

# **THE RESULTS OF FEDERALISM: AN EXAMINATION OF HOUSING AND DISABILITY SERVICES**

**DUGALD MONRO**

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Discipline of Government and International Relations  
School of Economics and Politics  
Faculty of Economics and Business  
University of Sydney

## **DECLARATION**

This thesis contains no material previously accepted for the award of any other degree or diploma in any University. To the best of my knowledge and belief the thesis contains no material previously published or written by another other person except that to which due reference is made in the text of this thesis.

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## **ABSTRACT**

The effect on outcomes of having two levels of government involved in the same area is an important issue in a federation such as Australia. This study provides a detailed examination of two such areas; housing and disability services. This study assesses the results in these areas against criteria for the desirable outcomes of federal state arrangements derived from a consideration of three main approaches to federalism; coordinate, concurrent and competitive. This study also examines the negotiations and implementation of the joint arrangements considered in order to assess the reasons for the results observed. Implementation of joint arrangements is analysed using an approach derived from Hood's tools of government. Arrangements are described by the tools used by the Commonwealth within the arrangements to try to influence state actions. Tools considered are financial, authority and informational tools and combinations of these. It is argued that for any of the tools to be effective in achieving Commonwealth aims, the Commonwealth requires political resources, including expectations of favourable public reaction, and informational resources. The levels of information required differ with different tools. Political resources are also important for the outcomes of the negotiations for joint arrangements. These factors contribute to many of the claimed advantages for involvement of two levels of government being present for housing and disability services. Advantages include greater responsiveness to citizens, mitigation of spillovers and achievement of a limited degree of national uniformity while retaining flexibility to meet local circumstances. Claimed disadvantages of joint arrangements such as inefficiencies, duplication and collusion are not strongly evident, although not entirely absent. Concurrent arrangements, where both levels are involved jointly in all aspects of the area generally showed more advantages than coordinate arrangements, where aspects of the area were divided between the levels of government.

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## LIST OF ABBREVIATIONS

ACIR	Australian Council for Inter-Government Relations
ACOSS	Australian Council of Social Service
AGPS	Australian Government Publishing Service
AIHW	Australian Institute of Health and Welfare
ANAO	Australian National Audit Office
COAG	Council of Australian Governments
CSDA	Commonwealth State Disability Agreement
CSHA	Commonwealth State Housing Agreement
DCSH	Department of Community Services and Health (Commonwealth)
DHC	Department of Housing and Construction (Commonwealth)
DHCT	Department of Housing and Construction, Tasmania
DOF	Department of Finance (Commonwealth)
DSS	Department of Social Security (Commonwealth)
DURD	Department of Urban and Regional Development (Commonwealth)
DWH	Department of Works and Housing (Commonwealth)
EHCD	Department of Environment, Housing and Community Development (Commonwealth)
FACS	Department of Family and Community Services (Commonwealth)
FSRC	Federal State Relations Committee (Victorian Parliament)
GPP	General Purpose Payment
H&RD	Department of Housing and regional Development (Commonwealth)
HCNSW	Housing Commission of New South Wales
HCV	Housing Commission of Victoria

HPR	Handicapped Programs Review
JCPA	Joint Committee of Public Accounts (Commonwealth Parliament)
JCS	Joint Committee on Social Security (Commonwealth Parliament)
NSWADD	New South Wales Department of Ageing and Disability Services
NTHC	Northern Territory Housing Commission
PRS	Priorities Review Staff
QHC	Queensland Housing Commission
RCAGA	Royal Commission on Australian Government Administration
SAHT	South Australian Housing Trust
SCRCSPP	Steering Committee for the Review of Commonwealth State Service Provision
SHA	State Housing Authority
SHCWA	State Housing Commission of Western Australia
SPC	Special Premiers' Conference
SPP	Specific Purpose Payment
SSCHW	Senate Standing Committee on Health and Welfare
SWC	Social Welfare Commission
VFI	Vertical Fiscal Imbalance
YACS	New South Wales Department of Youth and Community Services

## CHAPTER 1: INTRODUCTION

Australia is a federation. However there are significant gaps in the study of federalism in Australia. Much of the literature focuses on broad issues and not on the detailed results of intergovernmental relations in individual policy areas. The literature inspired by the advent of “New Federalism” in the early 1990s, for example, generally concentrates on broad scale issues such as changes in the overall balance to power between the Commonwealth and the States, the economic impacts of federal structures and the new institutional structures created (Painter 1998(c); Carroll and Painter 1995; Gerritsen 1997; Fletcher and Walsh 1991). Brian Galligan pointed out that intergovernmental relations in Australia has been largely neglected, commenting that:

Constitutional lawyers and fiscal economists, with little interest or competence in intergovernmental relations, restricted their focus to the more formal aspects of federalism. Political scientists, for the most part, did not remedy their oversight in the postwar decades because of a fixation with national politics and policy-making (Galligan 1995: 189).

This study aims to contribute to the understanding of intergovernmental relations in Australia by examining two areas, housing and disability services, in which both the Commonwealth and State governments are involved. In depth examinations based on the history of specific examples are necessary to supplement broader scale consideration. Broader examinations necessarily concentrate on formal legal or financial aspects and may, as Galligan points out in the passage quoted above, miss other, more informal factors. The results then may in practice be different from that expected by broad scale analysis.

## **NATURE OF THE STUDY**

This study is primarily empirical in that it examines the results of two areas where both Commonwealth and State governments have been involved. However these results are assessed against essentially normative criteria derived from a consideration of the literature on federalism.

Although focussing on the details and the results of two specific areas rather than broad federal structures, this study is an institutional study, looking at the institutional arrangements for areas where both Commonwealth and State governments are involved. This thesis argues that institutions matter, i.e. at least in some instances the results in a particular area would have been different if different institutional arrangements between the levels of government had applied. Some writers on federalism and intergovernmental relations argue that the focus of study should not be on institutions. One approach stresses that the power structures of society are more important than the institutions. For example Benson argues that interorganisational relations (which includes relations between different levels of government) need to be seen in the larger societal context. He argues that in any policy area there are structured interests; i.e. those groups whose interests are built into the sector in that the operation of the sector serves or conflicts with their interests. Such interest groups include: demand groups, i.e. recipients of services; support groups that provide financial and political resources, e.g. voluntary associations supporting environmental protection that provide legitimation for government resource agencies; administrative groups, provider groups, e.g. occupational organisations; and, coordinating groups,

usually government agencies. The power structure underlying a sector is how these interests are structured, typically some will be empowered at the expense of others. This power structure will in turn be linked to a larger societal pattern of dominance. This power structure provides the context within which interorganisational relations and the formal institutional structures operate (Benson 1982: 145-160).

Similarly Barrett and Hill stress that structural issues may determine outcomes, the failure to achieve a result may not be the result of problems with the organisational arrangements, but reflect underlying conflicts of interests and values. They see each policy area as having a program “shell”, which includes the various administrative structures required to implement the policy. Interest groups will try to influence the activities necessary for implementation where these structures affect their interests. Also included in the “shell” are policy paradigms which provide the dominant conception of the substantive content of policy. For example child abuse could be seen as a problem of inequality and tackled in that way, but it is in fact seen as a social control issue. For Barrett and Hill the policy issues, the policy paradigms and the shell of programs surrounding the policy form a whole that must be seen as a negotiated order. Any individual relationship must be seen against the negotiated whole, and as subject to it (Barrett and Hill.1986: 40-56).

Rhodes also saw structures developing around policy areas. For Rhodes the interest groups that are involved in policy areas often, but not invariably, form policy communities. For Rhodes policy communities have extensive membership representing functional interests. They are relatively stable and have continuity of membership. Decisions are taken within the community and are closed to outsiders,



including the general public and Parliament. Rhodes sees the values and interests institutionalised in policy communities as a crucial constraint on policy initiatives. Unlike writers such as Benson Rhodes does not link these structures to a single overall power structure in society. (Rhodes 1986 22-28). A further discussion of Rhodes's views is in chapter 3.

Another example of an approach concentrating on structural factors is the "dual state" theory put forward by Saunders. For Saunders different interests using different processes are at work in local and national politics and understanding this is necessary to understand the relations between the two levels of government (Saunders 1984:23-31). Such structural approaches operate at a different level from the current study. Structural factors may influence the perceptions, values and power resources held by the participants in intergovernmental arrangements. However within these overall factors, different institutional arrangements can lead to different results. The focus of this study is how institutional arrangements have affected results.

Other writers argue that the focus should be on the process of interaction between the levels of government, and not on the formal structures or institutions. For example Chapman in 1989 argued that concentrating on relationships between levels of government overlooks the ongoing processes of interaction between politicians and officials in national and State governing institutions. Emphasis needs to be placed on the interdependence of the component parts of the governments involved. For Chapman this meant focussing on the policymaking process, not the institutions (Chapman 1989:59-61).

