior managers determine funding levels in an individualised way, and this can allow greater flexibility and better targeting.

Third, improving coordination of other services can involve providing information, providing advocacy services, assessing eligibility for various services or performing a budget holder role. Local area coordinators provide information and advocacy and act as a budget holder in a limited sense. Where services are available from, and funded by, a range of organisations, there may need to be some cooperation among these organisations to minimise problems such as cost shifting.

Finally, the benefits of delegating and devolving decisions need to be balanced with accountability. It is a difficult challenge to design and implement systems that enhance these benefits while retaining appropriate controls. The DSC considers that LAC uses operating guidelines and performance monitoring that reduce the likelihood of, and minimise the impact of, adverse events. There are also incentives in place to improve performance.

Chapter 6 provides a summary of principles and key lessons in implementing reforms across a range of services and jurisdictions. Box 6.1 outlines advantages and disadvantages of both piloting and phasing in the introduction of new programs.

4A SURVEY OF CONSUMER FUNDING AND CHOICE IN DISABILITY SERVICES

This attachment examines some aspects of disability services across jurisdictions, with a particular focus on the provision of such services outside institutions. The first section deals with the following broad topics:

- the nature of disability services;
- the coordination of disability services; and
- the direction of funding for disability services.

The next section focuses on a program or scheme in each jurisdiction that has funding linked to clients,¹ to illustrate the different possible approaches. The following topics are discussed for each program:

- the size of the program and the services it covers;
- how the level of support is determined, and why the process is used;
- consumers' choice of service providers;
- informal support networks; and
- performance monitoring and feedback.

The Steering Committee Secretariat collected information from the relevant department in each State and Territory through telephone interviews based on a standard survey.

4A.1 Size, nature and scope of government disability services

Governments strive to enhance the quality of life experienced by people with a disability by assisting them to live as valued and participating members of the community. Working towards this objective, governments aim to:

- provide access to specialist government-funded or government-provided disability services on the basis of relative need and available resources, and promote access to general community services and facilities;
- fund or provide quality services in an efficient and effective way, and be accountable to those using or funding services;

¹ This is defined broadly as where funding is linked or provided to clients who then choose a service provider/s. The actual payments may or may not go to consumers. See notes to table 4A.4.

- ensure that clients and carers are consulted about the type and mix of services made available to meet their individual needs and goals; and
- promote the rights of people with a disability as members of the community, and empower them to exercise these rights.

This survey examines a selection of the non-institutional programs/schemes used by governments to meet these objectives for people with a disability.

Government expenditure under the Commonwealth/State Disability Agreement varies across jurisdictions (table 4A.1).

Table 4A.1: Government expenditure under the Commonwealth/State Disability Agreement, by service type, 1996-97 (\$ million)^a

	<i>Cwlth</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Aust</i>
Accommodation support	0.0	303.4 ^b	264.3	97.6 ^b	93.6	87.4	35.2	16.0	5.9	903.4
Community support	11.6	54.4	51.3	23.2 ^c	3.6	20.3	4.5	1.8	1.7	172.3
Community access	0.4	45.5	65.9	13.7 ^c	10.7	5.8	6.0	0.9	1.5	150.3
Respite services	0.0	21.6	19.1	14.2 ^b	14.0 ^d	4.6	3.2	1.8	0.9	79.3
Employment services	191.1	0.0	0.0	0.0	0.0	0.0 ^e	0.0	0.0	0.0	191.1
Other support services	4.9	2.9	9.2	1.5	0.8	1.0	0.1	0.0 ^e	0.0 ^e	20.3
Other	5.8	14.4	11.6	0.0	16.5	5.9	0.5	0.0 ^e	0.0	54.9
Administration expenditure	18.1	28.9	45.3	27.0	10.8	3.6	9.3	1.4	0.6	144.8
Total expenditure on CSDA services	231.7	456.4	466.7	177.1	150.0	131.6	58.6	20.2	10.6	1 703.0

a Related only to services for which a jurisdiction had a direct responsibility.

b 'Respite' was separated from 'accommodation support' based on the approximate proportion of time spent on respite in each departmental area office.

c Residential Program Officers were not separately costed by the department. Therefore, 'community access' was overstated and 'community support' was understated by the same amount (considered to be an insignificant amount).

d Expenditure identified also included 'family support' because costs in relation to 'respite' were unable to be separated.

e Expenditure was less than \$50 000, so was rounded to zero.

Source: SCRCSSP (1998).

The number of clients of Commonwealth/State Disability Agreement services also varies across jurisdictions (table 4A.2). Client numbers in most jurisdictions were collected for a selected snapshot day. The exceptions were Queensland and WA: data on the Intellectual Disability Service services funded by Queensland were collected over a fortnightly period; and Commonwealth/State Disability Agreement services funded by WA covered the 12 month period 1996-97 and were adjusted for identified multiple service use.

Table 4A.2: Clients of Commonwealth/State Disability Agreement services, 1996 (number)^a

	<i>NSW</i>	<i>Vic</i>	<i>Qld^b</i>	<i>WA^c</i>	<i>SA</i>	<i>Tas</i>	<i>ACT^d</i>	<i>NT</i>	<i>Aust^d</i>
<i>State and Territory responsibility</i>									
Government	6 422	5 100	2 629	8 176	1 352	411	na	6	21 870 ^a
Non-government	6 173	8 375	3 805	10 594	2 367	1 021	na	257	28 511 ^a
Not stated	0	46	5	170	0	0	na	0	219 ^a
Total	12 595	13 818	6 439	18 940	3 719	1 432	na	263	50 147^a
<i>Commonwealth responsibility</i>									
Government	0	73	148	0	0	0	0	0	221
Non-government	4 176	5 025	3 417	1 901	658	270	49	88	15 584
Total	4 176	5 098	3 565	1 901	658	270	49	88	15 805

na not available

a An individual may have been counted more than once if more than one service type was accessed on the day of the survey. Data excluded psychiatric services.

b Data on the Intellectual Disability Service services funded by Queensland were collected over a fortnightly period.

c Data for recipients of Commonwealth/State Disability Agreement services funded by WA covered the 12 month period 1996-97 and were adjusted for multiple use of services.

d 1996 Commonwealth/State Disability Agreement minimum dataset excluded ACT data.

Source: AIHW unpublished, as reported in SCRCSSP (1998).

Table 4A.3: Delivery of disability services: funding allocation, by type of support^{a,b}

	<i>Respite</i>	<i>Domestic</i>	<i>Caregiver</i>	<i>Personal</i>	<i>Professional</i>	<i>Employment</i>	<i>Leisure</i>	<i>Accommodation</i>	<i>Education</i>	<i>Equipment</i>
NSW	SNC ^c	SNC ^c	N	SNC ^c	SNC ^c	—	NSC ^c	SNC ^c	—	SNC ^c
Vic	NSC	NC	NSC	NC	NSC	—	NC	NSC	—	NC
Qld	NSCL	—	SN	NSC	SNC	C ^c	NCS	NSCFL	—	NC
WA	NC SL	NC SL	NC SL	NC SL	SCN	C ^{c,d}	CL	SCNLF	C ^{c,d}	SCN
SA	NSCFL	SNC	NS	NSCF	NSFC	—	NC	NSCF	—	SN
Tas	SN	FN	FN	C	SN	N ^c	NS ^c	FN	N	SN
ACT	SNC	NCS	NCS	SNC	SCN	CNS	NCS	SNC	SCN	SCN
NT	NC ^c	NC ^c	NC ^c	NC ^f	SN	—	N	NC ^c	SN	S

— not applicable

a Ranked in order of significance of funding. Codes for funding allocations:

S State government (that is, the government provides the services)

L Local government

N Not-for-profit organisations

F For-profit organisations

C Client (tied cash/vouchers). This is defined broadly as where funding is linked or provided to clients who then choose a service provider/s. The actual payment may or may not go to consumers. Examples include: the allocation of a certain level of service (such as six hours per week of personal care) to a consumer who is then able to enter into a contract with their choice of service provider, who then bills the government (up to a predetermined level); reimbursement of consumers expenditure on certain goods and services (that had been agreed to before purchase); and provision to consumers of cash to purchase goods and/or services (that have been agreed to with a coordinator).

b For example, for funding for respite support in Victoria, the majority of funding is provided to not-for-profit organisations, the next significant proportion is allocated to State Government providers, and the smallest proportion is allocated to clients (and there is no funding allocated to local government or for-profit organisations).

c Very low level of expenditure.

d Information and advocacy only.

e State government and not-for-profit equal first.

f The department provides taxi vouchers direct to the client for assistance/contribution towards travel expenses.

4A.2 Coordination of government and non-government disability services

People with a disability often use a wide range of government and non-government provided services. Jurisdictions employ a variety of measures to improve the ease with which clients can coordinate these multiple services.

Table 4A.4: Strategies to improve coordination of multiple services

<i>Jurisdiction</i>	<i>Strategies used by relevant department or agency^a</i>				
NSW	A	B		D ^b	
Vic ^c	A	B		D	
Qld	A	B		D	F ^d
WA	A ^b	B ^b	C	D	
SA	A	B	C	D	
Tas	A	B	C ^b	D ^b	
ACT	A	B		D	
NT ^e	A	B			

a Codes for strategies:

A Provision of appropriate information (for example, via a website or information hotline)

B Provision of advocacy services

C Central or common assessment of eligibility for various services

D Case management

E Budget holder role (controlling a pool of money, collected from all portfolios, on behalf of people with disabilities)

F Other (please specify)

b These functions are addressed in a number of individual program/s, although not pursued as a departmentwide strategy.

c Services are relatively well coordinated for people with intellectual disabilities, but less so for people with other disabilities.

d At a regional level, funding is provided to non-government organisations that are resourced through community resource officers and community teams in disability operations.

e Trials in care coordination will involve C, D and E.

4A.3 Linking funding to clients

The following section relates to a program where funding is linked or provided to clients who then choose their service provider. The actual funds may or may not be physically handed to consumers. Examples include:

- allocation of a certain level of service (such as six hours per week of personal care) to consumers, who then are able to enter into a contract with their choice of service provider who then bills the government (up to a pre-determined level);
- reimbursement of consumers for expenditure on certain goods and services (that had been agreed to before purchase); and
- provision to consumers of cash to purchase goods and/or services (that have been agreed to with a coordinator).

To illustrate the different approaches possible when linking funding to clients, for each jurisdiction one program was selected that involved linking funding to clients. Given that the Steering Committee focused on Local Area Coordination (LAC) for a detailed case study, the program that most closely resembled LAC in WA was selected in those jurisdictions that have more than one of this type of programs (table 4A.5).

New South Wales — Post School Options

The NSW Ageing and Disability Department funds Post School Options under the Disability Services Program. Under Post School Options, the State Government provides financial assistance to school leavers with moderate to high support needs. The Government funds primarily not-for-profit organisations to establish individually designed programs which support young people who have a disability, helping them make the transition from school to community living and pre-vocational activities.

Victoria — Making a Difference

In 1992 a new model of service provision for families caring for children with severe and multiple disabilities was piloted in parts of metropolitan Melbourne. The key feature of the pilot and now all programs Statewide was the case managed provision of flexible support packages, with a discretionary fund for the purchase of services and supports which are not otherwise available.

In 1995 two pilots — the Options for Older Families programs — were established to test the Making a Difference service model for adults with ageing

carers. In 1996 the Victorian Strategy for Carers provided funding to further expand Making a Difference for children aged under 18 years and to extend of the program Statewide to adults aged 18 years plus and their family carers.

Programs for families with children aged under 18 years and adults aged over 18 years have now been established in every region across the State.

Queensland – Moving Ahead

The Department of Families, Youth and Community Care has lead agency responsibility for disability issues in Queensland. The Department is currently involved in the implementation of the Moving Ahead post-school services program.

Moving Ahead is designed to provide services and support to enable special school leavers with disabilities who have high and complex support needs to successfully make the transition to adult options.

Western Australia – Local Area Coordination

See the case study in chapter 4.

South Australia – Options Coordination

Nearly the whole spectrum of services for people with disabilities in South Australia is accessed through Options Coordination. Under this scheme, Options Coordination agencies provide a single entry point to the service system for individuals with disabilities, with the aim of ensuring consistent determination of eligibility, assessment of need and allocation of resources for the purchase of various services (AIHW 1997). Options Coordination involves tied cash through brokerage.

Tasmania – Personal Support Program

The Personal Support program allocates clients a certain level (in terms of hours) of personal care services. Clients are able to select the service provider who will supply this service.

Australian Capital Territory – Individual Support Packages

The ACT's Individual Support Packages account for around 10 per cent of the ACT's budget for disability service. The ACT Government funds not-for-profit agencies to auspice packages. The legislation in the ACT only allows the department to fund not-for-profit organisations to provide services. However, these agencies are able to 'subcontract' to other providers.

Northern Territory – Care Coordination

The NT is currently trialing Care Coordination services. An initial trial commenced in Darwin in 1998. Further trials are scheduled for Alice Springs and Katherine. The scheme has been modelled on LAC, with some modification for local factors. The focus is on clients with complex care needs, particularly those with ‘challenging behaviour’.

Table 4A.5: Summary of programs

<i>Jurisdiction – program/scheme</i>	<i>Commenced</i>	<i>Clients (as at 30 June 1997)</i>		<i>Funding 1996-97</i>	<i>Current coverage of program</i>
		<i>no.</i>	<i>\$'000</i>		
NSW – Post School Options	1994	1 200	30 000		All areas
Vic – Making a Difference	1992	900 ^a	3 400 ^b		All areas
Qld – Moving Ahead	1997	71	1 443		All areas
WA – Local Area Coordination	1988	3 926	11 000		All rural areas and phasing in metro areas ^c
SA – Options Coordination	1995	8 668 ^d	16 000 ^e		All areas
Tas – Personal Support	1992	44	1 066		All areas
ACT – Individual Support Packages	1994	56	1 315		All areas
NT – Care Coordination	1998	12	127 ^f		Darwin trial ^g

a Approximately 900 clients.

b Total funding for the Options for Older Parents and Making a Difference programs.

c Total coverage is expected by 2000.

d Total known eligible clients, including clients registered with an Options Coordination agency but who may be supported by a service provider and clients who may only have periodic review. Excludes clients who access services without contacting Options Coordination agencies.

e Includes infrastructure of Options Coordination, brokerage and other service purchasing funds. Excludes services which Options Coordination can access or prioritise access to for clients, but does not directly purchase.

f NT Government funding for 1997-98. The Commonwealth Government has contributed \$185 000.

g Trials are proposed for other areas.