Other authors have stressed the importance of networks of actors from the different organisations involved and the understandings reached between the members of the network as being potentially more important than the formal structures. Franz saw increasing the complexity of government and society leading to a change in the federal system from a system of independent units supplemented by infrequent interactions among its elements to a system of high interdependence. Organisations are dependent on other organisations' resources, their capacities to change laws, to monopolise information and to perform and to finance public policies. As a consequence in all interorganisational relationships legal authority, information, organization and treasure (finance and other material resources) are closely linked so that any policy decision within the federal system affects these four kinds of linkages or is affected by them. This creates uncertainty for organisations as decisions by a large number of other organisations affecting any of the above dimensions can impact on the organisation's operations. As a result organisations, including government agencies, seek to create a "negotiated environment" with other organisations to reduce this uncertainty. This results in the coordination of the federal system being determined by the various interorganizational networks that deal with different policy areas rather than by the formal legal structure. Franz 1986:485-487).

Similarly for Scharpf "Policy formulation and policy implementation are inevitably the result of interactions among a plurality of separate actors with separate interests, goals and strategies" (Scharpf 1978:347). Interorganisational networks form from the linkages between organisations dependent on each other. This leads Scharpf to suggest that policy analysts should identify the required linkages to enable specific policy formulation and implementation. These linkages should be compared with the

existing networks of semi-permanent relationships and the preconditions identified for enabling the desired policy formulation and implementation (Scharpf 1978: 362-367).

With the types of approaches presented by Chapman, Franz and Scharpf the formal legal structures become resources or tools in the bargaining and negotiation processes between the parties (Franz 1986:486; Chapman 1993:77) Such approaches are in fact varieties of institutional analysis. If the formal structures become tools in a negotiating process, then differences in those arrangements can affect the outcome of the negotiating and bargaining processes.<sup>1</sup> For these reasons writers such as Sharpe stress that the intergovernmental institutions do make a difference, results are likely to be different in a federation than in other arrangements (Sharpe 1986:176). Thus examining the results of institutional arrangements in a federation is worthwhile provided that the examination considers how the institutions interact with the other processes at work in intergovernmental relations.

## **SCOPE OF THE STUDY**

This study is not primarily concerned with broad questions about federalism in Australia, such as whether federalism is desirable or broad issues concerning how federalism should be structured. It concentrates on the detailed application of federalism in two areas. However where implications for broader scale issues arise, these will be explored. While the examination of two specific areas can not answer all the issues involved in considering federalism in Australia broadly, it is hoped that by

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<sup>1</sup> For Scharpf the formal structures are one part of the linkages between organisations that form the (desired and actual) interorganisational networks. Changing the formal structures is be one, amongst a number, of options available to try to improve the match between the desired and actual linkages.

showing how specific examples have worked, the understanding of how federalism works in Australia will be advanced.

The study focuses on the intergovernmental aspects of the areas being examined, and not on other policy questions. Thus whether a government's (Commonwealth or State) policy for one of the areas being considered achieved the results intended is not itself a subject of this study, but the extent to which the intergovernmental arrangements affected the results in the areas, is.

In considering areas where both the Commonwealth and State governments are involved a distinction is made between areas of joint responsibility and joint arrangements. For the purposes of this study an area of joint responsibility is as any area in which both levels of government operate. While the Australian Constitution does give an extensive list of some 39 powers which may be exercised by both the Commonwealth and the States the Commonwealth has also become involved in a large number of areas not included in the Constitution as Commonwealth responsibilities. These include roads, health and education. This study is not confined to areas formally designated by the Constitution as areas of joint responsibility, indeed the two areas being examined are both constitutionally given solely to the States.

A large range of different arrangements can apply to areas of joint responsibility. These include payment of funds from the Commonwealth government to the States with the stipulation of specific conditions on the use of funds (Specific Purpose Payments); agreements between governments to divide responsibilities within a given

area; and agreements that each governments shall undertake some specific action in relation to the area, for example such as the passing of certain legislation. Also activities can be uncoordinated if both levels of government operate in the same field through separate programs funded from their own resources and not the subject of any agreement or understanding. All of these are may be regarded as examples of joint responsibility. For the purposes of this study a joint arrangement is any formal agreement or arrangement to cooperate between Commonwealth and State governments, whether or not this involves payment of funds from one level of government to the other. This study encompasses areas of joint responsibility broadly, and includes an examination of a period in relation to disability services when both the Commonwealth and State governments were separately and independently involved in the area. The examples considered also cover a range of joint arrangements.

In considering the examples chosen all stages of the process are examined. In the case of joint arrangements such as agreements between the Commonwealth and State governments, the Commonwealth-State aspects of the processes leading up to the Agreement are examined, as well as what happens after an agreement is signed. This is necessary as a major question asked by this study is whether having both levels of government involved in an area has led to different results than if only one government had been involved. If only the negotiation process and the agreement itself are examined, misleading conclusions could be drawn about the influence of the two levels of government on the results. This applies whatever view is taken on the relationship between policy and implementation. One view sees implementation as

the process of putting policy into effect (Pressman and Wildavsky 1973:xv, Williams 1971:131).<sup>2</sup> For this approach, if only the negotiation stage is considered, it might appear that one level of government had a high level of influence on the terms of an agreement. However if most of those terms are not in fact implemented, a very different conclusion on the level of government's influence on the results would be drawn. Conversely an agreement may be completely implemented, but if only one level of government had substantial influence on the shape of the agreement, the agreement's implementation does not mean that both levels of government have influenced the results. Another view sees administration as a bargaining process, whereby policy is made or modified during the implementation stage as well (see for example Barrett and Fudge 1981:25). For this view it is necessary to consider both stages to identify the influence of each level of government on the final policy that results. Even if the latter view is accepted, two distinct stages are still involved.

In the case of areas of joint responsibility without an agreement or arrangement between the different governments, this thesis generally does not consider the internal processes of individual governments. The exception is where relationships with other

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<sup>2</sup> This view is related to, but not necessarily the same as, the view that sees "policy" as distinct from "administration". There is a long literature on that question. Dunsire gives a useful history of the debate, concentrating on the American supporters of a distinction who wished to separate the work of politicians and officials and the critics of that approach. He concludes that although it may not be possible to separate the work of politicians from that of officials, this does not mean that the distinction is not valid (Dunsire 1978(a):1-15). However the policy/administration distinction is implicitly denied by those who see implementation as a process of bargaining and negotiation (for example Barrett and Fudge 1981:35, Pratts 1979:149, (Sabatier 1986:314). With the advent of managerialism the focus has shifted to the achievement of objectives and outcomes. Thus if policy is seen as the formulation of objectives and outcomes, implementation is achieving these. That might of course itself involve policy in other senses, for example the formulation of strategies to meet the outcomes (see, for example O'Faircheallaigh, Wanna and Weller 1999:9-10). This still leaves a major issue. Barrett and Fudge point out that for a view that sees implementation as the implementation of policy or outcomes any compromise is a failure. On the other hand if implementation is seen as bargaining and negotiation a compromise can be a success, provided something is achieved (Barrett and Fudge, 1981:21). This has clear implications for federalism. Any view that sees advantages in compromises between governments, for example because this increases responsiveness or achieves a balance between local and national interests, is dependent on the latter position. Such views are discussed in chapter 2.

levels of government were specifically considered by individual governments. The emphasis is on assessing the end results of areas of separate involvement by Commonwealth and State governments against the criteria for areas of joint responsibility developed later in this study.

### **Areas of Housing and Disability Services Included in the Study**

In examining housing this study is confined to the Commonwealth State Housing Agreement (CSHA) and some closely related programs which existed essentially to support the CSHA.

The Commonwealth is involved in housing in a wide range of other areas, including economic policy, finance and banking policy, taxation policy, and industry policy. These broader areas of economic and similar policy are not considered as this would require examination of large areas of Commonwealth government economic policy making and thus would move the study away from its intended focus on the results of specific areas of joint responsibility between Commonwealth and State governments.

Also not considered are specific Commonwealth programs aimed at encouraging home ownership, i.e. the First Home Owners Scheme and its predecessors. Although these programs do represent areas of joint responsibility as they are Commonwealth programs operating in an area constitutionally that of the States, they are closely linked with broader areas of Commonwealth policy. For example the current First Home Owners Scheme was introduced as part of the Goods and Services Tax

arrangements. Any examination would need to consider the broader issues, and could not be confined to the housing aspects.

In examining disability services only those programs of the Commonwealth which are solely concerned with services for the disabled are considered. Not considered are programs such as the Aged and Disabled Persons Accommodation Act and the Home and Community Care program, which assist the aged along with the disabled. Thus the programs considered are those which are currently covered by the Disability Services Act or subject to the Commonwealth Disability Services Agreement (CSDA). Confining the consideration to disability only programs provides a well defined area to look at. If all Commonwealth programs that assisted people with disabilities along with other groups were examined a very large range of diverse programs would be involved including in the aged care, health, employment and education areas.

This study is concerned with relationships between the Commonwealth and State governments, and not with other governments, such as local governments. However the Northern Territory and the Australian Capital Territory have, since they became self-governing Territories (1981 for the Northern Territory and 1989 for the Australian Capital Territory) been parties to the CSHA, and were parties to the CSDA from its inception (1991). Thus consideration of these agreements includes the ACT and the NT. Relations with the Territories are not considered before they became self-governing as they were not then in a federal relationship with the Commonwealth. For convenience the term “states” is used to include the Territories when they are part of the Agreements being considered.



## EXISTING LITERATURE

There have been few previous studies in Australia of the results of areas of joint responsibility between the Commonwealth and State governments. There has been some comment on the administration of joint arrangements, in particular of Specific Purpose Programs (SPPs), for example Walsh and Thompson (1993) and Duckett and Swerisson (1996). These authors examine SPPs from the point of view of their efficiency and effectiveness in achieving Commonwealth objectives. Walsh and Thompson saw difficulties with the Commonwealth achieving objectives using traditional “input controls” (the specifying by the Commonwealth of the purposes for which States may spend Commonwealth funds) and preferred the Commonwealth to specify performance measures (outputs or outcomes) (Walsh and Thompson 1993:15). Duckett and Swerisson saw problems with the use of SPPs, including conflicting objectives between Commonwealth and State governments. They also saw difficulties in enforcing the provisions of SPPs. The most common sanction was to withhold funding, a sanction they saw as inadequate and rarely applied. Cutting funding is unlikely to result in the desired provision of services as the funding cuts are likely to reduce the level of provision. They proposed two alternative approaches, first publicising non-performance through issuing comparisons across Australia and, second, by tying resource allocation to outputs or outcomes actually provided and thus providing incentives for performance (Duckett and Swerisson 1996:10,14-15).<sup>3</sup>

Issues relating to the implementation of Specific Purpose Programs in the housing

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<sup>3</sup> Whether such a system would overcome the difficulties noted by Duckett and Swerisson in relation to withholding funds is doubtful. States with lower levels of provision would receive less funds than those with higher levels of provision, although the States with lower levels of provision could be seen to need more funds, not less.

disability areas are considered in chapter 8. This includes discussions of performance measures and sanctions.

There have been a number of accounts of individual specific programs including: Aboriginal Affairs (Sanders 1991); Health Policy (Gray 1987, Duckett 1999); Home and Community Care (Craswell and Weller 1995, Healy 1991); Supported Accommodation Assistance Program (Healy 1991); funding for schools; and, domestic violence programs (Watson 1998, Chappell 2001). Only a few of these specifically focuses on the results of having two levels of government involved against the claimed advantages of federal systems and thus are within the scope of this thesis. Healy examined Home and Community Care (HACC ) and the Supported Accommodation Assistance Program (SAAP). She stated that:

The rationale for Commonwealth involvement in social programs is based on upon the following grounds: the need for a national policy on some social issues; the Commonwealth role in promoting innovation; and the pursuit of equity (Healy 1991:194).

She saw equity as the main rationale for Commonwealth involvement. Equity involved both achieving equity between population groups, i.e. a redistribution towards population groups in need, and between States, i.e. ensuring an equitable distribution of funding and services between States (Healy 1991:199). Her examinations of HACC and SAAP show that joint arrangements had some success in achieving the rationales she identified for Commonwealth involvement. In relation to the need for a national policy she found that with domiciliary care (covered by HACC) the service outputs had been very similar in different States, despite different service structures between the States She stated that

A decade of Commonwealth funding has shaped similar service patterns, which lends support to the thesis that central programs exert a unifying influence over time (Healy 1991:199).

In relation to encouraging innovation she noted that both the HACC and SAAP agreements officially encouraged innovation, with HACC offering specific funds for innovative projects. Her findings in relation to increasing equity were mixed. For both programs Commonwealth involvement resulted in increased funding and increases in the provision of services. Healy saw this as increasing equity as more funds were being distributed to needy groups in society, i.e. HACC and SAAP clients. However for both HACC and SAAP considerable variations in the level of funding existed between the States. This she attributed to the continuation of previous funding arrangements within the joint programs. She noted that both HACC and SAAP had specific aims to increase equity of funding and services between the States, although at the time her article was written little change was evident (Healy 1991: 199-203). Chapter 3 of this thesis considers rationales for Commonwealth involvement in areas constitutionally that of the States, including those advanced by Healy. The issues of national uniformity of policy, encouragement of innovation and of equity are considered, in relation to housing and disability services, in chapters 9 and 10.

Chapell looked domestic violence programs to see whether that having both levels involved increased the access of interest groups to decision making by increasing the number of access points (Chappell 2001: 68-69). She concluded having both levels of government involved did increase access. The issue of federalism and responsiveness is discussed in chapters 2 and 8.

Sanders examined Commonwealth involvement in Aboriginal affairs following the 1967 referendum that gave the Commonwealth power to make laws for Aborigines. He concluded that the arrangements were beneficial to aborigines as Commonwealth involvement helped bring to an end the highly rigid single authority welfare agency approach previously in place. Commonwealth involvement had led to a more flexible approach, although the result could be fragmented and blur lines of accountability and responsibility (Sanders 1991:274-5). As with Healy this raises the question of joint involvement increasing the responsiveness of programs to interest groups and citizens. It also raises the question of federal arrangements preventing the exercise of coercive powers by government, a point discussed in chapter 2. However the constitutional situation for Aboriginal Affairs differs from that of housing and disability services as the Commonwealth gained in 1967 specific authority to make laws in the area. Thus the area does not parallel the areas studied in this thesis.

Watson also has some comment on the results of an area of joint responsibility, but her work is as much concerned with broader educational policy issues as with intergovernmental relations. She concluded that the division of funding with the Commonwealth funding private schools and the States' public schools has not enabled a coherent policy approach to the schools sector as a whole (Watson 2001:146-8). The Commonwealth State Disability Agreement 1991 provides another example of a separation of responsibilities between the Commonwealth and the States, the results of this are considered in this thesis (Chapters 7, 9 and 10).

Gray examined the development of health policy in Canada and Australia. Her aim was to see whether federalism resulted in a lack of policy development and action. She

took Canada as an example of a decentralised federation and Australia as a centralised one. She argued that because fragmentation of power led to limited government Canada should have been less interventionist than in Australia (Gray 1987:25). She found that this was not the case, commenting that:

political parties, party competition, elections, ideas, ideologies, interest groups and the degree to which public opinion is mobilised have all been important determinants of Canadian and Australian health policy. Institutions are therefore just one among many factors which may have had a bearing on the output of governments. Little concrete evidence has been found to support the theories which suggest that federal institutions give rise to weak, conservative governments which are beleaguered by legal, constitutional and political obstacles. Rather political obstacles have been found to be the overwhelming constraint (Gray 1987:307).

Gray noted that in different countries federalism operated in very different social, political, economic and cultural contexts. She concluded that it was not possible to put forward a universal theory of the impact of federalism on the scope of government activity . She saw two reasons for this. First, federal institutions were just one of the forces involved in fomulating public policy. Second, the distinction between federal and unitary systems has been exaggerated. She noted that the division of responsibilities in Canadian health policy was similar to the arrangements operating between the local and national governments in Sweden, a unitary state (Gray 1987:312-315).

Gray's thesis essentially asks a different question than the current study. She focuses on whether having a federal system affects the overall development of policy directions. This thesis looks at the results of having two governments involved in the same area. Gray's focus is on federal as distinct from unitary systems. As noted above unitary systems may involve two levels of government in the same area. This thesis is

only concerned with intergovernmental relations within a federation. Whether different results occur from the involvement of two levels of government in federations as against unitary systems is not considered, although in chapter 3 there is some comment on the potential differences in relations between governments in federal and unitary systems.

Gray's key question, whether federalism inhibited policy change, is considered *inter alia* in relation to housing in chapters 4,5 and 10, and in relation disability services in chapter's 6,7 and 10. Consistent with Gray's conclusions considerable policy changes are observed, however unlike Gray, examples of proposed significant policy changes that did not occur as a result of the involvement of both levels of government are also found. Gray, although not seeing federal arrangements as determining overall policy directions, did observe some instances of them influencing outcomes. For example she commented that health insurance policy in Australia during the 1970s and 1980s changed every time the Commonwealth government changed as a result of the centralisation of power over this area. This contrasted with Canada where greater policy stability occurred in a decentralised system as a result of policy changes being preceded by extensive public debate (Gray 1987:235). The difference of focus between Gray's thesis and the current study means that direct comparisons between their respective findings can not be drawn.