Table 4A.6: Services available

<i>Jurisdiction – program/ scheme</i>	<i>Respite support</i>	<i>Domestic support</i>	<i>Caregiver support</i>	<i>Personal support</i>	<i>Professional support</i>	<i>Employment support</i>	<i>Leisure support</i>	<i>Accommodation support</i>	<i>Education support</i>	<i>Equipment support</i>
NSW – Post School Options	✓ ^a	✗	✗	✓	✗	✓ ^b	✓	✓ ^c	✓	✗
Vic – Making a Difference	✓	✓	✓	✓	✓	✗	✓	✓	✗	✓
Qld – Moving Ahead	✓	✗	✗	✓	✓	✗	✓	✓	✗	✓
WA – Local Area Coordination	✓	✓	✓	✓	✓	✓ ^d	✓	✓	✓ ^d	✓
SA – Options Coordination	✓	✓	✓	✓	✓	✗ ^e	✓	✓	✗ ^e	✓
Tas – Personal Support	✓	✓	✓	✓	✗	✗	✗	✗	✗	✗
ACT – Individual Support Packages	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NT – Care Coordination	✓	✓	✓	✗	✗	✗	✗	✓	✗	✗

a Post School Options involves day programs, so indirectly provides respite for families.

b Pre-vocational support only.

c Independent living training is available.

d Support in these areas is limited to information and advocacy rather than funding support.

e Options Coordination provides advocacy and referrals for clients who need to use these services.

Table 4A.7: Assessment, limit on funding and coverage

<i>Jurisdiction – program/ scheme</i>	<i>Specified services in a plan agreed to by client and funding body</i>	<i>Formal quantitative funding formula or assessment tool to determine client's funding level</i>	<i>Limit on level of funding for an individual</i>
NSW — Post School Options	no ^a	yes	If 'high' need, allocated \$16 500 If 'moderate' need, allocated \$13 500.
Vic — Making a Difference	yes	no	yes — \$30 000 ^b
Qld — Moving Ahead	yes	no	yes — \$16 500
WA — Local Area Coordination	yes	no	no ^c
SA — Options Coordination	yes	no ^d	no ^e
Tas — Personal Support	yes	yes	yes — 34 hours per week
ACT — Individual Support Packages	no	no	yes — \$40 000
NT — Care Coordination	yes	no	yes ^f

a Services plan is developed by service provider and client, following funding approval which is independent of that process. Client need is assessed in final year of school by team of their teacher, family and possibly a case worker or advocate. A formal tool is used. If client is assessed as either 'high' or 'moderate' need then eligible for program. Assessment is then analysed by review committee (members of department, program coordinators), who then recommend who should receive funding. Minister for Disability Services formally approves at either 'high' or 'moderate' level of support.

b Funding above \$5 000 is subject to Regional Office approval.

c There is a limit for people accessing Post-School Options for community access and recreation.

d There is a common approach to assessing needs and support planning (called the Options Planning Process). A formal tool is used in one case: the 'Vermont' tool is used for people with intellectual disabilities in relation to a day program.

e There is a limit for day programs for people with intellectual disabilities.

f Limits on the level of funding for an individual are expected to vary between regions when further trials are undertaken.

Table 4A.8: Reasons for using particular process for determining funding/support

<i>Reasons for using formal quantitative funding formula/assessment tool</i>				
<i>Jurisdiction – program/ scheme</i>	<i>Greater transparency in how funding is allocated^a</i>	<i>Simpler administration</i>	<i>Allocation of similar support levels to people with similar disabilities</i>	<i>Allocation of higher support levels to people with more severe disabilities</i>
NSW – Post School Options	Major	Not a reason	Major	Major
Tas – Personal Support	Major	Not a reason	Major	Major
<i>Reasons for using other process to determine funding</i>				
<i>Jurisdiction – program/ scheme</i>	<i>Flexibility in accommodating individual needs</i>	<i>Better targeting of consumers</i>	<i>Provision of support for those with needs greater than average</i>	<i>Other</i>
Vic – Making a Difference	Major	Minor	Major	Ability to balance competing priorities
Qld – Moving Ahead	Major	Major	Major	—
WA – Local Area Coordination	Major	Major	Major	
SA – Options Coordination	Major	Major	Not a reason	—
ACT – Individual Support Packages	Major	Major	Not a reason	Cost- effectiveness
NT – Care Coordination	Major	Major	Not a reason	Philosophic way

^a Therefore program is less open to accusation of bias.

Table 4A.9 Funding plan development and approval and client choice of service provider

<i>Jurisdiction — program/ scheme</i>	<i>Funding plan developed by client and ...</i>	<i>Funding plan approval</i>	<i>Who can client buy services from</i>
NSW — Post School Options	Not applicable ^a	Funding level is approved by Minister based on assessment. Do not require agreement to care plan.	Approved provider
Vic — Making a Difference	Independent care coordinator (not-for-profit provider)	Independent care coordinator can approve up to \$5000 and \$30 000 is approved within program management	Any provider
Qld — Moving Ahead	Independent facilitator ^b	Plan is checked by government employed Community Resource Officer and approved by Regional Director before being forwarded for approval within Moving Ahead program management	Approved provider ^c
WA — Local Area Coordination	Coordinator (within program management)	Plan is approved within program management	Any provider
SA — Options Coordination	Coordinator (in options coordination agency, within program management)	Plan is approved in options coordination agency within program management	Approved provider
Tas — Personal Support	Coordinator (within program management)	Plan is approved within program management	Approved provider ^d
ACT — Individual Support Packages	Not applicable ^a	Funding is approved within program management. Do not require agreement to care plan. Department approves a funding level based on assessment and provides guidelines on allowable goods and services.	Any provider ^e
NT — Care Coordination	Coordinator (within program management)	Plan is approved within program management	Any provider

a Assessment process determines level of funding. In NSW, services plan is developed by service provider. In the ACT, services plan is developed by auspicing agency.

b The facilitator is employed by a Program Development Agency which is contracted to do the work.

c For example, they must be incorporated bodies.

d Incorporated bodies are preferred.

e The legislation in the ACT only allows the department to fund not-for-profit organisations to provide services (although these agencies are able to 'subcontract' to other providers).

Table 4A.10: Factors which determine the level of support or funding

<i>Jurisdiction – program/ scheme</i>	<i>Relative need^f</i>	<i>Means</i>	<i>Degree of individual disability</i>	<i>Degree of geographical difficulty</i>	<i>Current level of formal support</i>	<i>Current level of informal support</i>
NSW – Post School Options	yes	no	yes	no	no	no
Vic – Making a Difference	yes	no ^b	no	no	yes	yes
Qld – Moving Ahead	yes	no	yes	yes	yes	no
WA – Local Area Coordination	yes	no ^c	yes	yes	yes	yes
SA – Options Coordination	yes	Only for equipment ^d	yes	yes	yes	yes
Tas – Personal Support	yes	no	yes	no	yes	no
ACT – Individual Support Packages	yes	no	yes	yes	yes	yes
NT – Care Coordination	yes	no	yes ^e	yes ^f	yes	yes

a A number of the other factors listed will impact on relative need.

b The determination of service fees includes means testing. Client eligibility for a service is not means tested.

c No formal means test, but means may be taken into account.

d Use eligibility for health care card.

e Depends on degree of handicap.

f Will be a factor once the trials have spread into areas other than Darwin.

Table 4A.11: Program measures to promote informal or natural support networks

<i>Jurisdiction — Scheme/program</i>	<i>Explicit emphasis on promotion of informal networks</i>	<i>Measures used^a</i>
NSW — Post School Options	no ^b	
Vic — Making a Difference	yes	C D F G
Qld — Moving Ahead	yes	C D E G H
WA — Local Area Coordination	yes	A B C D E F G H
SA — Options Coordination	yes	B C D E F G ^c
Tas — Personal Support	no	D E F
ACT — Individual Support Packages	yes	A B C D E F G H
NT — Care Coordination ^d	yes	B C E F H

a Codes for measures:

- A Direct provision of funds for carer's time.
- B Direct provision of funds for reimbursement of incidental expenditure associated with encouraging the building of relationships.
- C Assistance to people with disabilities and their families to map existing and potential natural supports as a basis for increasing their informal supports (including working to re-establish friendships/relationships which have stopped).
- D General community awareness and education about informal supports.
- E General/specific training/information services to clients.
- F Work with community groups and generic agencies to increase access/acceptance, thereby increasing natural links.
- G Assistance to people with disabilities to join local clubs.
- H Introductions of families with similar interests.
- b** No explicit emphasis on informal or natural support networks, but families are more involved in process by being involved in planning support for client.
- c** Some support groups in Options Coordination Agencies may involve introducing families.
- d** NT also provides people with disabilities with taxi vouchers to assist them with travel expenses.

Table 4A.12: Performance monitoring

<i>Jurisdiction — program/ scheme</i>	<i>Formal program evaluations</i>	<i>Surveys^a</i>	<i>Internal monitoring through supervision process</i>	<i>Monitoring through contract management/ service agreements</i>	<i>Other</i>
NSW — Post School Options	yes	yes	yes	yes	
Vic — Making a Difference	yes	no	no	yes	Providers submit self-assessment against Victorian Disability Standards
Qld — Moving Ahead	yes	yes	yes	yes	A reference group is planned in 1998
WA — Local Area Coordination	yes	yes	yes	no	Advisory forums in each region meet regularly and provide feedback to Disability Services Commission
SA — Options Coordination	yes	yes	yes	no	Consumer reference groups collect activity information
Tas — Personal Support	yes	no	yes	yes	Advocacy groups provide feedback and service providers provide self-assessment
ACT — Individual Support Packages	yes ^b	no	yes ^d	yes	
NT — Care Coordination	Expected after first six months of trial	yes ^c	yes	no	Group discussions or surveys to obtain client perspective are planned in 1998

a See section 4A.4 for discussion of different types of surveys used.

b Program was evaluated in 1996. Consultations on future directions are currently underway.

c Consumer satisfaction surveys will be undertaken as part of the formal program evaluation.

d The extent of monitoring depends on individual auspice arrangements.

Table 4A.13: Feedback mechanisms

<i>Jurisdiction – program/ scheme</i>	<i>Are there mechanisms for clients to provide feedback on:</i>		<i>Mechanisms (in order of importance)^a</i>
	<i>the quality of services?</i>	<i>the mix of services?</i>	
NSW – Post School Options	yes	yes	B, A, C
Vic – Making a Difference	yes	yes	^b , D
Qld – Moving Ahead	yes	yes	C, B
WA – Local Area Coordination	yes	yes	B, supervision structure, A, pamphlet asking for feedback, C
SA – Options Coordination	yes	yes	formal evaluation, C, A, B
Tas – Personal Support	yes	yes	B, C, A, D
ACT – Individual Support Packages	yes	yes	B, C, D
NT – Care Coordination	yes	yes	B, C, D ^c

a A – regular surveys; B – contact with coordinator/case manager/broker; C – formal complaints system within the program; D – external complaints mechanism.

b Each non-government agency is expected to put feedback processes in place as part of its contract in line with the Victorian Disability Standards. The government is then provided with a quality plan on how it will act.

c Includes advocacy.

4A.4 Performance monitoring

All jurisdictions indicated that formal mechanisms are currently used to monitor the performance of their programs for people with disabilities, although the specific nature of these mechanisms varies across jurisdictions.

New South Wales – Post School Options

The Post School Options program is evaluated through a wide range of formal and semi-formal performance measures. In 1997, the program underwent a formal evaluation after three years of operation. Another evaluation will probably be undertaken in the next few years.

Internal monitoring is carried out by six program coordinators who conduct regular service visits. As a semi-formal measure, coordinators may be in contact with clients, providing an avenue for feedback on the quality and mix of services received.

As part of the funding arrangements, providers are required to conduct an annual self-assessment of their performance. Before funding is continued, service providers must demonstrate that they have incorporated the views of clients and carers in their evaluation and that they are meeting the Disability Service Standards as required by the State.

Besides contact with coordinators and input towards the self-assessment of providers, clients also have the opportunity to lodge complaints through the NSW Community Services Commission – an independent watchdog that acts as an arbitrator between clients and providers where a dispute has arisen.

Victoria – Making a Difference

In Victoria, formal evaluations are conducted on a triennial basis to evaluate the performance of Making a Difference. This is supplemented by an annual review of service agreements which audits all service providers against performance targets, standards and particular service development initiatives identified in their agreement.

Non-government agencies are required to implement a complaints mechanisms to allow clients to provide feedback on the mix and quality of services received. The Government has also established a separate process for the health system in general, through the Health Services Commissioner.

Queensland — Moving Ahead

Queensland currently monitors Moving Ahead through a range of performance evaluation measures. An independent formal evaluation of the program was conducted after the first twelve months of operation, and are expected to be repeated annually.

An annual review of client plans by the Independent Program Development Agency provides clients, carers and service providers with the opportunity to express their views. The Moving Ahead post school services program intends to establish a reference group to monitor satisfaction levels and participate in ongoing policy development in the near future.

Moving Ahead is also internally monitored by Community Resource Officers who visit service providers on a regular basis.

Western Australia — Local Area Coordination

See the case study in chapter 4.

South Australia — Options Coordination

The Disability Services Office within the Department of Human Services draws on a wide range of measures to monitor Options Coordination. Continual program evaluation occurs through an external consultant, and client surveys are undertaken (usually on an annual basis).