Duckett argued that the Commonwealth should assume total responsibility for health. He saw the division of responsibility as preventing a comprehensive national policy and for leading to cost shifting between governments, shifting of blame where action is not taken, and gaps in provision (Duckett 1999). As noted above, whether policy

changes are prevented by areas of joint responsibility are considered in this thesis. Duckett was considering the total area of health policy, thus including areas being undertaken by only one level of government, e.g. health insurance, as well as areas of joint responsibility. The results of dividing different parts of an area between levels of government is considered, in relation to disability services, in chapters 6, 8, 9 and 10. Unlike this study, Duckett does not compare the results of separate provision within an area to joint arrangements.

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As noted earlier the area of micro-economic reform, the focus of the “new federalism” of the 1990s has received some attention. Perhaps the most thorough examination is that of Martin Painter. He distinguishes between arms length cooperative and collaborative federalism. With cooperative federalism governments act independently once agreement is reached whereas with collaborative federalism processes for joint and binding decision making are established (Painter 1998(a):54-55, Painter 1998(c):123). This distinction is discussed further in chapter 2. Painter examines the new collaborative arrangements introduced from 1990 to encourage micro-economic reform, including both the broad intergovernmental arrangements, i.e. the Council of Australian Governments (COAG) and arrangements in individual policy areas. These include: the National Food Authority; the National Rail Corporation; the Intergovernmental Agreement on the Environment; and, the National Competition Policy Agreement. Painter concluded that the more collaborative arrangements had assisted an advancing micro-economic reform. He argued that the new collaborative arrangements provided a parallel set of processes that enabled progress to be made even when the adversarial politics often associated with Commonwealth-State relations occurred. However Painter noted that these new processes added complexity

to federal arrangements and could create as well as ease tensions. They did not provide a neat and tidy solution to Commonwealth State relations (Painter 1998(c):182). Painter also noted that arms-length cooperative arrangements continued despite the introduction of a different style of arrangement in some areas. He saw the choice between the types of arrangements as political; choices would be made on the basis of which arrangements were seen as most advantageous by the parties. New federalism increased the range of arrangements from which choices could be made (Painter 1998(c):190). Painter has also identified a parallel between the collaborative arrangements he described in Australia and the concept of multi-level governance used to describe the emergence of complex overlapping multi level intergovernmental arrangements in the European Union. He saw such arrangements as likely to continue to expand in Australia. Painter saw this as raising issues for accountability as such arrangements did not fit well with the traditional hierarchical political structures for accountability in Australia (Painter 2001). The two areas studied in this thesis are both arms length cooperative arrangements. This thesis is concerned with the results of these arrangements, thus comparisons between arms-length cooperative arrangements and collaborative arrangements is outside the scope of this study.

In the areas I am examining there have been few studies specifically concerned with the Commonwealth-State aspects of the areas. In relation to housing Pugh has written an account of intergovernmental relations and housing policy in the period up until 1975 (Pugh 1976). He gives an account of the development of housing programs and policies in this period. He examines the respective influence of the Commonwealth and the States on the CSHA and concludes that the Commonwealth possessed superior fiscal power and hold the key to the level of funding and the design of its



programs. However the Commonwealth had not been able to dictate to the States whom had been able to limit the Commonwealth's power and achieve some concessions. Thus the Commonwealth had not been able to become the sole effective decision maker in relation to housing. Pugh saw some shortcomings arising from intergovernmental relations in housing. He commented that effective co-ordination of policies was lacking and that the arrangements had limited the development of housing policy. Greater exchange of experience and ideas could also have occurred (Pugh 1976:110). These issues are considered in chapter 10 of this thesis.

Andrew Parkin has published a number of articles dealing with intergovernmental aspects of the Commonwealth State Housing Agreement (CSHA) in the late 1980s and early 1990s. He focussed on the extent to which the CSHA limited the States in the operation of their housing programs. He concluded that the CSHA had not substantially constrained the States. Nor, on the whole, were the conditions in the CSHA imposed on unwilling States (Parkin 1988, 1991, 1992).

Caulfield (Caulfield 2000) examined the relationship between housing and policy and reform to intergovernmental relations in the 1990s. She saw a convergence between developments in intergovernmental relations that called for clearer roles and responsibilities between State and Commonwealth governments and housing policy ideas that saw housing problems affordability problems. A policy of separating roles between the Commonwealth and the States with the Commonwealth responsible for recurrent assistance for housing through rent relief and States responsible for the capital provision of housing met both issues and was therefore advocated by the Commonwealth. Caulfield contended that for such a policy to be successful the States

would need to be provided with sufficient resources to be able to afford to meet the capital requirements. For Caulfield housing policy and intergovernmental relations were intertwined (Caulfield 2000:108). Caulfield's focus on the relationship between particular housing policies and intergovernmental relations does through useful light on the processes involved and the difficulties of separating responsibilities between levels of government. That issue is examined in chapters 6,7,8 and 10 of this thesis. It does not however directly address the central questions of this study: the results of involving two levels of government in the same area and whether or not this is advantageous.

Other comments on intergovernmental relations in the housing policy literature are essentially incidental observations included in discussions of housing policy issues.<sup>4</sup> As with Caulfield above, such comments mainly concern how intergovernmental relations affected the adoption, or not, of certain policies. For example Hayward examines the role of the Commonwealth in the introduction of public rental housing and on policy changes on home ownership assistance and rental policies through the CSHA. He saw the Commonwealth's role in the decision to provide public rental housing as not necessarily decisive, however the Commonwealth did influence

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<sup>4</sup>Much of the debate on housing policy in Australia has centered on the actual and desirable roles for different tenures in housing low and moderate income earners. A pioneering study by M.A.Jones examined the role played by public rental housing in assisting the poor. He concluded that public housing was not tightly targeted to the poor (Jones 1972). A debate then followed between those, such as Jones, who wished to see subsidies for public housing targeted to low income earners and those who desired public housing to cater for all, and that it pass on some of the advantages, including financial advantages, of home ownership (for example Kemeny 1983, Troy 1996, Paris, Williams and Stimson 1985). Another tenure related issue in the literature is whether public rental housing or cash assistance should be the assistance provided for low income earners. Some, such as Cliff Walsh, argued that providing cash assistance was a preferable and more equitable approach to assisting low income earners with their housing (Walsh 1988). Others supported the provision of public rental housing. One reason was a doubt that the private market would supply sufficient rental housing (Parker 1997:30). Other reasons were that security of tenure was important for low income earners and not available in the private rental market and that only public housing could adequately provide for the needs of low income earners and special needs groups (Morgan Thomas 1997, Yates 1997).

decisions on selling public rental dwellings and on rents to be charged (Hayward 1996:18,25,29-30).

Similarly Orchard, in his review of South Australian housing policies, has some comment on the role of the Commonwealth. He claims that national policy initiatives are necessary before States can respond to the needs of low income recipients (Orchard 1999:314). Paris also saw intergovernmental relations in Australia as hindering the development of housing policy as the complexity of intergovernmental arrangements contributed to the creation of a policy “impasse” (Paris 1993:69). Paris, commenting on the power of the Commonwealth, noted that it needed to reach agreement to enact its policies.

The issue common to many of the comments on intergovernmental relations, that of the actual amount of influence the Commonwealth and the States respectively exerted on the CSHA is explored in this thesis. Chapters 4 and 5 consider the negotiations of the various Agreements and the extent to which they were imposed on the States. In chapter 8 the extent to which various provision of the CSHA actually constrained the States is considered. The question as to whether intergovernmental relations have prevented policy development is also considered in chapters 4 and 5.

There has been relatively little attention paid to intergovernmental relations in the field of disability services in the academic literature. Comment on the period up until the introduction of the Commonwealth State Disability Agreement in 1991 concentrated on two issues; unevenness in provision between the States and a perceived lack of coordination between Commonwealth and State provision. For

example Rowe, in an account of rehabilitation services in Australia up until 1958, commented that the division of responsibilities between the Commonwealth and the States had contributed to the uneven development of rehabilitation services. The States had primary responsibility for health and hospital services with the Commonwealth providing some rehabilitation services. As well as unevenness this led to a lack of co-ordination (Rowe 1958:462). Similarly Burniston, in 1970, claimed that the division of responsibilities had led to haphazard and uneven development of services in the States. Both the Commonwealth and the States often saw provision as being the other level of government's responsibility (Burniston 1970: 13-14). Tipping, in his history of the Commonwealth Rehabilitation Service (CRS), noted that the need for improved coordination between the CRS and State government provision had been common criticism in official reports on the CRS. He also described difficulties that arose with attempts for cooperative arrangements between the CRS and States (Tipping 1992:149-155).