Internal monitoring occurs at least monthly, while informal consumer reference groups are used to monitor the satisfaction levels of clients. Clients are also able to provide feedback via a complaints mechanism and via client satisfaction surveys among Options Coordination agencies. These surveys generally focus on specific aspects of services or are limited to some Options Coordination agencies at particular times.

Finally, Options Coordination agencies are required to provide activity based information on a quarterly basis to allow the Department to monitor their performance.

Tasmania — Personal Support

A formal assessment of the Personal Support program is conducted at least annually by service providers and monitored by the Department. The assessment often includes contact with clients via interviews.

Internal monitoring occurs at least once a year through feedback from advocacy services and case management.

In relation to client complaints, not-for-profit organisations must provide an internal complaints process. Clients may also lodge complaints externally via the Health Complaints Commissioner and Public Guardians (for extreme grievances such as abuse by provider).

Australian Capital Territory – Individual Support Packages

The ACT's Individual Support Packages program was formally evaluated in 1996. Consultations are currently underway on future directions. Surveys of carers are also undertaken, but on an irregular basis.

The program is monitored against Disability Services Standards through purchase contract arrangements where the focus is on price and quantity rather than quality of service.

Consumers have the opportunity to express their concerns through an extensive complaints system, including access to the Human Rights Commission, the Disability Services Advisory Committee and the Social Policy Committee.

Northern Territory – Care Coordination

Given the trial nature of Care Coordination in the Northern Territory, formal program evaluation is yet to occur. However, a variety of measures are expected to be used.

It is expected that a formal program evaluation will occur after the first six months of the trial. Further, it is probable that regular client surveys (or at least group discussions to gauge client perspectives on the program) will also take place.

Clients are also expected to have the opportunity to provide feedback on the mix and quality of the services they receive through a complaints system. Further, the involvement of families (through a consumer body) and advocacy services has been earmarked as a means for evaluating the program.

5 PRICING COURT REPORTING SERVICES FOR COMMONWEALTH COURTS

Historically, Commonwealth court reporting services were provided by a government monopoly at no charge to the major customers (the courts and litigants). This case study examines how the broad economic principles of user charges (efficient pricing structures and mechanisms to assist disadvantaged litigants) and competitive provision have been applied to court reporting since 1988.

5.1 This case study

This case study examines how the Commonwealth Government restructured the supply and pricing of court reporting services to both the courts and parties appearing before the courts. The focus is on the process that an agency¹ may follow when refining a system of user charges to meet efficiency and equity objectives.

An accepted verbatim transcript of court proceedings is an important input into the legal process because it may influence the effectiveness of legal representation and the likelihood of appeal (box 5.1).

The reform was part of a change to a purchaser–provider relationship between the courts and the court reporting service. The courts have had to clarify what mix of services they wish to purchase (for themselves and on behalf of litigants), and to understand what they are prepared to pay for each service. The service provider has had to understand its costs so it can better meet the needs of the purchasers.

To place this case study in a broader context, attachment 5A provides background information on similar services in other jurisdictions.

¹ The Commonwealth court reporting agency operated as the Commonwealth Reporting Service until it was commercialised in July 1990. Its name was then changed to Auscript. This case study refers to the agency as Auscript throughout.

5.2 The reform

The pricing of court reporting services has changed significantly since 1988 particularly through the introduction of user charges to the courts and to the parties that appear before them (box 5.2).²

The introduction of user charges has greatly changed how parties assess their need for transcripts. Previously, judges (following consultation with the parties) indicated the priority of each hearing in a largely administrative manner. Following the introduction of user charges, each party's assessment focuses

Box 5.1: The importance of court reporting services

A transcript provides a written record of the evidence presented in courts and rulings of the judge, including allowable questions of witnesses, instructions to the jury and *ex tempore* judgements.³

Transcripts usually represent a small component of the direct costs faced by civil litigants who go to hearing; in the Family Court, court reporting represents about 1 per cent of total costs on average, while legal representation and court fees account for 90 per cent and 9 per cent respectively (Cunningham and Wright 1996, p. 29; SCRCSSP 1998, unpublished data).

Transcripts are still a significant cost, with total Family Court expenditure on recording and transcription reaching \$1.5 million in 1996-97 and Federal Court expenditure reaching \$1.2 million (SCRCSSP 1998, unpublished data). Litigants before the Federal Court and Family Court also spent \$2.0 million on transcripts in 1996-97 (Auscript correspondence, 11 June 1998).

Transcripts are more important than their share of total costs indicates, because a litigant's ability to receive timely, comprehensive and accurate transcripts during a hearing may influence the effectiveness of their legal representation and thus the total costs of legal representation and court fees incurred.

² Parties other than litigants and the courts — journalists for example — may be interested in purchasing transcripts, but their demand is small. Charges were introduced for these customers in 1988.

³ *Ex tempore* judgements are those delivered immediately following the finalisation of legal argument at the hearing.

Box 5.2: Recent developments in Commonwealth court reporting

1986 — The Federal Cabinet asked that Auscript examine cost recovery from users following a request for further budget funding to meet growing demand.

March 1988 — The Federal Cabinet agreed to the introduction of partial cost recovery through charges levied on the courts and litigants for court reporting, The Attorney-General's Department shifted funds for the purchase of transcripts to the Federal and Family Courts at 90 per cent of previous levels.

December 1988 — The Independent Review of Efficiency of the Commonwealth Reporting Service (Bannerman 1988) recommended the restructure of Auscript to achieve commercial viability and competition in court reporting.

July 1989 — The Commonwealth Conciliation and Arbitration Commission contracted with a private court reporting agency for NSW based hearings.

July 1990 — The prices charged to litigants and the courts were set at the level that subcontractors charged Auscript when they did overflow work. Direct funding of the agency was introduced to meet its revenue shortfall in the short term and to help with costs of providing transcripts to those in financial hardship. The agency was commercialised and a Trust Account was established. Accrual accounting was introduced and services received and provided free of charge were identified.

1 July 1993 — Commonwealth courts became free to choose providers. Federal and Family Courts of Australia contracted with Auscript for three years, with a two-year optional extension.

June 1995 — Budget funding for community service obligations, comprising provision of facilities in which to listen to audio tapes and read transcript where produced and retrieve archived transcript, on hardship grounds was ended.

March 1997 — A Joint Review by the Department of Finance and Administration and the Attorney-General's Department reported on the performance of Auscript and future management and ownership options.

June 1997 — The Family Court of Australia awarded a national contract to Auscript for two years. The contract introduced additional transcript turnaround price options and exceptions for the adoption of litigation management technology.

1998 — The Federal Court awarded regional contracts to Auscript (NSW, the ACT, Tasmania, Queensland and the NT) and Spark & Cannon (Victoria, SA and WA) and formalised a price scale with both providers which included different prices according to the number of parties who purchase the transcript.

March 1998 — The sale of Auscript to a management buy-out team was announced.

Sources: Bannerman (1988); Family Court of Australia (1997); Purchasing Australia (1997a and 1997b).

more on the costs involved and its preparedness to pay. Parties pay more if they purchase more court reporting services, for example, or they can use the money for other purposes if they purchase less transcript. Similarly, parties can pay more if they value more timely (and consequently more costly to produce) services.

The introduction of user charges has more closely aligned costs and benefits to individual parties. It has led to greater efforts to clarify and cost those aspects of the service that were provided because they were in the public interest, for example.

There have also been major changes in the relationship between the courts and Auscript, including:

- changes to funding arrangements — from direct budget funding of Auscript to funding of the Federal and Family Courts to purchase transcripts;
- the shift of day-to-day control of Auscript from the Attorney-General's Department to a more independent and commercial footing; and
- the introduction of competitive tendering for court reporting services.

These changes have reinforced and strengthened the incentives for courts to consider more fully the costs involved in court reporting services. One example is that the level of funds provided to the courts to purchase transcripts is less than the estimated previous expenditure on court reporting and was based on an 'arbitrary' assessment of the ability of the courts to rationalise their demand for recording and transcription (Family Court correspondence, 6 May 1998).⁴ In addition, the introduction of competitive tendering has introduced competition between the existing and potential providers to optimise the efficiency and effectiveness of supply. This has reassured litigants that the service is being provided at least cost, leading them to better accept the introduction of user charges (Environmetrics 1995, p. 14).

5.3 Reform environment

The most significant factors affecting the reform of recording and transcription fees were:

⁴ The supplementary funding was originally supplied for the purposes of purchasing transcripts, but if savings were achieved the courts could use these funds for other purposes.

- the pressures to constrain transcription budgets in the face of gradually increasing demand for transcriptions; and
- the policies of successive governments to increase the scope for the private sector to compete to supply services to agencies while requiring the public provider to continue to employ staff under public service conditions.⁵ These policies ultimately resulted in a decision to privatise the government transcription service in 1997 (Fahey 1997).

Growing demand

Demand for court reporting services has been growing since the late 1970s in response to increases in court caseloads (with the increasing number and complexity of hearings) which resulted in more pages of transcript and faster supply. The number of hearings has increased throughout the 1980s and 1990s — for example, in the Federal Court, the total number of hearings increased from 22 000 in 1988 to 34 000 in 1997. This appears to be largely as a result of new Commonwealth legislation. In addition, the complexity of the average court hearing is increasing as less complex matters are shifted to non-adversarial forms of dispute resolution where court reporting is often not required (Family Court correspondence, 6 May 1998).

The growth in demand contributed to a decline in service quality, but Auscript's backlogs throughout the 1980s also had internal origins, as an Independent Review of the Commonwealth Reporting Service (the Bannerman Review) noted:

[Auscript's] backlogs trace to the creation of new Commonwealth jurisdictions in the 1970s and consequent heavy increases in work. They continued for years during which ... [Auscript] was introducing new technology, meeting industrial trouble, and contending with public sector staff cuts and restrictions. (Bannerman 1988, para 3.4.3)

Auscript considers that since 1988 it has been better able to manage growth in demand for court reporting and has overcome backlogs.⁶

⁵ Auscript stated that these employment conditions had very little relationship to the environment required for commercialised operations (Auscript correspondence, 20 July 1998).

⁶ Auscript noted that it also had to manage the redundancy of a large number of staff during 1989-90 (Auscript correspondence, 20 July 1998).

Broader government policies

The broader government policies to increase the scope for the private sector to supply services to government have affected the reform process. Judgements about the ability of the private sector to provide court reporting services required, in particular, more accurate cost information about Auscript's operations.

Related government moves to separate and commercialise many 'non-core' activities — including the introduction of accrual accounting — also affected the reform.⁷

Other influences — technological change

Technological change has not significantly affected the reform of transcript fees, although it has changed the nature and scope of some court reporting services.⁸ Transcript turnaround times are currently available in real time (within a number of seconds), within the same day, on the next day or within five days depending on the technology used and the requirements of the courts and litigants. However, the use of technologically advanced procedures (particularly real-time turnaround) is still very expensive so these technologies are used for only a few protracted multi-party disputes.

Advances in telecommunications are making it more feasible to operate recording equipment and to transcribe at locations far removed from the hearing without compromising timeliness. This may make it easier for firms in one State market to enter another, or to provide services nationally; in the longer term, court reporting will be able to be performed overseas. Wider competition in the choice of provider in the long run will affect how the services are provided and priced, reduce costs and possibly increase the rate of adoption of new technologies.

⁷ Other factors affecting the reform were: the selection and implementation of a new computer system during 1990–92; Auscript's assumption of responsibility for managing and paying for its own human resources section; and the requirement to bear the direct costs of staff superannuation and workers' compensation payments.

⁸ Recent advances in 'voice recognition' technology — which record and transcribe spoken words — have not yet made any significant impact on the nature of the court reporting services because a wide range of voices speak in a courtroom and a high level of accuracy is required of transcripts.

5.4 Key implementation issues

The Department of Finance (1996) and subsequently OECD best practice guidelines (OECD 1998, pp. 10, 11) identified conditions in which some level of cost recovery by government is appropriate:

- when users are able to influence their consumption;
- when there are no equity reasons for not attaching user charges to the goods or services being produced;⁹
- when the principal beneficiaries of the goods and services can be identified; and
- when charging for the goods and services is technically feasible.

Court reporting services largely meet these conditions, so some level of user charges are likely to be appropriate.¹⁰ However, the broad guidelines as to *where* to apply user charges give little guidance on *how* they should be applied. Determining the level and structure of prices for recording and transcription services required:

- determining the cost drivers; and
- determining the method for sharing the costs between litigants, the courts and the community that best meets efficiency and equity objectives.

5.4.1 Determining the cost drivers

When users influence the level and structure of production, prices should reflect the costs of providing the service to each user. This means government must identify and allocate the full costs of different activities, regardless of whether it intends full or partial cost recovery (OECD 1998).

⁹ Equity reasons in this context refer to the possible negative impact of user charges on the affordability of the service for some consumers whose access to the service is a priority. Providing access for these consumers may limit the extent of cost recovery through user charges (section 5.4.3).

¹⁰ Users of court reporting services (the court and litigants) directly influence the level of demand for transcription through purchase requests and indirectly influence the demand for recording through decisions regarding the number and length of hearings.

Costs of recording and transcription

The full costs of recording and transcription include:

- the costs attributable directly and unequivocally to each individual service user — for example, the variable costs of transcription include labour costs, on-costs and the materials used;
- the costs attributable to each service (such as court reporting, video conferencing and listening services), but not necessarily attributable to individual users and therefore shared across a range of users of each service — for example, the fixed costs of transcription include word processing equipment; and
- the costs which are shared across the range of services provided by the agency and are incurred if any one of the multiple services is produced — for example, CEO costs.¹¹

The costs directly attributable to the users of court reporting are largely determined by:

- how much is produced — that is, whether the users require the case to be recorded only, or recorded and partly transcribed, or recorded and fully transcribed;¹² and
- how quickly the transcript is required — that is, whether the users require real-time, same-day, next-day or five-day turnaround.

The decision as to how much is recorded affects court reporting costs but is only indirectly influenced by service users. This is because the vast majority of hearings must be recorded and the recording costs are directly related to the number and length of hearings.

The decision as to how much transcript is produced affects the costs of the labour-intensive court reporting process according to the number of words transcribed and the hours of recording undertaken.

The desired turnaround time affects costs because different turnaround times may require different technologies and resources and allow for different degrees of flexibility to manage peaks and troughs. There are cost differences between real-time and progressive same-day turnaround, for example, because each uses different technology. Next-day and five-day turnaround use similar resources

¹¹ Shared costs are often described as joint or common costs.

¹² All Commonwealth court hearings are now recorded, but a transcript is produced only on demand. Auscript transcribed 70 per cent of recorded Federal Court hearings and 20 per cent of recorded Family Court hearings in 1996-97 (table 5A.1).

and staff and their cost differences reflect different degrees of flexibility in resource management.

The user's consumption decisions directly drive many overhead costs (such as the finance and accounts costs of processing payments) while the remainder of such costs are less affected by the level of output.

Assessing the full costs of each user's recording and transcription services may be complex, especially when costs shared with other services must be allocated between them (box 5.3). For small-scale services, it may be appropriate to use simple methods (for example, allocations based on the proportion of total service use) for allocating fixed or joint costs, rather than elaborate cost accounting systems. This potentially applies where the differences between different methods are small, and if the more elaborate cost accounting systems involve relatively high administrative costs (IC 1996; OECD 1998).

Box 5.3: Allocating shared costs

There are several methods for allocating costs shared across a range of services. These include:

- stand-alone cost methods — which estimate the cost of providing each service if it was produced in isolation from other services. Stand-alone costs tend to overestimate the cost of service delivery because they ignore the potential for economies from sharing resources across services;
- fully distributed cost methods — which allocate direct costs to their respective product, while averaging indirect and joint costs across all products or services. Activity-based costing, for example, allocates direct costs to the product and the identified categories of indirect costs to products or services using those cost drivers which closely reflect the use of each product or service; and
- marginal cost methods — which measure the costs of producing an additional unit of the product or service. The incremental cost method, for example, measures the increase in the business total cost attributable to the production of a particular type of product or service. It therefore includes operating and maintenance costs, incremental capital costs and incremental indirect costs.

Source: IC (1997b).

The government had two options for determining (a) the full cost of the transcript service and (b) how these costs vary between service types and volumes. It could instruct Auscript to undertake internal benchmarking and costing of each individual service aspect. Alternatively, opening the market for competition would have provided strong incentives for Auscript to immediately

undertake a rigorous cost-discovery process to determine where cost savings could be achieved.

Cost discovery, 1988-89 to 1997-98

Improving Auscript's costing of its recording and transcription services has been an iterative process, which has benefited from internal benchmarking, cost comparisons with alternative providers, and the costing pressures from competitive tendering.

The Bannerman Review noted that information was not available before 1988 on the full cost to government of all recording and transcription services, let alone information on the unit cost of each aspect of the service. The cash-based accounting system provided inadequate management information on the cost of meeting the requirements for universal service and the different turnarounds. Bannerman commented:

[Auscript's] own calculation of its unit costs, an exercise undertaken at the request of the review, [involved taking] its total number of pages of transcript produced in 1987-88 and [dividing] that into the sum of its costs for the year, with some omissions. ... [It] takes only salaries and administrative expenses into account. It allows nothing for capital expenditure; ... there is nothing in the nature of rent, nor of return to taxpayers corresponding to the return by way of profit that a commercial enterprise would expect for its shareholders. (Bannerman 1988, paras 3.6.6 and 3.6.7)

Further, Auscript operated as a branch of the Commonwealth Attorney-General's Department, which provided a number of services (such as accounting and personnel) at no recorded charge.

Bannerman described Auscript's costs as:

... about twice contractor costs, and the reasons are clear. [Auscript] is a branch of a Government Department. It has seen itself as running a public service and not a commercial operation. Until very recently it has had no need or incentive to be cost-conscious. The courts and tribunals it served put no cost pressure on it because they did not have to pay. That fact itself assured [Auscript's] position as a monopoly supplier and it was underscored by the requirement of Governments that courts and tribunals not go elsewhere without approval. (Bannerman 1988, para 3.6.1 and 3.6.2)

Reform of court reporting services from 1988 was driven both by pressure on all Commonwealth Government agencies to achieve efficiency gains and by a number of government decisions directed at Auscript alone. The Commonwealth Government announced in the 1986-87 budget that it would institute an efficiency dividend requirement on all agencies, including Auscript.

It also increased the flexibility with which departments could allocate their running cost funding (Walsh 1987, p. 80).

Cabinet, in March 1988, agreed to the introduction of partial cost recovery for court reporting services in response to increasing demand (section 5.3). These changes, along with the subsequent efficiency review, created strong incentives for the initiation of a cost-discovery process. Auscript needed to determine prices for the supply of transcripts for the first time. However, the pressure to develop robust estimates of cost was limited because the reform did not require the service to achieve full cost recovery or face competition from alternative providers.

Bannerman addressed the inadequacy of the costing information in his recommendations. He recommended a one-year trial during which the Conciliation and Arbitration Commission (which he considered Auscript's most dissatisfied customer) could test a private contract as an alternative (section 5.4.5):

The basis of my suggestion about [Auscript] contracting out C&A Commission work in a major State is that it would give the customer the chance it wants, namely to test an alternative to [Auscript]. The contractor would be getting a similar opportunity. There would be no funding problem, because [Auscript] would be using its own contract and its own funds. And [Auscript] would be, in a real sense, in competition with its contractor and able to measure itself, performance and cost-wise against the contractor. ... [Auscript] would have a measure for the improvements it had to make, structurally and every other way. (Bannerman 1988, para 3.7.8)

The trial would also allow Auscript to test its performance against the private contractor before Bannerman's recommended removal of the monopoly in 1990.

Cabinet, in August 1990, agreed to Bannerman's recommendations to commercialise Auscript. However, it did not accept his recommendation of competitive tendering for court reporting services provided to the courts until 1992. Instead, Auscript was allowed to operate off-budget and to achieve full cost recovery at market rates from before the implementation of competition.¹³

The process of commercialisation — particularly the introduction of accrual accounting — moved some way to better identify the full cost of the service. The cost of the services now included expenses such as depreciation, accruing leave and imputed rent. However, several important gaps remained because the improved financial reporting system did not identify:

¹³ When agencies operate off-budget, the government's budget papers report the net appropriation rather than the gross appropriation less receipts which would accrue to consolidated revenue.

- the full costs. It excluded a cost of capital charge, the cost of some services freely provided to Auscript (for example, financial advice from the Attorney-General's Department) and the cost of other services provided by Auscript to third parties (for example, listening services);
- cost differences resulting from different turnaround times; and
- cost differences between different regional operations or different service types.

Competitive tendering reforms for court reporting services were introduced in June 1993 (box 5.4). Leading up to competitive tendering, Auscript improved its management information systems to provide better unit cost information. The need to include pricing options which distinguished between a growing spectrum of turnaround times, for example, required Auscript (and other tenderers) to use costing exercises to identify how these times affected costs (Auscript correspondence, 11 June 1998).

Box 5.4: Competitive tendering in court reporting services

The Family Court called for expressions of interest for the provision of court reporting services in 1992, and it signed a national contract with Auscript in April 1993. The scope of the Family Court contract covered the provision of recording, comprehensive transcription, storage and retrieval, technical assistance and a transcript sales service to parties available at all court locations throughout Australia.

The Federal Court of Australia called for expressions of interest in 1993 for the provision of court reporting services to the court and litigants. After receiving nine tenders the court contracted with Auscript in September 1994 for a period of two years, with an option of a one-year extension. The Federal Court tender differed from that for the Family Court because it identified four levels of turnaround: progressive same-day, same-day, next-day and normal transcription (three day) and reserved the right to subdivide the contract on a location and service basis.

Sources: Family Court of Australia (1993); Federal Court of Australia (1993 and 1994).

Auscript has been aware that both its costs and its profitability have varied from State to State since at least 1988 (Bannerman 1988, para 4.5.1). A review conducted for the Attorney-General's Department in 1996 reported that clear cost assignments between the central and regional offices of Auscript and among the various services provided remained incomplete. This reflected arbitrary allocation of overheads among Auscript's regional operations and between different service types (Attorney-General's Department 1997). To improve performance before introducing competition, Auscript could have used

internal benchmarking to compare the performance of regional offices and to seek efficiency gains from management innovations at the regional level.

5.4.2 Sharing costs among litigants, courts and the community

User charges can enhance incentives to determine whether the correct amount of resources is allocated to particular activities (ORR 1995a). But the means of sharing the costs of court reporting services among litigants, the courts and the community has important implications for whether the resulting outcome is efficient and equitable.

There may be a case for assisting or subsidising some users of a service if:

- the benefit of their consumption extend to non-users of the service (so called spillovers); or
- there are equity implications from user charges (section 5.4.3).

Users should bear the balance of costs but the structure of these charges can affect the outcomes. User charges will generate the most efficient outcomes, in principle, where:

- the party that generates the incremental costs is responsible for bearing those costs; and
- parties bear other costs according to which allocation least distorts their incentives to purchase the service.

An agency, in practice, must trade off the costs and benefits of developing precise cost estimates for different users and administering more complex pricing regimes. Simpler pricing regimes may be more appropriate where the efficiency benefits of precise cost estimates for individual users are outweighed by the administrative costs (section 5.4.4).

Determining the allocation of shared costs which least affects purchasing incentives is a complex issue and is discussed further under ‘Attributing the overhead costs’ (section 5.4.3).

There have been significant changes in the cost shares borne by courts, the litigants and the community. The community bore the entire cost of court reporting through budget funding until 1988. Then from 1989, the community (through its funding of the courts) bore both the costs of recording and the courts’ share of court reporting costs, and the litigants bore their costs for court

reporting.¹⁴ This structure continued until the 1997-98 round of competitive tendering which explored other options.

5.4.3 Directly funding the community's share of costs

Private parties litigate when each considers that the expected benefits exceed the expected cost (which is affected by both parties' expectations of success, the court's cost allocation rules, and the costs of legal representation, court fees and transcript charges). In a perfect legal system the efficient outcome would occur when the decision of the private parties to litigate reflects the full benefits and costs from litigating and when, at the margin, those individuals who do not litigate, do so because there are no net benefits.

However, some litigation generates public benefits which exceed the individual litigant's benefits because the court's decision will set a precedent that reduces the need for others to go to court. If the private benefits of such a case are less than the private costs, then the case would not proceed unless there was a community subsidy of some of the costs of pursuing such a case (including the transcript costs). Consequently, such a subsidy may enhance efficiency.¹⁵

The community may also wish to contribute to the private costs of litigation if, for reasons of equity, it would like to ensure that certain groups are not unfairly disadvantaged in accessing the justice system.

Public benefits from court reporting services

The outcomes of the legal process may provide additional public benefits beyond any private benefit to the litigants. Court judgements inform the common law and set legal standards which regulate acceptable behaviour in commerce and the community by:

- clarifying vagaries in legislation;
- reflecting changes in community values in personal and property rights prescribed by law; and
- preventing any transgression of fundamental rights in the Constitution (ORR 1995b).

¹⁴ The court recovers some of the cost of operating the court (including transcripts) from litigants through hearing fees.

¹⁵ Sometimes groups in the community benefit from a particular precedent — for example, unions and employer organisation benefit from the clarification of industrial relations law. Each group in such a case may collectively fund the individual parties in the absence of government funding.

The costs and provision of transcripts may influence the number, timeliness and accuracy of the precedents that are set, because they influence both the decision to conduct a hearing and the effectiveness of legal representation during the hearing (box 5.5).

The price of transcripts may influence some disputants' decisions to resort to litigation (and consequently whether a precedent may be set). A case that has important benefits to the broader community will not proceed if the expected private costs (including transcript fees) exceed the expected private benefits.

The magnitude of the effect of transcription charges on decisions to litigate will depend on factors such as the relative importance of transcripts to the effectiveness of legal representation. Changes in transcript prices, for example, may have little bearing on the disputants' decisions when transcript costs are a small proportion of the total costs of litigation, or if transcripts do not play an important role in ensuring effective legal representation for that case.

Box 5.5: An economic perspective on precedent setting

Precedents that arise as a by-product of hearings can have wide implications. Each decision informs the likely outcome of other similar disputes and may shape the future behaviour of businesses and consumers. However, most litigation is driven by private concerns — such as the resolution of individual disputes — so the broader social implications of a case have little influence on the private decision to continue litigating or accept a settlement.

Given the lack of incentives for individuals to consider the social value of new precedents, there may be a role for government intervention which ensures that the 'right' cases are being litigated — that is, cases that are evenly balanced (Cooter and Rubinfeld 1989).

The courts can also use the novel or closely fought facts or legal issues of a 'right' case to revisit precedents in light of contemporary values, legislative change and hindsight, thus improving on earlier treatment. Such a hearing services both private and social ends — a dispute is resolved and any new precedent may guide the conduct of others.

Source: ORR (1995b).

The availability of timely, comprehensive and accurate transcripts during a hearing may influence the effectiveness of legal representation, during cross-examination for example. Further, judges and their associates sometimes use transcripts to deliver reserved judgements, particularly when cases are heard on circuit.

Transcripts can also inform future debate about court decisions and judgements. Future debate generally occurs through appeal of previous judgements; because a significant proportion of appeals are based on court process rather than judgements, the transcript is an important piece of evidence in establishing whether due legal process was followed. In such cases, the costs of transcripts are important only to the extent that they inhibit the parties from contesting or appealing a case that may establish a precedent. Transcripts are not used to inform the community of court judgements because this function is fulfilled by law reports which discuss both judgements and the judicial reasoning behind them.