Comments on intergovernmental relations and the Commonwealth State Disability Agreements also focus on the question of coordination between Commonwealth and State services. Another theme is the level of funding provided to the States through the Agreements. Butcher, writing at the time of the introduction of the first CSDA, links its introduction to the wider ranging reform of intergovernmental relations through the Special Premiers Conferences of the early 1990s. He criticised the previous arrangements in disability services for creating confusion and a lack of coordination. He saw the division of responsibilities, with the Commonwealth taking responsibility for employment services and the States responsibility for accommodation and support services, as an attempt to solve the problem by creating a

clear division of responsibilities. Clear division of responsibilities was a theme of the Special premiers Conferences (Butcher 1991). Painter comments that in fact the division of responsibilities within the CSDA did not solve problems of a lack of coordination and still resulted in demarcation disputes, cost shifting and client confusion (Painter 1998(c):157). Healy and Robbins criticised the CSDA for giving the States the expensive and difficult part of disability services while keeping for itself the easier part (Healy and Robbins 1996:282). Others to criticise the level of funding to the States through the CSDA include Parmenter, Alcorn and McMenemy ((Parmenter 1999:327, McMenemy 2000:25, Alcorn 1997:2). Alcorn and McMenemy saw the CSDA as a device to enable the Commonwealth to reduce funding. This claim, and the result of the CSDA for the level of funding for disability services are discussed in chapter 7 of this thesis. The other issues raised above in relation to disability services are also considered. Coordination between Commonwealth and State services are discussed in chapters 6 and 7. The question of uniformity of provision between States is considered in chapter 9.

This study extends the existing literature on federalism by providing a detailed study of two areas where both the Commonwealth and the States have been involved. These are more detailed studies than have previously been undertaken for the areas of housing and disability services. The focus for this study of looking at the results of areas of joint responsibility against claimed advantages and disadvantages for joint arrangements has only previously been undertaken, in Australia, in relatively small scale studies.

## **METHODOLOGY**

This study is primarily empirical; however in order to assess the results of the areas examined criteria for judgement need to be developed. The criteria are derived from an examination of the main theories of federation to be found currently in the literature on federalism, that is coordinate, concurrent (also referred to as cooperative or collaborative) and competitive. These theories are both descriptive and normative. They can describe how federations, or a particular federation, actually operate. In their normative aspect they provide justifications for having a federal system, and ideas about how a federal system should be organised, including the role for areas of joint responsibility and joint arrangements between Commonwealth and State governments. From each of these theories this thesis identifies the desired role for areas of joint responsibility and joint arrangements, and derives the expected advantages and disadvantages. derived. The resulting list provides the criteria for judging the results of the areas examined. This does not result in a single consistent set of criteria that would necessarily be accepted by all. Those coming from different theoretical positions on federalism will place different emphasise on different criteria, and all of the criteria may not be accepted by all commentators on federalism. However it does enable the results of the areas studied to be compared with the expected advantages and disadvantages derived from each of the main theories of federalism.

Each of the three theories relating to federalism to be discussed concentrates on the formal power of the different levels of government, that is what powers or areas of responsibility each level of government should have, and how the levels of

government should relate to each other in the exercise of their powers. However some writers on federalism and intergovernmental relations argue that concentrating on the formal distribution of powers is misleading as informal aspects may be at least as important (for example Chapman 1993:77). These writers draw from organisational and implementation studies which are not confined to a federal context. It is necessary to consider this literature so that the various dimensions of inter-governmental arrangements can be identified. This enables possible reasons for the success of some types of arrangements, and the failure of others to be determined. Approaches to be examined include implementation studies, centre-periphery studies, public choice theories and the tools of government approach. From Hood's account of the tools of government this thesis develops a framework for considering areas of joint responsibility (Hood 1983).

The two case studies, housing and disability services were chosen as between them they enable a variety of different arrangements to be considered and compared. However they also have some similarities in that both are in the welfare or community services area. Also they are both areas given by the Constitution to the States alone. Neither housing nor disability services are included in the powers given to the Commonwealth in section 51. However 51(xxxiii) allows the Commonwealth to provide medical and dental services. This allows medical, but not other, aspects of disability services to be provided. The use of agreements between the Commonwealth and the States for housing and for disability services after 1991 avoids the question of the Commonwealth's Constitutional powers. Before the Commonwealth State Housing Agreement was introduced the Commonwealth received advice that section 96 of the Constitution (.....the Parliament may grant financial assistance to any State

on such terms and conditions as the Parliament thinks fit) did not allow the Commonwealth to insist on repayments of advances, so an agreement was used instead (Mendelsohn 1972:272). For disability services prior to 1991 the Commonwealth was acting independently of the States. That Commonwealth involvement commenced as an extension of powers granted to the Commonwealth (defence, payment of pensions and benefits) and then expanded further is discussed in chapter 6.

The Commonwealth State Housing Agreement (CSHA) was first introduced in 1945 and thus provides over fifty years experience of a joint arrangement between the Commonwealth and the States. However during the period of its existence it has changed significantly. Changes include to the financial arrangements underpinning the agreement. Also a large range of different conditions on the use of funds provided to the States have applied at various times. These include, specifying performance targets to be achieved by the States, specifying the purposes for which States may use Commonwealth funds, joint Commonwealth and State approval of projects and the establishment of joint administrative committees to make recommendations on the use of funds. Thus examining the CSHA enables a number of different types of joint arrangement to be examined.

In contrast to the Commonwealth State Housing Agreement, a Commonwealth State agreement for disability services has only existed since 1991. Prior to that time both the Commonwealth and the States operated independently in the field, with the Commonwealth entering the field shortly before world war two. This enables



examination of an area of joint responsibility without any significant joint arrangements or coordination.

When it was introduced the nature of the Agreement for Disability services was quite different from that of the CSHA. The Housing Agreement gives the Commonwealth a role in parameter setting across the whole agreement, with the States responsible for all service delivery. The first Commonwealth State Disability Agreement (CSDA), which lasted from 1991 to 1998, gave the Commonwealth responsibility for policy planning and delivery for one type of service (accommodation services), and with the States responsible for policy, planning and delivery of other types of services (accommodation and support). The second CSDA, introduced in 1998, substantially continued this arrangement, with some modifications. Thus choosing these two areas enables two very different types of agreement to be compared.

Sources used for the examination of the housing and disability services areas include Commonwealth and State parliamentary debates, government department and authority reports and the reports of evaluations, reviews and inquiries into the programs being considered. Information on the processes involved in formulating programs of agreements and arrangements is drawn principally from parliamentary debates, especially Second Reading Speeches, and also material published in press releases and reports by governments. Information and statistics on the results of the operation of programs and arrangements has been mainly taken from government reports and reports of evaluations and inquiries. Generally only material published by June 2001 has been able to be incorporated into this work. This essentially official

material is supplemented by secondary sources where available and by the results of a series of interviews undertaken for the project.

The aim of the interviews was to undertake qualitative research to canvass perspectives on joint Commonwealth and State arrangements from Commonwealth and State government officers who had been involved in policy development and/or administration of the Commonwealth State Housing Agreement or the Commonwealth State Disability Agreement. The interviews examined the participants' views on the extent to which Commonwealth and State or Territory governments were able to achieve what they desired during negotiations to introduce or alter joint arrangements. As well the interviews covered the extent to which the administration of the programs enabled Commonwealth and State or Territory governments to achieve their objectives. The different types of administrative arrangements operating at different times were compared. Comparisons were also drawn between the views of Commonwealth and State officials.

Commonwealth officers were interviewed in Canberra, and State and Territory officers in Canberra and Sydney.<sup>5</sup> Open ended interviews were undertaken which covered both policy formulation and administration. The interviews were however based on a common set of questions which were used as the starting point for each

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<sup>5</sup> It is not being suggested that NSW and the ACT are necessarily representative of all States and Territories. Martin Painter has pointed out that: "State governmental systems are self-consciously autonomous and enjoy traditions and administrative cultures of their own" (Painter 1987: 177). However the interviews do provide some examples which illustrate the results of Commonwealth-State arrangements and thus show possible outcomes, even if they would not be replicated in all States. To attempt to describe the different reactions between the States to Commonwealth policy or different approaches to administration between the States is beyond the scope of this thesis.

interview. The same set of questions was used for both Commonwealth and State and Territory officers. No attempt at a statistical analysis of the results was made because of the small number of interviews undertaken. The author considered that qualitative interviews were best suited to complement the other material gained as the interviews were intended to add the perspectives of participants and not specifically to provide data for use in assessing the results of areas of joint responsibilities.