The broader community has several options for subsidising the legal process of setting precedents. It could pay part of the costs of litigation, including contributing to the costs of transcripts through:

- a targeted subsidy applied only if it is judged that the case is likely to set a precedent and the disputants are unlikely to litigate (given their assessment of the private costs and benefits of litigation); or
- a subsidy applied to all cases, regardless of whether the case is likely to set a precedent.

An assessment of the appropriateness of each option should consider the costs of administering such schemes and their implications for tax revenue. There may be prohibitively large administrative costs from determining which disputes have sufficiently large public benefits and small private ones — which may limit the usefulness of targeted subsidies. Alternatively, the distortions associated with raising taxes to subsidise all hearings may preclude the application of a uniform subsidy, particularly when potential targeted disputes are easy to identify.

The community may also contribute to the legal process by subsidising other individual inputs (such as legal fees or the court's cost of hearings) or by subsidising the aggregate cost of some cases, for example. The Commonwealth's public interest and test case scheme, which funds cases identified as being in the national interest, illustrates the latter approach. The Commonwealth may also provide supplementary funding to government agencies to bring test cases against new legislation. It recently allocated funding to the Australian Competition and Consumer Commission to conduct prosecutions in relation to the unconscionable conduct provisions of the *Trade Practices Act 1974* (Cwlth) (Reith and Howard 1997).

Equitable access for disadvantaged litigants

Equity issues are a very important consideration in legal services, as noted by the Access to Justice Advisory Committee:

All Australians, regardless of means, should have access to high quality legal services or effective dispute resolution mechanisms to protect their rights and interests. Equality of access to legal services requires that individuals who may not be able to afford legal services, but who have legitimate interests to protect should have a range of opportunities available to them to bring (or defend) proceedings, without necessarily incurring liability for their own fees. (AJAC 1994, p. xxx).

Equally, the costs of transcripts (while a relatively small proportion of the total costs incurred by parties seeking judgements in the courts) may still limit access by some litigants. The 1995 Justice Statement concluded that:

While the Government believes that the system is now more efficient, it recognises that the cost of transcripts still may have a significant impact on some litigants and on bodies providing legal aid (Attorney-General's Department 1995, p. 67).

The introduction of user charges for transcripts raised some concern about the implications on the accessibility of justice for disadvantaged litigants.¹⁶ Cabinet responded by introducing Community Service Obligation funding in 1991-92 to improve the accessibility of transcripts for people in financial hardship. This funding catered for the provision of listening and reading services only, not the provision of transcripts at a reduced charge.

Enabling litigants to listen to the recordings facilitated a reduction in their requests for transcripts by reducing the number of unnecessary pages purchased. The Community Service Obligation funding amounted to \$800 000 in 1992-93, its first full year of operation, and continued at that level until it ceased in 1994-95. Auscript has continued to provide facilities to assist litigants to read transcripts or to listen to tapes on Auscript's premises (Auscript correspondence, 20 July 1998).

The 1997 Review of Auscript (Attorney-General's Department 1997) investigated options for funding access to transcripts for litigants in financial hardship. The options included:

- the current arrangement, whereby legal aid case funding incorporates transcript costs; and

¹⁶ Bannerman (1988), despite calling for full cost recovery and commercialisation of Auscript, did not consider equity issues.

- the waiving of fees to enable litigants to obtain transcripts for a nominal photocopy cost, whereby either Auscript or the courts responsible for identifying litigants in need bear the cost of supplying the discounted transcripts.

The review recommended continuing with the current arrangements, given the duplication of the administrative costs of identifying disadvantaged litigants under the waiver scheme (Attorney-General's Department 1997, p. 46).¹⁷

5.4.4 Cost shares of courts and litigants

Issues with the structure of prices paid by the courts and by litigants include whether transcript prices should:

- reflect the costs of recording;
- attribute more of the overhead costs to some users, including:
 - where a number of litigants are purchasing copies;
 - where urgent service is required; and
- be uniform nationally.

Unbundling recording costs from transcription costs

The practice in Commonwealth courts of recording all proceedings means that the main drivers of recording costs are duration, location and occurrence outside standard business hours. These are decisions of the courts, but litigants' actions directly affect the length of proceedings and indirectly influence when proceedings occur.

There are several options for pricing court reporting services (table 5.1). Each approach has different implications for the degree of subsidy from the courts (and thus indirectly from the broader community), and for the administrative burden that it places on the transcript service provider. Therefore, when determining the most appropriate pricing rule, a court reporting agency may need to tradeoff the need to give the users the correct pricing signals and administrative simplicity.

¹⁷ In most States and Territories the court or the Attorney-General has the power to waive transcript fees for litigants in financial hardship (table 5A.1).

Table 5.1: Options for allocating the cost of recording and transcription services to users

	<i>Option A</i>	<i>Option B</i>	<i>Option C</i>	<i>Option D</i>	<i>Option E</i>
Recording	Court	Court	Included in transcript fees	Included in transcript fees	Litigants
Court's transcript	Court	Litigants	Litigants	Court	Litigants
Litigant's transcript	Litigants	Litigants	Litigants	Litigants	Litigants
Implication for:					
– subsidy from the court	Same as hearing fees	Same as hearing fees	None	Less than court fees	None
– administrative costs	Low	Low	Low	Low	High

Sources: Adapted from Purchasing Australia (1997a) and (1997b).

The costs of recording can be separately recovered from the court (options A and B); the litigants (option E) or through higher transcript fees (options C and D).

- When the court bears the recording costs, the level of the court's subsidy for recording is the same as the level of subsidy that applies to other elements of court costs. The administrative costs of this arrangement are relatively low; the court reporting agency only needs to bill the court for recording.
- When all litigants bear the costs of recording, there is no subsidy for recording but there may be high administrative costs. The court reporting agency needs to bill all parties to all litigation, including those who do not order any transcripts.
- When the costs of recording are included in transcript fees, the court reporting agency only bills those who purchase transcripts. But this means that parties who purchase transcripts bear the costs of other recording for parties who do not purchase transcript.

The cost of transcript can be borne by the litigants only (options B, C and E) or both the court and the litigants (options A and D).

- When the litigants bear the transcript cost of the courts, they contribute a greater proportion of the court's cost of providing an adjudicative service. The administrative costs of this arrangement are relatively low, because the court reporting agency only needs to bill the court for recording and to bill the litigants for transcription. This arrangement could pose some difficulties when only judges are interested in obtaining the transcript.
- When the courts bear their transcript cost, the litigants contribute a smaller proportion of the court's cost of providing an adjudicative service. The

administrative costs of this arrangement are again low, because the court reporting agency only needs to recover costs from those parties who request transcripts.

The variation in the proportion of hearings transcribed between the Federal and Family Courts may affect the feasibility of cost allocation options which depend on recovering the cost of recording from transcript purchasers.

The Commonwealth courts, in seeking proposals for the provision of court reporting services, initially used the approach outlined in option A. The Family Court continued to request that tenderers quote on this basis in 1997. However, the Federal Court asked for quotes on options A, B and C in that year.¹⁸

Attributing the overhead costs

It is a complex exercise to determine pricing structures that will recover both the direct costs of each transcript and the aggregate shared costs, and ensure that the organisation's prices are competitive. And although a number of costing methods exist (box 5.3), typically these only provide a guide to the floor (based on incremental costs) and ceiling (based on stand alone costs) of possible prices.

Auscript approached this problem by conducting a costing exercise in 1992 following the shift to accrual accounts. The costing exercise exposed two primary factors behind the determination of court reporting costs:

- the costs of transcription and reproduction; and
- the cost of generating transcripts at different turnaround times.

Each is considered in the following sections.

Purchase of a transcript by several litigants

Court reporting arrangements generally establish set prices per page for transcripts sold to the court and litigants.¹⁹ However, most costs in court reporting are incurred in creating the first copy. Once a page of transcript is produced, further copies can be made at relatively low cost. A single price per

¹⁸ The State and Territory courts with in-house providers have prices which recover less than the full cost of recording and transcription and have not been competitively tendered (table 5A.1). Prices, therefore, do not generally reflect the incremental costs generated by the dispute and cannot be modelled using this framework.

¹⁹ See table 5A.1.

page means that litigants in protracted multi-party disputes, as a group, pay significantly more than the total costs.²⁰

A recent review of Auscript found that such pricing practices may not be sustainable in the longer term:

The future prospect of multi-copy sales is doubtful, for example. In Victoria the State is calling for tenders on the basis of hourly charges for either recording only or recording and transcription. The price is irrespective of the number of parties and will result in the total cost being shared among individual parties. It is likely that the market will require more of this sort of pricing in the future. (Attorney-General's Dept 1997, p. 23)

Two mechanisms address this issue. First, the court can provide litigants with the option of running a separate tendering exercise where they share the total cost.²¹ However, the high transaction costs to date have meant that litigants only undertake such tenders in protracted multi-party disputes where court reporting is bundled as an element of an in-court litigation management system for that case. The number of tenders is likely to increase in the future as the court reporting market develops, computerised litigation management systems become more entrenched, and the market establishes an expectation that prices for court reporting should not exceed the stand alone cost for that case. Contracts with both the Federal and Family Courts provide for alternative court reporting arrangements if the parties desire litigation management systems.

Second, a court reporting agency can use a pricing scale which differentiates prices according to the number of litigants in the case. Prior to the current round of tendering, Auscript often offered *ad hoc* discounts to Federal Court litigants if a dispute involved more than three parties or if a hearing continued for longer than two weeks (Auscript correspondence, 11 June 1998). However, recent tenders for the Federal Court have formalised such discounts into pricing scales based on the number of litigants who purchase transcript in each case.

²⁰ High costs for supplying the first unit and relatively low costs for subsequent units are not unusual. The distinguishing feature of court transcripts is that the total numbers likely to be purchased are often known at the point of first sale, partly because each transcript is sold in a relatively small market. Due to the difficulty of identifying the number of parties likely to purchase the transcript, multi-party discounts are unusual arrangements in the States and Territories (table 5A.1).

²¹ The Victorian Supreme Court civil jurisdiction has adopted this approach.

The implementation of a structural separation between recording and transcription would also affect pricing.²² Eliminating the set-up and access costs, thereby reducing the incremental costs of establishing separate court reporting arrangements for individual cases, increases the pressure for prices to more closely reflect the court reporting costs of individual litigants.

Premium for urgent transcripts

An efficient pricing model for court reporting would, in principle, minimise the distortion of purchasing decisions by apportioning the shared costs of court reporting (such as capital and overheads) to those purchasers who are least responsive to changes in price (if there are no equity considerations).

To achieve this objective, a provider could apportion more of the shared costs to users requiring urgent transcripts (that is, set prices closer to the ceiling and the floor). The contracts between Auscript and the Family and Federal Courts, in 1993, both introduced price premiums for short turnaround times (table 5.2). The price premium for more timely transcripts reflects both the higher costs and the purchasers higher, willingness to pay (Auscript correspondence, 11 June 1998).

Table 5.2: Transcription fees for the Family Court, 1997

<i>Turnaround time</i>	<i>Rate per folio of 100 words</i>
Normal transcript, five days	\$2.00
Next-day transcript	\$2.30
Same-day transcript	\$2.60
Progressive same-day transcript	\$5.50

Source: Family Court of Australia (1997).

Auscript adopted these pricing principles as a means of rationing demand, but it also obtained more general information on the preparedness of parties to pay for transcripts. This means that Auscript can now identify those parties to whom transcripts are particularly valuable — the greater the party’s urgency in obtaining the transcript, the greater the party’s preparedness to pay and the lower its responsiveness to changes in price — and apportion a greater share of joint or common costs to those parties. Auscript has simplified its costing by distinguishing between recording and transcription and by allocating joint and

²² The Victorian Government is considering the introduction of a single Statewide electronic court recording network linked to a central monitoring office which in turn is linked to the major transcription providers.

common costs such as overheads to transcription (from which the majority of revenue is derived) (Auscript correspondence, 11 June 1998).²³

National uniformity

Costs of providing court reporting services may vary across Australia, reflecting differences in:

- input costs;
- the level of demand; and
- the level of competition and thus the efficiency of competing service providers.

Input costs

Court reporting continues to be a largely labour-intensive production process. Auscript's typists and court monitors are paid according to a national award which does not provide for variations in wage rates among States and Territories. Other input costs of court reporting are more likely to vary across regions, including the cost of:

- contractors used to meet backlogs (see below);
- equipment and capital; and
- experienced management.

Level of demand

There are some economies of scale in court reporting, mainly because demand is likely to be less variable when more cases are heard. The jurisdictions of the Federal and Family Court are national, but the level of demand for court hearings varies across Australia. The predominance of commercial litigation in the Federal Court caseload, for example, means that the court conducts the majority of hearings in Sydney where most corporate head offices are located. And while the Family Court's workload is more evenly distributed across the States and Territories, the court does not have jurisdiction over originating family law disputes in WA.²⁴ There is also some evidence that litigiousness varies among regions (Family Court correspondence, 6 May 1998).

²³ Premiums for urgent transcripts are a feature of court reporting arrangements in Victoria, WA, the ACT, the NT, the Federal Court and the Family Court (table 5A.1).

²⁴ The Family Court of WA hears these disputes although the Family Court of Australia hears appeals.

The impact of variations in regional demand is reflected in Auscript's previous practice of transferring transcription from Sydney and Melbourne to its regional offices and to private contractors (Bannerman 1988, para. 4.5.1.). This enabled Auscript to sustain a nationwide recording and transcription service, despite levels of demand in some States which would otherwise not support an office. However, there are few significant variations in input costs among regions which might be captured. The practice has continued after commercialisation to meet short term transcription overflows (Auscript correspondence, 11 June 1998).

Variation in prices and the level of competition among regions

Contractual relationships between the courts and Auscript have traditionally been national. However, in 1997, the Federal Court sought tenders for the supply of services on a national or regional basis. The outcome of this tendering round highlighted regional differences in court reporting markets which appear to be primarily based on the level of competition in those regions. Given that the skills of court reporting are mostly required by courts, tribunals, commissions and irregular royal commissions, the State and Territory arrangements for the supply of transcripts to State courts have a considerable bearing on the level of competition in regions.