The questions asked in the interviews are at Appendix A. A list of those interviewed by level of government and area is at Appendix B. Approval to undertake the Interviews was received from the Human Ethics Committee, University of Sydney. A copy of the Information Statement provided to interviewees, together with the consent form they were asked to sign is at Appendix C.

The study is also informed by the author's first hand experience as a Commonwealth public servant from 1980 until 1997 in the department responsible for funding the States for public housing. During this period the author was involved in developing proposals for the renegotiation of the Commonwealth State Housing Agreement and the financial administration of the Agreement. The author worked on proposals for re-organising Commonwealth programs for crisis accommodation, which resulted in two joint Commonwealth State programs, the Supported Accommodation Assistance Program and the Crisis Accommodation Program. The author was also responsible for implementing and administering the Crisis Accommodation Program. In 1988 the author was a member of the secretariat which carried out the National Housing Policy Review, a review of Commonwealth housing programs, including the CSHA. From 1990 to 1993 the author was responsible for the secretariat to the Australian Housing

Research Council a joint Commonwealth-State body which funded housing research and from 1994 to 1996 the author was responsible for policy towards, and the implementation of, the Community Housing Program, a sub program of the CSHA. This work meant that the author participated in numerous negotiations, committees, working parties and conferences with State and Territory government officials.

## **LAYOUT OF THE THESIS**

Chapter 2 examines normative theories on federalism and develops from these criteria for assessing areas of joint responsibility between Commonwealth and State governments.

Chapter 3 considers theories of how intergovernmental relations operate and develops a framework for analysing areas of joint responsibility.

Chapter 4 examines the negotiation of the Commonwealth State Housing Agreement (CSHA) from its introduction in 1945 to 1972. The chapter considers why the Commonwealth became involved in housing in the first place and the relative influence of the Commonwealth and State governments in the negotiations for the various CSHAs. The period up to 1972 is chosen as during this period the Commonwealth did not totally determine the amount of funds the States received through the Agreement and thus had relatively little financial leverage over the States compared with later periods. The chapter is arranged chronologically, each successive agreement is considered in turn.

Chapter 5 considers the CSHA during the period from 1973 onwards. In contrast to the previous period, in this era the Commonwealth essentially determined the amount of funds available for the States and thus had an increased level of financial leverage. Whether this change affected the relative influence of the Commonwealth and the States on the negotiations is considered in this chapter. As with chapter 4 the arrangement is chronological.

Chapter 6 examines Commonwealth involvement in disability services up until 1991. During this period Commonwealth involvement was independent of the States and the States also had separate involvement in disability services. The chapter looks at the reasons for Commonwealth involvement in the area in the first place, the reasons for subsequent expansion of that involvement and why separate provision persisted until 1991. The chapter also considers the extent to which the Commonwealth was able to achieve its objectives for disability services through uncoordinated separate provision.

Chapter 7 examines the negotiation of the Commonwealth State Disability Agreements from the inception of the first Agreement in 1991. The chapter considers why an agreement was introduced and the relative influence on the negotiations of the Commonwealth and State governments.

Chapter 8 considers the implementation of the CSHA and the CSDA. This is undertaken using the framework for analysis developed in chapter 3.

Chapter 9 examines the results of the two areas considered in this study in terms of the uniformity of provision between the States. This aspect is given separate

consideration as it is important for more than one of the criteria developed in chapter 2 for assessing the results of areas of joint responsibility.

Chapter 10 examines the results of areas considered against the criteria for assessing areas of joint responsibility developed in chapter 2

Chapter 11 presents the overall conclusions of the study, including the implications for theories of federalism.

## **CHAPTER 2: DESIRABLE ROLES OF STATE AND NATIONAL GOVERNMENTS IN AREAS OF JOINT RESPONSIBILITY**

### **INTRODUCTION**

This chapter examines the literature on federalism in order to identify the claimed advantages of a federal system, and the role of areas of joint responsibility and joint arrangements in achieving those claimed advantages. This consideration is necessary in order to develop criteria for judging the success of arrangements for areas of joint responsibility between the Commonwealth and the States. As the aim of this study is specifically to examine how different Commonwealth-State arrangements have worked the criteria need to focus on the intergovernmental relations aspects of the arrangements. For this reason it is not possible to simply take the stated policy aims of the arrangement being examined and see if they were achieved. That may say little about the success or otherwise of the Commonwealth-State aspects of the arrangements. Similar results might have been obtained from the same policies applied in a non-federal context, or under different Commonwealth-State arrangements. Also it may not always be possible to identify the stated aims of a joint Commonwealth-State arrangement as it is possible for different aims to be stated by different governments. In order to develop criteria for judging the success of areas of joint responsibility it is necessary to concentrate on how the Commonwealth-State state arrangements affected the results: with different Commonwealth-State arrangements would a different result have occurred?

Examining the claimed advantages of a federal system enables the expected advantages, disadvantages and results of individual areas of joint responsibility between Commonwealth and State governments to be identified. As this thesis focuses on the results of having two levels of government involved in the same area arguments that apply to the political system as a whole will not be considered. This applies to broad anti-federal arguments as well as to pro-federal ones, for example that a federal system increases (or decreases) political cohesiveness. The arguments considered are those that could be expected to apply to individual areas of activity, for example that having two levels of government involved in the same area increases responsiveness of governments to citizens, or results in high levels of inefficiency. In some cases those putting forward such arguments may see them as reflecting on the desirability of having a federal system at all rather than being an argument about desirable arrangements within a federal system. However such arguments may apply to the details of federal systems as well as having broader implications

This chapter then primarily examines normative views on federalism and intergovernmental relations, that is, how federal systems should be organised. It is not specifically concerned with theories about how federal systems operate in practice, that is the subject of the next chapter. It is not of course possible to completely separate these two aspects. For example, a normative theory may require arrangements that are considered by other theories as not able to work in practice. Thus some overlap between the two chapters is inevitable.

Currently, three broad, essentially normative, concepts of federalism can be identified in the literature: coordinate, cooperative and competitive (Painter 1996). This chapter



briefly examines each of these theories to identify the advantages claimed for federations and the role, if any, seen for areas of joint responsibility and joint arrangements between Commonwealth and State governments. From this a list of possible criteria for judging the success or otherwise of areas of joint responsibility and joint arrangements is identified.

## **COORDINATE FEDERALISM**

Traditional “coordinate” federalism theories argue that lower level and national government activities should be separated, with each level of government responsible for dedicated functions and activities (Wheare 1964). With such a view there is no role for joint responsibilities or arrangements. An argument for this position can be found in “The Federalist”, the classic statement of American federalism. While federation is desired so that a central government does not have total power, joint responsibilities are seen as leading to inaction as a result of lack of agreement (Hamilton, Madison & Jay 1961:152,202). More recently Reissart and Schaeffer have argued that the requirements for joint policy making between the Federal and State governments in Germany is leading to “institutional deadlock”(Reissart and Schaefer 1985:122). A similar argument is that joint arrangements do not enable action to be taken that is necessary for the common good, especially given the rise of globalisation. Maddox, for example, argues that dividing power may prevent any government from being able to take politically difficult, but necessary ,decisions as the other level of government will seek political advantage by blocking the action (Maddox 2000:191). Thus coordinate federalism favours dividing power between the levels of government so that each operates independently in its sphere of operations

avoids the danger of concentrating all power in the hands of one government while at the same time enabling the various governments to get things done. While this position desires that there be no joint arrangements or areas of joint responsibility between governments of different levels it is reasonable to assume that adherents of this position would desire that joint arrangements did not result in inaction, or prevent the achievement of the main purpose of the arrangement. This can be taken as one of the desirable characteristics for areas of joint responsibility.

A related reason for favouring coordinate federalism is that overlap or duplication lead to inefficiency. Inefficiency here refers to additional costs as a result of the involvement of two levels of government for the same output. Duplication of services and administration is claimed as a major source of such inefficiency (for example see Bannon 1987:4; JCPA 1995:16; Maddox 2000:153). Mathews lists a number of criticisms of Specific Purpose Payments from one level of government to another that indicate such arrangements may be inefficient. He comments:

There have been many ... criticisms of the North American and Australian specific purpose grants which reflect concerns about their allocative or distributive affects. These are related to such matters as the proliferation of overlapping programs; uncertainties and the growth of grant lobbies and “grantmanship”; the duplication of bureaucracies at each level of government ; the tendency to encourage unrestrained growth of public sector; inadequate arrangements for consultation and policy co-ordination between governments; unwarranted interference by granting governments in the detailed administration of grant programs; failure to match grant programs to policy objectives; inadequate accountability; lack of systematic analysis of expenditure needs; and failure to distribute grants on a basis which reflects needs and fiscal capabilities (Mathews 1980:32-34).

To the extent that these factors are seen as inherent to, and inevitable, in any joint arrangement they become arguments against any joint arrangement. However to the extent that they are circumstantial factors or tendencies surrounding joint

arrangements the avoidance of inefficiencies caused by such factors becomes a factor for judging the success of joint arrangements. Many of the factors in Mathews' list appear to be possible to avoid, for example unwarranted interference by granting governments could be reduced if the granting government desired.

Another reason advanced for favouring the coordinate view of federalism is that some functions are better carried out by the national government and other functions by lower level governments. Thus each government should be left, without interference, to carry out the functions for which it is most suited. This view has been called the "functional theory of federalism" by Peterson, who saw the national government as best suited to redistributive programs, and State and local governments to developmental programs (Peterson 1995:18). For Peterson, problems arise if one level of government is involved in areas more suited to the other. He argues, in common with other commentators such as Fesler, that State government involvement in redistributive programs is likely to lead to a lowest common denominator approach. Should one State provide a significantly higher level of benefits than another, people desiring those services are likely to migrate to that State. Thus, even though the citizens of the State might be prepared to provide a higher level of service, the cost would become prohibitive as a result of inwards migration (Fesler 1949:43). Hence State governments would be deterred from providing a higher level of services, leading to the 'lowest common denominator' outcome.

Such arguments lead Peterson to conclude that redistributive programs should be primarily the responsibility of the national government. On the other hand if the national government is involved in developmental programs it is likely that national

legislators will favour projects that bring political advantage to them, thus distorting priorities for developmental projects between States to reflect political advantage rather than need (Peterson 1995:40-41).<sup>1</sup>

A similar approach, seeing some areas as suited to the Commonwealth government and others to the State governments, comes from Grewal:

modern theory of fiscal federalism is built upon a disaggregation of three main functions of government, namely stabilisation of the economy, redistribution of income and wealth, and allocation of resources. Primary responsibility, though not an exclusive role, for the first two of these functions is assigned in theory to the national government. The allocation function is assigned mainly to the subnational government, by virtue of the potential benefits for accountability and efficiency (Grewal 1997:138).

Such arguments suggest that if functions are inappropriately allocated to State governments, inadequate and probably uneven provision will result. If functions are allocated inappropriately to the national government, provision not related to need could result.

A related argument, that focuses on the financial relations between the levels of government rather than the functions of the levels of government is advanced by Mathews. He argues that the Commonwealth having joint arrangements with the States that involve the imposition of conditions on grants to the States results in a co-

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<sup>1</sup> Peterson is arguing in the context of the American political system where the lack of tight party discipline can result in individual Senators or Congressmen voting in favour of their State's perceived interests. In such a system the same logic could also apply at the State level, individual State legislators favouring their local areas. However the scope for such political distortion of needs is likely to be less (although not necessarily absent) with the smaller the area and population covered by a lower level of government. One conclusion could be that development should be a local, not a State, function. In the Australian context the tighter party discipline makes competition between states for development more a matter of lobbying by governments than of individual legislators' actions. The general point remains the same, the lower the level of government the less likely it is that the choice of developmental projects will be distorted by political self.

coercive effect on State expenditure patterns. This increases vertical fiscal imbalance (VFI). VFI is where there is an imbalance between the level of revenue raising by one level of government and expenditure by that level. Mathews sees VFI as leading to spending patterns that do not reflect the views of the people of the State. This results in a loss of accountability and a weakening of democratic control as the government that spends the funds is not accountable to the taxpayer for raising them (Mathews 1980:9-11). Thus any arrangement involving the Commonwealth providing funds to the States under conditions where the State is not responsible for raising the funds may have undesirable consequences.

A different argument concerning the division of functions between the levels of government in a federation is that of decentralisation. Proponents argue that having decisions made by the lowest practical level of government increases responsiveness of governments to its citizens. As well decentralisation may make governments more economically efficient. As Oates puts it:

In summary, a decentralized public sector possesses several economically desirable characteristics. First it provides a means by which the levels of consumption of some public goods can be tailored to the preferences of subsets in society. In this way economic efficiency is enhanced by providing an allocation of resources that is more responsive to the tastes of consumers...(Oates 1972:13).

An Australian economist making a similar argument is Mathews, who stated:

activities or decisions should be carried out by governments closer to the people affected by the decisions (Mathews 1980:8).

For Mathews decentralisation of decision making led to greater responsiveness on the part of governments to the diverse interests in the communities they represented

(Mathews 1980:6-7). This is similar to the principle of subsidiarity included in the European Community treaty as article 34b(2) that the lower level of government should have responsibility unless the objective can not be sufficiently achieved by that level. Decentralisation implies a coordinate division of powers as the ability of a higher level of government to be involved in an area would limit the ability of the lower level of government to reflect the wishes of citizens at the local level.

Perhaps the major objection to a pure coordinate view of federalism is that the neat division of responsibilities required is no longer possible, if indeed it ever was:

Whatever the historical origins of coordinate federalism, it is no longer possible to operate a federal system on the basis of the notions of divided responsibility and of independent governments exercising mutually exclusive powers within separate spheres of activity. The principle reason for this has been the growth in the size of the public sector, which has resulted in turn from the great complexity of the modern economy, the democratisation of the political processes and the general acceptance of the need for a greatly expanded range of publicly provided social and economic services (Mathews 1980:4).

For Mathews the complexity of modern society means that services such as transport, economic development, urban services, education, health and welfare services have national, State (or regional) and local dimensions, and thus cannot be regarded as the sole responsibility of a single level of government. Further Mathews identified a general acceptance by the community of the need for government intervention to secure economic stabilisation and growth and to improve the distribution of incomes and wealth. Responsiveness of governments to citizens required that this be met. Mathews regarded governments operating at the national level as better equipped than lower levels to evaluate the need for, plan carry out and control economic management and interpersonal distribution policies. However these functions could

overlap with the provision of services with State or local dimensions (Mathews 1980:5-6).

Although accepting that a total separation of Commonwealth and State functions is not possible Mathews is still arguing from an essentially coordinate position. For Mathews the higher-level government should have responsibility for any decisions which, if carried out by lower level governments, would generate external effects in adjoining jurisdictions. This principle leads Mathews to give over-riding responsibility to national governments for international, economic stabilisation and redistribution policies as well as for the supply of public goods and services the costs or benefits of which extend beyond the boundaries of a single State. At the same time decentralisation principles lead Mathews to support giving State and local governments the main responsibility for decisions affecting resource allocation and the provision of public goods and services, where the effects of those decisions are confined within State or local jurisdictional boundaries (Mathews 1980:8). Thus while Mathews sees arguments for the separation of functions on coordinate lines he accepts that there are circumstances where the Commonwealth government needs to be involved in areas given by the Constitution to the States. He agrees that there may be “spillover” effects where the activities of one level of Government affect the operation of another. As noted above Mathews sees disadvantages occurring where one government is unnecessarily involved in areas allocated to another. On this view involvement by the Commonwealth government in areas which are State responsibilities should be limited as much as possible to those areas where spillover effects apply.

Spillover effects can be identified for both of the areas examined in this study. In the case of housing, the Commonwealth pays rent assistance to social security recipients who are renting in the private market. The Commonwealth commenced rent assistance (then called supplementary assistance) in 1958 as an additional payment to the pensions of some pensioners who were renting. The Commonwealth saw these payments as part of the income maintenance system (Robertson 1958: 1244). As such they would be part of the redistributive function and thus, following Peterson (above) properly the function of the national government.<sup>2</sup> If this view is accepted then a spillover exists. Clearly the amount of public housing provided by the States will affect the total cost of rent assistance paid by the Commonwealth.

The Commonwealth first moved into the area of disability services through the provision of rehabilitation for returning service personnel (seen as a Commonwealth responsibility through the defence power) and for invalid pensioners. The provision of rehabilitation for invalid pensioners can reduce the Commonwealth's liability to pay invalid pensions if the pensioners are able to return to work (Kewley 1973:326-327). These are economic spillovers, but other spillovers can be argued. The Australian Nation principle, discussed at one of the early Special Premiers' Conferences (the process for reform of Commonwealth-State relations initiated by Prime Minister Bob Hawke in 1990) provided a number of justifications for Commonwealth involvement in otherwise State areas. These included:

some issues, such as the condition of aboriginal people, are of national importance with implications for Australia's international reputation and should

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<sup>2</sup> It could be argued that the payment of rent subsidies was part of the housing function, and thus a developmental function that could be seen as properly a State government function. However as the Commonwealth identified them with the income maintenance function, from their point of view a spillover existed.



not be left to the vagaries of State governments. ....where Australia is a signatory to international conventions...the Commonwealth has a responsibility under its external affairs power (Healy and Robbins 1996:275).