Price models that charge different prices to transcript users in different regions are appropriate when the efficiency benefits of different prices exceed the administrative costs. The efficiency benefits primarily derive from having prices (and thus levels of demand) that more accurately reflect the costs of production in each region. This may facilitate more informed user decisions about the level and timeliness of their demand. The administrative costs of regional pricing are those of maintaining different pricing schedules in different regions.

In addition, the assessment of the feasibility of different prices across States and Territories has also considered:

- the implications for accessibility of transcripts to litigants in disadvantaged States and Territories; and
- the degree of separation among the various regions, and the ability of consumers to purchase court services in cheaper markets.

The equity implications of applying differential prices among States and Territories differ for the Federal and Family Courts. In family law litigation the cost and accessibility of proceedings are important because the ability of litigants to finance protracted court hearings is frequently less than that in many of the commercial and industrial disputes heard by the Federal Court. For this reason, the established policy of the Family Court is to provide equal access to

court services throughout Australia. Prices which reflect the cost of supply in each State and Territory may conflict with this policy (Family Court correspondence, 15 June 1998).

In addition, such pricing may encourage litigants from interstate, particularly in large commercial cases, to seek hearings in the cheaper location. However, given the small share of transcript costs in total costs, this is not likely to be a powerful incentive for litigants. However, if lower transcript costs are indicative of lower court and professional costs, in the long run some parties may respond to changes in transcript prices to capture lower overall costs.

5.4.5 Transition issues

The three major transition issues addressed during the reform process have been:

- the appropriate timing of the introduction of competitive supply;
- whether a phased or ‘big bang’ style of implementation would maximise the net gains from reform; and
- the need to increase awareness of the costs of court reporting.

Competitive supply

As a general principle, the introduction of user charges should be accompanied by competitive supply of those services. Where possible, competition between public and private providers strengthens incentives for the efficient provision and pricing of court reporting services (Bannerman 1988, para 3.7.8).

The implementation of competitive supply can occur concurrent with or subsequent to the introduction of user charges. The first option takes advantage of the reform climate and competitive market processes facilitate setting user charges at efficient levels. The second option allows the incumbent time to adjust and is most feasible where cost and price information from alternative suppliers are widely available. Where the incumbent’s monopoly position is maintained and user charges are introduced, the lack of competitive supply needs to be counterbalanced with effective performance monitoring to ensure that service quality and efficiency do not decline. However, performance monitoring can be expensive, undermining some of the efficiency benefits of user charges.

The Commonwealth decided to introduce competition in the supply of court reporting services in July 1993, five years after the introduction of user charges. This timing was chosen because user charges were required to address

budgetary pressures and to contain growing demand in the short term, and because the Commonwealth Government considered it appropriate to give Auscript time to implement reforms which would facilitate its future viability in the competitive marketplace. In addition, benchmark prices were available from contractors used to process overflow work and from the introduction of competitive supply of selected services to the Conciliation and Arbitration Commission.

Timing of reform implementation

The implementation of a reform can have important implications for its success and for the success of future reform. Well-planned and well-managed implementation can improve a reform's chances of success, while poor implementation can reduce its effectiveness.²⁵

Reform can be introduced in several ways, including:

- immediate full implementation (the 'big bang' approach); and
- phased implementation (introducing small elements of reform using a gradual approach).

Either can be preceded by the evaluation of small-scale pilot programs, although such evaluations are not always undertaken. Choosing the appropriate approach involves weighing up the adjustment costs and benefits of each, given the circumstances of the reform and the reform environment.²⁶

Using a phased program of reform in court reporting services had some advantages. Most importantly, all parties were able to learn from their experiences and consequently better adapt to the changes as they were made. The options for court reporting fees for courts and litigants, for example, were extended and refined over time, reflecting the increased availability of more accurate information on costs and on the users' willingness to pay for different turnaround times. The three-month experience with the alternative provider to the Conciliation and Arbitration Commission in 1987, along with the contract with other providers to take overflow work, allowed Auscript to learn from the outcomes of limited competition and thus improve its own efficiency, without severely curtailing the level of its services. The courts also gained experience

²⁵ For further discussion of implementation timing issues see chapter 2, chapter 4 and OECD (1998).

²⁶ The 'in principle' tradeoff between the costs and benefits of various approaches to reform are discussed in detail in the case studies of the Local Area Coordination program in WA (chapter 4) and the Victorian Government's Schools of the Future program (chapter 2). Issues in timing program implementation are highlighted in box 6.2.

with managing alternative external providers. However, the five years between introducing user charges and introducing competitive supply delayed realisation of the efficiency benefits of the later development.

While a ‘big bang’ style of implementation may have captured efficiency gains earlier, such a method of implementation may not have been appropriate because:

- the market was not sufficiently developed to be able to meet the requirement for national supply;
- the introduction of user charges required the court and litigants to accept that transcripts were not a free good;
- many of the benefits from the reform — for example, the elimination of over-servicing — were realised in the first round of reforms, while later reforms refined the pricing mechanisms and increased the competition in the market; and
- the priority was on providing Auscript with opportunities to benchmark itself against private providers and to undertake internal costing exercises to identify the full cost of delivering services.

A ‘big bang’ style of implementation (simultaneous introduction of user charges and competitive tendering) may have captured efficiency gains earlier (if the market was sufficiently developed at that stage) but these may have been offset by higher adjustment costs borne by the service provider’s staff, the Government (including the courts) and litigants.

Cost-consciousness and changing purchasing behaviour

A major issue in the reform has been the necessity to instil a cost-conscious culture in Auscript and its customers. Cost-consciousness involves both an awareness of the total economic costs of the provision of transcripts and a preparedness to rationalise demand to minimise these costs (recognising that transcripts play an important role in litigation). Prior to the reform, in 1988, the Bannerman Review noted with regard to the cost of court reporting that the recent introduction of user charges had improved the awareness of cost issues:

Only recently have [Auscript] and its customers become at all cost conscious, and it has been a shock on both sides. Court reporting used to be seen as a public service of self evident value whose costs were never really examined in efficiency terms. (Bannerman 1988, para 3.2.2)

The OECD identified similar concerns in its case study of the implementation of user charges for the United States Nuclear Regulatory Commission. The OECD recommended the following approach:

Consideration should be given to holding consultations with users when a charge is being introduced ... This serves to communicate to the users the rationale for the charges and ... can be useful in designing and implementing an effective and efficient charging system. (OECD 1998, p. 7)

More recently, Auscript has sought to better understand the concerns of its clients, including the courts (who make the major purchase decisions) and litigants, as consultation has become an important part of its need to address marketing issues in a competitive environment. In 1995 it commissioned a survey of clients which revealed some negative perceptions regarding the effectiveness (or quality) of the service delivered by Auscript:

Given the dominant perception that Auscript is expensive, attention is needed to the whole question of cost effectiveness and benchmarking. Auscript should help customers distinguish between the overall cost of the service and its value for money. (Environmetrics 1995, p. 27)

The Federal Court and Family Court have continuing concerns regarding user expectations and the affordability of transcripts to both the court and parties, particularly since user charges have been introduced. The courts have adopted a number of different strategies to address these concerns:

- providing alternatives to full transcript, such as abbreviated or edited transcript and listening services;
- ensuring that user expectations of accuracy and turnaround times are addressed through consultation and contractual specification; and
- increasing the awareness of users of the competitive tendering process which determines the level of charges (Federal Court correspondence, 6 July 1998).

Nevertheless, because many litigants appearing before Commonwealth Courts also bring cases in the State and Territory court systems, their expectations of affordability will continue to be determined by the State and Territory arrangements which often do not achieve full cost recovery.²⁷

5.5 Conclusions

This case study focuses on the process of refining a system of user charges to meet efficiency and equity objectives. The reform process has illustrated a number of lessons.

²⁷ In NSW, Queensland, WA and Tasmania transcript prices do not achieve full cost recovery (see table 5A.1).

First, while the Department of Finance guidelines on user charges are sound — correctly identifying the economic issues associated with the decision to implement user charges — on their own they are not comprehensive enough to guide practitioners adequately (a more detailed checklist of issues is provided in Box 6.6). Practitioners are likely to need expert advice (whether from central agencies, consultants, or other sources) on:

- how to choose a pricing structure which recovers the cost of the service in the most efficient manner;
- how to determine the appropriate level of public subsidy to disadvantaged groups (for equity reasons); and
- how to determine which mechanisms most efficiently direct funding towards disadvantaged groups.

Second, the Department of Finance guidelines illustrate the need to assess jointly, but address separately, efficiency and equity considerations in court reporting. Mechanisms targeted at efficiency objectives (for example, through full cost recovery) will necessarily affect equity objectives and vice versa. The reform process illustrates this need for separate tools to achieve each of these objectives. Where there is a tradeoff, such as during the Attorney-General's Department review of funding options for targeting disadvantaged litigants, an assessment of the aggregate costs and benefits required.

The primary objective of the Bannerman Review was to examine opportunities for efficiencies in Auscript. This was undertaken in isolation from the equity considerations. Subsequently, funding was necessary to provide access to recordings for disadvantaged litigants. The 1997 Review of Auscript, following concerns raised in 1995 (Attorney-General's Department 1995, p. 67), assessed how both the efficiency and equity of the provision of court reporting services could be improved (Attorney-General's Department 1997, p. 8).

Third, the case study has raised the issue of the appropriate sequence with which user charges and competitive supply are implemented. Where the incumbent requires adjustment time to be viable in a contestable market, tools such as performance monitoring and cost modelling may be used to help set charges at efficient levels.

Finally, the implementation of reforms to Commonwealth court reporting was undertaken in a phased manner over a period of approximately 10 years. Over this period the structural relationship between Auscript and the courts changed — prices have been progressively linked to the primary demand and cost drivers. This may have reduced adjustment costs compared with those in a 'big bang' reform, but probably delayed realisation of efficiency benefits.

The attached survey outlines the structural and pricing relationships between the State and Territory courts and their various court reporting service providers. The principles and key lessons in implementing reforms across a range of services and jurisdictions are summarised in chapter 6.

5A SURVEY OF COURT REPORTING SERVICES

This attachment surveys aspects of the delivery of court reporting services in the States and Territories. The attachment provides information on the extent to which the arrangements between the Federal Court of Australia, the Family Court of Australia, Auscript and litigants (examined in chapter 5) have been introduced elsewhere. It therefore describes the relationship between the superior courts of the States and Territories and the respective court reporting agencies for the provision of court reporting services in civil cases.

Information was not collected for the criminal jurisdictions because it is generally held that court services should be provided free to defendants in criminal cases and because prosecutions of Commonwealth crimes have been vested in the courts of the States and Territories and are therefore not heard by Commonwealth courts.

The survey provides information on:

- the relationship between the court and the reporting service;
- the volume and scope of reporting services, and
- arrangements for tendering, pricing, equity and technology.

Organisational structure and contractual relationships

There is a mix of government and non-government agencies providing court reporting services in the civil jurisdiction of the superior courts. NSW, Queensland, SA and Tasmania have government-owned court reporting services generally established as separate agencies under the auspices of the Department of Justice. The remaining jurisdictions have contracted or established arrangements with non-government suppliers or with Auscript (which will shortly be privatised).

The exceptions to these standard arrangements are:

- in Victoria a panel of contractors provides a full range of reporting, recording and transcription services;
- in all jurisdictions, as with the Federal and Family Courts, contractors cannot be compelled to provide special technologies such as real time transcription;

- in NSW private sector contractors cover hearings in the Compensation Court and some Industrial Relations Commission proceedings, but these are outside the scope of the survey;
- in the ACT an agreement between the Supreme Court and Auscript specifies arrangements which are similar to those adopted by the Family Court;
- circuit courts in Katherine NT are recorded by the Clerk; and
- in SA the in-house provider has subcontracted with Spark & Cannon for overflow work.

Setting prices

Prices for court reporting are set using a number of different methods. Generally those jurisdictions which do not have market determined prices (those using in-house providers) have undertaken some form of benchmarking or cost modelling to determine a price at which to provide services. Prices in Queensland and Tasmania are regulated under an Act of Parliament and this limits the flexibility of the service to vary prices as circumstances change, although in Queensland the legislation facilitates the adjustment of transcript prices in accordance with annual changes in the consumer price index.

Jurisdictions with in-house providers do not generally specify a price per hour of recording or page of transcript requested by the court. Instead the judge indicates to the reporting service his/her requirements and these are generally fulfilled. In this context premium services are rationed through limited availability. The standard turnaround times in some jurisdictions (such as Queensland) are comparable with premium turnaround times in others.

Those jurisdictions with external providers have specified prices to be paid by the court. These arrangements do include premiums for short turnaround transcripts, where requested by the court, but do not discount the price paid by the court in multi-party disputes.

Litigants generally do pay a price for transcript, but the price in those jurisdictions using in-house providers does not always reflect the full cost of production. In SA, the full cost is recovered by the court reporting agency where at least two litigants purchase the transcript. The price to litigants is generally higher than the marginal cost (being the cost of transcript reproduction and delivery). Further, those jurisdictions using in-house providers do not generally have premiums for urgent transcripts because the turnaround time is determined by the court.

Litigants in Victoria are required to pay for transcripts, and the contract provides for a free copy of the transcript for the court. The speed with which this transcript is produced is determined by the litigants and, because the arrangements are determined for each case, the price per party generally varies according to the number of parties involved.

Equity

Transcript fees can be waived for disadvantaged litigants in most jurisdictions. Disadvantaged litigants can also apply to have their court costs covered by legal aid, although the accessibility of legal aid for civil litigants has been severely curtailed in most jurisdictions and is currently only regularly available in family disputes.

The decision to waive fees is based on a number of factors, with most jurisdictions opting for an income or means test. In the NT the Chief Executive of the Office of Court Administration decides on the basis of whether the case is worthwhile or has any potential public benefit.

Table 5A.1: Court reporting arrangements, 1997

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>
Organisational structure				
Department responsible				
– for coordination and policy setting	Attorney-General's Dept	Justice Dept	Justice Dept	Ministry of Justice
– selecting the preferred supplier/s	Attorney-General's Dept	Supreme Court	Justice Dept	Ministry of Justice
Court reporting service provider	Reporting Services Branch	Panel of 7 accredited providers	State Reporting Bureau	Spark & Cannon
Tendering				
Relationship between court and court reporting service	In-house provider	Contract	In-house provider	Contract
Extent of competitive tendering				
– recording	None	All	None	All normal recording
– transcription	None	All	None	All normal transcription
Exclusions	Real time if required	None	None	Special technologies, right unexercised
Contract length	—	Each case	—	3 years + 2 years extension
Ownership of current provider	Attorney-General's Dept	All non-government	Dept of Justice	Non-government
Pricing				
Factors considered in price determination				
– market determined/contracting	no	yes	no	yes
– benchmarking against other jurisdictions or providers	yes	no	no	no
– costing models	yes	no	no	no
– historical or regulated pricing	no	no	yes	no

<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Federal Court</i>	<i>Family Court</i>
Court Admin. Authority	Supreme Court	Justice Dept	Office Court Admin.	Attorney-General's Dept	Attorney-General's Dept
Court Admin. Authority	Supreme Court	Justice Dept	Office Court Admin.	Federal Court of Aust	Family Court of Aust
Court Reporting Division	Court Reporting Branch	Auscript	Court Recording Services (NT)	Auscript	Auscript
In-house provider	In-house provider	Understanding	Contract	Contract	Contract
Overflow	None	None	All	All normal recording	All normal recording
Overflow	None	None	All	All normal transcription	All normal transcription
None core business	—	—	Circuit courts in Katherine are recorded by clerk	Special technology	Special technology
3 years + 2 years extension	—	—	2 years + 2 years extension	5 years + 2 years extension	2 years + 1 years extension
Court Admin. Authority	Justice Dept	Cwlth Government	Non-government	Attorney-General's Dept	Attorney-General's Dept
no	no	no	yes	yes	yes
no	no	Cwlth Courts	no	Undertaken by provider	Undertaken by provider
yes	yes	Undertaken by provider	no	Undertaken by provider	Undertaken by provider
no	yes	no	no	no	no

(cont.)

Table 5A.1: Court reporting arrangements, 1997 (cont.)

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>
Price paid by court	no	no	no	yes
– premium for urgent transcript	—	—	—	yes
– discount for multiparty disputes	—	—	—	no
Prices paid by litigants	yes	yes	yes	yes
– premium for urgent transcript	no	yes	no	yes
– discount for multi-party disputes	no	yes	no	no
Accessibility of transcript for litigants				
Full cost recovery in pricing to litigants	no	yes	no	no
Transcript fee waiver for disadvantaged litigants	yes	no	no	Legal Aid, no specific arrangement
Waiver decided by ...	Court registrar	—	—	—
On the basis of ...	Income test	—	—	—
Scope of activity				
Hearings recorded				
– determinative hearings	Always	Always	Always	Always
– pre-trial conferences, call-overs	Sometimes	At litigant's request	Never	Always
– compulsory and mediation conferences	Never	At litigant's request	Never	Always
Hearings transcribed (%)	51	na	94	77
Pages transcribed ^a	160 763	na	104 703	67 280
Technology and equipment				
Ownership of court recording equipment	Attorney-General's Dept	Justice Dept	Dept of Justice	Ministry of Justice
Recent technological advances				
– centralised or remote monitoring	no	yes	yes	yes
– digital recording	no	no	no	no
– video recording ^b	no	yes	yes	no
– computer -aided transcription	yes	yes	yes	no
– real time	no	yes	yes	no

na not available

— not applicable

a There is considerable variation between jurisdictions in the number of words which typically fit on a page of transcript, so comparisons should not be made across jurisdictions.

b Video recording is used as an aid to the production of transcripts — for example, where recording occurs in a remote location.

c In SA, provided that at least two litigants purchase the transcript.

d Recording equipment in Alice Springs is owned by the contractor.

e Digital recording is used in the Family Court in Sydney.

5A SURVEY OF COURT REPORTING SERVICES

<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Federal Court</i>	<i>Family Court</i>
no	no	yes	yes	yes	yes
—	—	yes	yes	yes	yes
—	—	no	no	yes	no
yes	yes	yes	yes	yes	yes
no	no	yes	yes	yes	yes
no	yes (marginal cost)	no	yes	yes	no
yes ^c	no	yes	yes	yes	yes
yes	yes	no	yes	Legal Aid, no specific arrangement	Legal Aid, no specific arrangement
Judge for case concerned	Court registrar	—	Office Court Admin.	—	—
Means test	Means test	—	Worthwhile case	—	—
Always	Always	Always	Always	Always	Always
Sometimes	Sometimes	Never	Sometimes	Sometimes	Sometimes
Never	Never	Never	Never	Sometimes	Sometimes
99.9	50	60	41	70	20
na	34 867	15 054	7 264	142 882	50 532
Court Admin. Authority	Justice Dept	Auscript	Office Court Admin. ^d	Auscript	Auscript
yes	no	no	yes	yes	yes
no	no	no	no	no	yes ^e
yes	no	no	no	no	no
yes	no	no	no	yes	yes
no	no	no	no	yes	no

6 CHECKLISTS FOR EFFECTIVE REFORMS

Designing and delivering government services is a complex task, where the challenges of enhancing both equity and efficiency loom large. Given the effect these services can have on the lives of clients and the broader community, there is a constant imperative to seek out better ways of providing them.

Improvements in government services can come from inventing new ways of providing services or from employing or adapting techniques that have been implemented elsewhere. The focus of this paper is on better implementation — that is, implementation that maximises the benefits of reform, while minimising the adverse distributional effects and short-term adjustment costs.

All jurisdictions face the common challenge of developing and/or implementing better ways of providing government services. The Steering Committee of the Review considers that although these challenges differ across services and jurisdictions, similar issues often arise. As a result, although the policy tools and their applications need to be chosen carefully — one size does not fit all — there are lessons to be learnt from the experience of other jurisdictions. The work of the Steering Committee aims, in part, to help cooperative federalism work by identifying and disseminating information on novel approaches to common issues for government services.

Ultimately, the Steering Committee aims to develop a set of checklists covering practical issues that will arise once a government has decided to implement reforms to its services. These checklists should be useful for:

- program managers commencing the planning stage of a reform;
- policy and strategic planning managers in line agencies that are assessing program managers' implementation plans; and
- central agency officials evaluating new policy proposals.

These checklists seek to cover issues relating to improving the efficiency and effectiveness of service delivery, as well as addressing distributional effects and short-term adjustment costs. This chapter attempts to provide a first cut at a set of checklists but the exercise will evolve over time as more reform areas are examined and experience accumulates.

The checklists presented in this chapter are based on the four case studies examined in this report, the three published in 1997 (SCRCSSP 1997b), the work undertaken by the Steering Committee and its Working Groups in the

preparation of the *Report on Government Services* (SCRCSSP 1995, 1997c and 1998) and background research conducted by the Secretariat. These case studies cover a range of services (corrections, courts, health, education, community services and services for people with disabilities) and jurisdictions (five States and the Commonwealth). This chapter groups issues under six broad headings, namely:

- timing program implementation;
- decentralising decision making;
- measuring and assessing performance;
- measuring quality;
- directly linking funding to performance; and
- charging users.

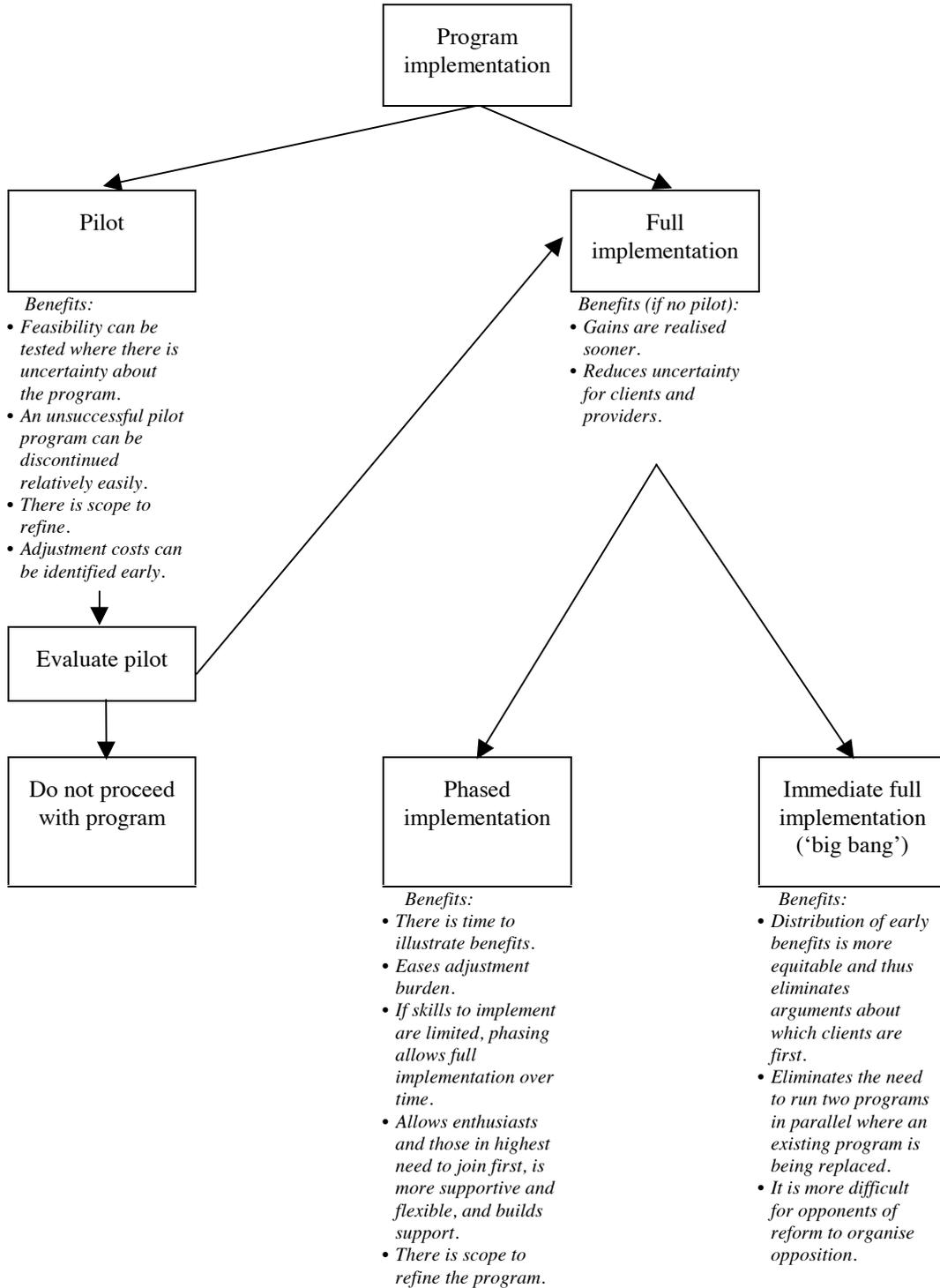
6.1 Timing program implementation

Irrespective of the nature of the reform that is being considered for a particular service area, governments must consider the timing of reform implementation. Implementation options range from pilot programs to test the effect of a reform, to staged implementation of reforms, to full implementation in the shortest possible time frame. In assessing the implementation options, governments need to weigh the benefits and costs, accounting for practical considerations such as the level of resistance to the reform from employees and/or clients, the adequacy of available information concerning the likely effects of the reform and expected adjustment costs (to clients, employees and government).

Sometimes governments will face only one practical option. The high costs of delay in a public health emergency, for example, can demand immediate full implementation of the best and most feasible response. Financial costs and benefits will be more important in other cases; for example, where budgetary constraints may mean that phased implementation is the only feasible approach.

Box 6.1 provides a diagrammatic representation of key issues in timing reform implementation.

Box 6.1: Issues in the timing of program implementation



Sources: Case studies: 'Offering direct consumer funding and choice in WA disability services'; 'Pricing court reporting services for Commonwealth courts'; 'Devolving decision making in Victorian Government schools'.

6.2 Decentralising decision making

Several of the case studies in this report and the 1997 report examined reforms which involved decentralising decision making. Decentralisation commonly involves shifting responsibility for making decisions about the way to provide particular services to the lowest possible level. The aims of shifting responsibility for decision making within an agency are to increase client choice, improve the responsiveness of agencies to client needs, and reduce the costs to government of service provision. However, these benefits must be balanced against a government's desire for accountability, consistent quality, equity (in particular, the equal treatment of individuals with equal needs) and the cost of forgoing any economies of scale in some activities. Box 6.2 identifies major issues that arise in decentralising decision making.

Box 6.2: Issues in decentralising decision making

Decentralisation involves shifting responsibility for deciding how to provide particular services to a lower level (for example, from the central office of an education department to a regional office or to each school). Once an in-principle decision has been made to examine decentralisation, a number of issues arise.

1. Should each key decision be *delegated* or *devolved*?

Delegation (redistribution of responsibility for decision making to a lower level within an agency) may be appropriate where:

- staff dealing with clients are best placed (in terms of access to information) to decide how services should be provided (for example, in terms of the input mix);
- it is appropriate to separate policy making (for example, choosing the types and level of services to be provided) from administration (choosing who should receive the services).

Devolution (moving decision making to a different level by having persons outside the bureaucracy exercise authority or functions) may be appropriate where:

- consumer preferences vary widely and the central agency is unlikely to be able to offer sufficient choice or flexibility;
- non-government operators are able to make more efficient/effective use of government resources (for example, not-for-profit organisations);
- the bureaucracy is mistrusted by the proposed client group.

(cont.)

Box 6.2: Issues in decentralising decision making (cont.)

2. What should be the extent and method of decentralisation?

- Extent — who should decide WHAT mix and level of services and who should decide HOW services are produced?
- Method — should clients be reimbursed, receive vouchers or be directly supplied with subsidised services?

The benefits of decentralisation should be weighed against any transaction costs and effects on equity and equality.

3. Is uniformity of services essential? If so, centralised production or prescriptive uniform controls on processes of service delivery may be necessary.

4. How can decentralised management be supervised? Are central agency staff skilled in specifying service standards, selecting managers, negotiating a relationship between the centre and service providers, monitoring performance and resolving disputes.

5. How should *devolved* service operators/managers be selected? Appropriate selection criteria and open, contestable selection processes need to be developed.

6. What process should be implemented to ensure decentralised managers understand their roles and responsibilities (including the expected outcomes) and possess the skills required to fulfil their role?

7. Can the funding arrangements be results focused, predictable and transparent? Provide decision makers with certainty? Incorporate quality of service through appropriate service standards? Allow for access and equity considerations and yet be flexible enough to enable managers to account for different client characteristics?

8. Can central management create a set of performance measures to determine whether decision makers at the local level have met goals or standards? And can it establish data collection/reporting mechanisms to inform the performance measures?

9. If public access to some performance information could be inappropriate (for example, because it would adversely affect morale at poorly performing services or because there are commercial-in-confidence concerns), how much should be provided and who should make this decision?

10. How should poorly performing decentralised managers/operations be handled? Options include further training/assistance, contract renegotiation, the appointment of new managers and, as a last resort, closure of the decentralised unit.

Sources: Case studies: 'Correctional services in Queensland' (SCRCSSP 1997b); 'Offering direct consumer funding and choice in WA disability services'; 'Devolving decision making in Victorian Government schools'; and 'Pricing court reporting services for Commonwealth courts'.

6.3 Measuring and assessing performance

Reforms to service provision, such as decentralising decision making, increase the importance of effective mechanisms for monitoring performance. Greater decision making at a level closer to clients requires the relaxation of centralised uniform controls and prescriptive processes. But governments still remain accountable for outcomes; consequently, these reforms often need to be accompanied by better monitoring regimes.

Performance indicators are a key accountability mechanism and also provide valuable information on the effectiveness of reforms. The process of developing or reviewing performance indicators often provides added benefits through requiring governments to clearly articulate the service delivery standards expected of agencies, and through clarifying responsibility for meeting service objectives. Indicators should enable the performance of service providers to be assessed and, when combined with appropriate rewards and sanctions, can provide the opportunity for redress where sub-standard performance is identified.

To measure performance more effectively, governments need to be clear about the objectives of performance measurement, clearly identify the aspects of performance that should be measured and also address a range of practical measurement and reporting issues. Box 6.3 examines the key issues associated with measuring and assessing performance and draws on both the case studies and the Steering Committee's work in developing indicators for the *Report on Government Services 1998* (see chapter 1 of that report for detailed discussion of these issues) (SCRSSP 1998).

Box 6.3: Issues in measuring and assessing performance

Objectives of performance measurement

1. What is the objective of the performance measurement? And whose performance is being measured and assessed — the policy choices or administration at the system level, the performance of providers, or the progress of individual clients?
 2. Is there scope for 'yardstick competition' to provide pressure for improved performance? Comparative performance measurement is most valuable if competitive market disciplines are absent and if responsibilities and accountability are defined.
 3. To what should performance be compared — previous periods/other providers/other jurisdictions?
- (cont.)*

Box 6.3: Issues in measuring and assessing performance (cont.)

Scope of performance measurement

4. What aspects of performance should be measured — for example, outcomes only or outputs, processes and/or input qualities — in addition to value for money?
5. Can a framework for outcome indicators be developed to avoid managers focusing on only some (more easily measured) objectives?

Measurement and reporting issues

6. Can key elements of performance be assessed using quantitative measures?
7. Can performance measurement be directly linked to service outcome objectives?
8. How frequently and quickly should data be collected and analysed, recognising the tradeoff between collection costs and the benefits of early analysis?
9. How should the data be collected?
10. Can the performance measurement process be established so it:
 - tackles data issues iteratively;
 - makes any assumptions and qualifications transparent;
 - is managed independently of service providers but takes advice from them.
11. What are the key contextual influences on how and where services are delivered that need to be taken into account in interpreting reported performance?
12. How can the performance indicators be presented in a way that makes clear that they do not obviate the need for sound judgement, that takes account of the local conditions and preferences, when assessing the level of performance?
13. Who should decide the relative importance of achieving different conflicting goals and thus set the benchmarks?
14. Should relative performance be disclosed to the public, clients and/or providers, or only governments?
15. At what point do the costs of increasing precision in measurement outweigh the benefits of likely improved performance?

Sources: Case studies: ‘Casemix funding of public hospitals in Victoria’ (SCRCSSP 1997b); ‘Contracting for NSW public hospital services’; ‘Offering direct consumer funding and choice in WA disability services’; and ‘Devolving decision making in Victorian Government schools’.

6.4 Measuring quality

Implementing performance measurement arrangements involves many challenges. A number of these issues are highlighted in box 6.3, but one issue which is particularly relevant to government services was not explicitly highlighted — that is, how to measure quality for performance assessments.

Moves by governments to extend the use of competitive tendering and contracting in government services have highlighted the need to develop better measures of the quality of services provided to clients (IC 1996). The increased focus on quality has also been stimulated by pressures to reduce unit costs.

Performance indicators covering service quality are needed to remove the temptation for service providers to reduce quality as a way of improving other measurable indicators of performance. However, measuring the quality of government services within an effective performance monitoring framework presents several challenges. One issue is that the quality of government services can be measured in different ways. Quality may be measured in terms of how services are *specified* — that is, the quality of inputs, processes and outputs. Alternatively, quality may be measured in terms of whether services are *fit for the intended purpose* — that is, whether desired outcomes were achieved.

Quality indicators for many services are as yet relatively undeveloped or are being applied in only a small number of jurisdictions. Many areas have an imperative to develop new or better measures. But the benefits of developing a new, potentially ideal measure for a particular service (rather than adopting an existing measure) need to be carefully weighed against the additional delay and other costs of such development, particularly when this reduces comparability with other services (either of other providers or in other jurisdictions). An imperfect measure already in use, either elsewhere in Australia or overseas, may be the most suitable.

Data for measures of quality may also be costly to collect, particularly if great precision is required and there are many important aspects to service quality. Moreover, unlike financial data, this information may not be a by-product of existing management systems. As a result, there may be a tradeoff between spending available funds on the better measurement of one aspect of quality, or reporting with less precision against a more comprehensive set of measures. The choice will depend on the nature of the services and the nature of the decisions which may depend on these measures.

Other detailed implementation issues are outlined in box 6.4.

Box 6.4: Issues in measuring quality

Choosing aspects of service quality to measure

1. What are the most important aspects of service quality from the perspective of the funder/purchaser and the client?
2. Are proposed aspects of service quality to be measured linked to the stated objectives of the service (that is, included in a complete framework of indicators that encompasses all elements of performance)?
3. Can service purchasers/providers directly influence those aspects of service quality?

Designing performance measures covering service quality

4. For each aspect of the service, should quality be judged against an objective and rigid specification (typically measured at an intermediate stage in the service delivery process), or should it be judged against more subjective 'fit for purpose' measures?
5. When should quality measures covering the specification of an intermediate stage of service delivery (that is, the quality of inputs, processes and outputs) be used rather than measures of outcomes? It is most appropriate when there is a strong and stable positive relationship between the quality of inputs and the quality of outputs and/or outcomes and it is very costly to measure outcomes or only possible with a long lag.
6. Which of any proposed quality indicators is most suitable given the competing criteria of:
 - timeliness of results;
 - usefulness for comparisons against targets, previous periods and other systems or providers;
 - reliability and freedom from bias or manipulation in reporting; and
 - cost-effectiveness of the measure.
7. Who is best placed to assess each dimension of quality — clients or their guardians, independent inspectors, the providers of services, or the government agency purchasing the service?

Sources: Case studies: 'Casemix funding of public hospitals in Victoria' (SCRCSSP 1997b); 'Contracting for NSW public hospital services'; 'Offering direct consumer funding and choice in WA disability services'; and 'Devolving decision making in Victorian Government schools'.

6.5 Directly linking funding to performance

To capture the full benefits of performance monitoring it is necessary to support monitoring mechanisms with appropriate rewards and sanctions. One way is to directly link funding for service providers to their measured performance. Under such a regime, improvements in measured performance could be rewarded by maintaining or increasing an agency's funding level. Reduced funding could be the ultimate sanction for agencies that underperform.

Issues that arise in linking funding to performance include: clearly defining the government's desired outputs or outcomes; identifying factors that may affect measured performance (including those that are outside the control of service providers); and ensuring that clients are not significantly disadvantaged where poor agency performance results in reduced funding (box 6.5).

Box 6.5: Issues in directly linking funding to performance

Identifying outputs or outcomes

1. How should the outputs or outcomes that are funded (including quality specifications) be defined to limit the potential to shift costs or shave quality? It is important to note boundaries and complementarities between outputs (such as research and teaching).
2. Can providers directly control definable and measurable outcomes? If not, focus on outputs.

Monitoring and assessing performance

3. Is reliable and comparable information available for the following: costs of different outputs (for example, different courses or on-campus versus off-campus courses) on a neutral basis (that is, including tax equivalents and capital charges); institutional factors affecting comparisons of performance (for example, urban/regional locations or different service categories); and differences in client aptitude and need?
4. Do variations in client aptitude and need significantly affect the cost of providing the service? If so, how can clients be best classified (for example, students from non-English speaking backgrounds, or from geographically isolated areas)?
5. What adjustments to assessments and comparisons need to be made for different provider characteristics (for example, the scale of operations, the age of capital, or the capital/labour mix if only funding recurrent costs)? (cont.)

Box 6.5: Issues in directly linking funding to performance (cont.)

6. What set of output prices will encourage the appropriate mix of services to be produced and delivered to clients, including clients that are more costly to service than the average?

Implementation issues

7. What is the most appropriate mix of incentives and sanctions for the service provider? This decision involves: whether the portion of funds allocated on the basis of performance should be phased in over a number of years; whether clients can be protected from the effects of sanctions; and whether there are any barriers to the effective operation of rewards and sanctions (such as employment arrangements).
8. How frequently should the level and structures of regulated fees be revised? This decision involves considering: the pace of technical change; the likely precision of cost estimates (and thus the need to revise them); and the need to offer providers certainty to foster sound investment decisions.
9. Who should conduct periodic and independent reviews of the funding mechanism to assess its efficiency and effectiveness?

Sources: Case studies: 'Casemix funding of public hospitals in Victoria' (SCRCSSP 1997b); 'Contracting for NSW public hospital services'; 'Offering direct consumer funding and choice in WA disability services'; and 'Devolving decision making in Victorian Government schools'.

6.6 Charging users

Linking funding to performance is one way that governments can ensure services are provided efficiently and received by those clients who are likely to benefit most from their availability. Implementing user charging is another way of introducing incentives for service providers to contain costs and to ration demand to clients who most highly value the service.

Implementation of user charges should involve developing a transparent rationale for the level and structure of the new prices. If this developed and communicated effectively it should aid acceptance by users.

Implementing user charging involves a number of other important steps such as identifying and measuring the costs of the service; determining the desired level of cost recovery (which may vary for different client categories); and choosing whether to implement user charges gradually or more rapidly (box 6.6).

Box 6.6: Issues in charging users*Design issues*

1. What is the full cost of the service? The full cost should include direct service costs as well as joint and common costs such as overheads and any non-cash costs such as depreciation, superannuation and the cost of capital.
2. What proportion of the full costs should be recovered? The efficient extent of cost recovery should be determined by the extent to which service recipients capture the full benefits of the service as distinct from the spill-over benefits separately realised by the community.
3. What is an efficient structure of prices? For example, should individual users or a class of users bear charges? Differentiated prices for peak and off-peak consumption will spread demand. Premium prices for priority services will rationalise the use of these services.
4. What is an efficient collection system? The administrative costs of a collection system should not exceed the efficiency benefits of clear price signals.
5. Are there any equity considerations such as those related to the accessibility of the service to users in financial hardship? Can these be addressed through reductions in charges or direct funding of disadvantaged clients?

Implementation issues

1. Is clear legal authority required for government services to implement and vary the rate of user charges over time?
2. To what extent is consultation with users required for educating users on the rationale for user charges and for seeking feedback on the most appropriate method of implementation? It needs to be made clear to users that consultations are a forum for discussing the best manner of implementing user charges rather than deciding whether user charges should be implemented.
3. Is a phased or 'big bang' approach to implementation more appropriate (box 6.1)?

Sources: Case study on 'Pricing court reporting services for Commonwealth courts'; OECD (1998); and ORR (1995a).

6.7 Conclusions

A key aim of this report is to stimulate the dissemination of information on reforms to government services. The Steering Committee hopes this and other reports will both encourage reform by jurisdictions and contribute to

improvements in the implementation of reform. It is also anticipated that the lessons of reforms to date will promote the adoption of better approaches to service delivery in areas that have not experienced the same reforms. An example would be the application of improved performance monitoring mechanisms developed for contracted non-government hospitals to the agreements between departments and their publicly run hospitals.

The case studies reviewed in this report seek to detail the various reform options available at each decision point, the advantages and disadvantages of each option, and the option chosen. But the case studies do not cover all aspects of the reforms; some important issues such as changing work practices and training have not been covered in detail.

Nevertheless, the case studies serve to illustrate the benefits from careful implementation of reforms in government services. They highlight the important benefits to be gained for governments (such as lower service costs that may facilitate service of more clients) and individual clients (such as improved services to people with disabilities in rural areas). The case studies also underscore the need for governments to explicitly consider and address the possible short-term adjustment costs of reforms, such as disruption for employees and clients or loss of employment.

The Steering Committee will continue to focus on enhancing government services through cooperative efforts that facilitate innovation.

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