Both these two points can be seen as spillovers from the Commonwealth's foreign affairs responsibilities and may be a result of legal obligation through treaties.

However the Commonwealth may argue that national importance justifies their involvement even if treaties or other foreign affairs factors are not applicable to the area. An example is another justification in the Australian Nation Principle "that Australia should aim for unity rather than diversity in social programs" (Healy and Robbins 1996:276). Here equity is being put forward as a reason for Commonwealth involvement. This view has received support from John Bannon, a former Premier of South Australia. He agreed that the Commonwealth was justified in being involved in service provision in order to ensure that the whole community benefited, when some or all States were unable or unwilling to provide particular services (Bannon 1987:2).

The American political scientist, James Fesler, argued that democracy required that citizens in a country had confidence in all three levels of government (national, State and local). This was not possible where minimum levels of provision in areas such as health, welfare and education were not provided. Thus the national government should ensure that such minimum levels are provided (Fesler 1949:29, 43-5). Such involvement does not require the national government to take total control over the whole area, the lower level can be free to provide more than the minimum should they wish to (Fesler 1949:43).

The argument that national minimums are needed can be applied to the areas included in this study. They are social areas and fit within the “Australia Nation” principle mentioned above and Fessler’s areas that require national minimums. Also both housing and disability services have redistributive as well as developmental aspects, so if it is accepted that redistributive functions should be with the upper level of government, some Commonwealth involvement in these otherwise State areas can be justified.

Although accepting national minimum standards and non-economic as well economic spillovers as justifying Commonwealth involvement could lead to a reasonable amount of joint activity, the approach is still that of coordinate federalism. The Commonwealth is not to be involved in areas left to the States by the Constitution unless a specific reason exists.

Coordinate ideas are still influential in current and recent debates on Commonwealth-State relations. They had a strong influence, at least until 1994, on the “new federalism” of the early 1990s, as Brian Galligan and others have noted. In these years one of the primary aims was to reduce areas of overlap and duplication between the levels of government and to achieve clean lines of division between the functions of governments (Galligan 1995:197-8; Edwards and Henderson 1995:27).

The above brief account of the coordinate approach to federalism identifies the following characteristics of a joint Commonwealth-State arrangement as those desired by this approach. First, inefficiency should be avoided through unnecessary overlap and duplication of services and administration. Second, both levels of government

should avoid areas allocated by the Constitution to the other level or for which the other level is more suited unless a clear reason, such as a spillover effect makes involvement necessary. Third, the objectives that led to joint involvement, for example alleviation of a spillover effect should be met.

## **CONCURRENT FEDERALISM**

In contrast to coordinate federalism, concurrent federalism sees joint Commonwealth and State responsibility applying over a wide range of activities (Galligan 1995:182). The terms cooperative federalism and collaborative federalism may also be used for this concept. Martin Painter, in a 1998 article, distinguishes between cooperative and collaborative federalism. For Painter arms length cooperation is characterised by an unanimous agreement between the Commonwealth and State governments covering a particular area. Once the agreement has been made each level of government acts independently of the other. Agencies administering and enforcing the arrangements are responsible only to one level of government. By contrast collaboration involves the establishment of a joint agency to administer or monitor the arrangement. That agency is responsible to a council of Commonwealth and State ministers. An example is the National Training Authority (Painter 1998(a): 54-55). In these terms the housing and disability services areas would be closer to cooperation. However for Martin Painter “in reality arms length federalism is characterised more by adversarial than cooperative behaviour, with frequent attempts at coercion”(Painter 1998(a): 54, see also Elazar 1991:69; Painter 1995:4). Thus “cooperative federalism” is not an appropriate term for such arrangements. “Collaborative federalism” may also imply an equal relationship between parties which are fully willing to cooperate; and as used

by Martin Painter, only applies to some joint Commonwealth State arrangements. This thesis therefore uses the term “concurrent federalism” for any arrangement where both levels of government are involved. This includes any situation covered by an agreement between the Commonwealth and State governments as well as situations where both levels of government are separately involved in the same area, without any agreement or arrangement between them.

Another related term is multi-level governance. This is used for negotiated, non-hierarchical exchanges between different levels of government and trans-national organisations such as the European Union (Peters and Pierre 2001:131). The distinction between hierarchical and non-hierarchical exchanges refers to the totality of relationships between governments and not to individual arrangements. As this thesis is concerned with individual areas where two levels of government are involved this distinction is not relevant and thus the term multi-level governance not used.

Some writers argue that concurrent federalism is inevitable as the division of functions envisaged by coordinate federalism is simply not possible. Spillover effects and the other factors discussed above as reasons for Commonwealth involvement in areas constitutionally given to the States are seen as leading to joint responsibilities in a large number of areas, and not just to some areas of joint responsibility in an otherwise coordinate framework. This differs from the coordinate approaches discussed above by writers such as Matthews as this sees specific areas being the responsibility of only one level of government as the normal arrangement, subject to exceptions justified by particular circumstances. Concurrent federalism sees joint responsibility as the normal arrangement, although there may be some areas that are

the responsibility of only one level of government. The American writer Grodzins, for example, coined the term “marble cake” federalism as a metaphor for American federalism, to emphasise that functions were totally mixed up between the national, State and local governments (Grodzins 1966:8). A number of writers have made similar points about Australia (for example Spann 1979:189; Chapman 1989:55; Wiltshire 1990:3; Rydon 1993:235). Galligan described Australian federalism as a system of complex and diverse power centres with an intermingling and overlapping of jurisdictional responsibility and policy activity (Galligan 1995:77).

Some who accept that a reasonable degree of concurrency is necessary wish to divide responsibilities clearly between levels of government within the area of joint responsibility. An example is provided by the Commonwealth Parliament’s Joint Committee on Public Accounts 1995 report, “*The Administration of Specific Purpose Payments: A Focus on Outcomes*”. The report criticised existing arrangements for Specific Purpose Programs for a blurring of responsibilities between Commonwealth and State governments; duplication of administration; delays caused by this duplication and for unwarranted interference by the Commonwealth in State administration of programs (JCPA, 1995:16). These criticisms are similar to those noted above from coordinate critics. The report recommended a clear division of responsibilities within a joint arrangement so that the Commonwealth was involved in setting broad policy and objectives and strategic planning, essentially on a national basis. This is broadly similar to the basis for federalism in Germany where policy is a matter for the national government in many areas, with the States responsible for implementation (Reissart and Schaefer 1985:122; Esser 1989:97; Spahn 1993:89).

For the JCPA strategic planning, which was to be a Commonwealth responsibility:

includes such tasks as the development of national strategic plans, the specification and maintenance of national data collection systems and the contracting and funding of research for policy development (JCPA 1995:21).

Service delivery planning and service delivery, were seen as entirely matters for the States. As the report put it:

the Committee agrees that the Commonwealth should shift its focus from the micro-management of SPPs and concentrate instead on strategic planning and ensuring that national objectives are met (JCPA 1995:24).

The JCPA had a broad definition of service delivery planning, from which they wished to see the Commonwealth withdraw. For them service delivery planning:

includes all the design, resource and financial management and coordination necessary for efficient service delivery. Service delivery planning includes such tasks as ensuring that service deliverers comply with service standards, ensuring that service deliverers remain financially accountable, and identifying where new or different service delivery strategies are needed and developing them (JCPA 1995:23).

To enable the Commonwealth to fulfil its role of strategic planning the JCPA wished to introduce a system of performance monitoring:

the trade-off for granting the States greater autonomy in service delivery planning is that the Commonwealth will place a correspondingly greater emphasis on measuring service delivery performance (JCPA, 1995:24).

Thus the Commonwealth's role was to be reduced to setting broad objectives and performance measuring. They were to take a "hands-off" approach in all other respects. The approach of the JCPA thus makes the same criticisms of areas of joint

responsibility as does coordinate federalism, but, recognising that joint involvement is inevitable in some areas, sees the solution as a division of tasks within the same area.

Many of the commentators who describe federal systems as inherently concurrent do not simply argue that this is inevitable. These commentators see advantages in having areas of joint responsibility and argue that tasks should be shared, rather than divided between levels of government, whether that division is between or within areas of shared responsibility

One argument favouring a sharing of responsibilities between different levels of government is that this can help restrain the coercive powers of a central government (Grodzins 1966:383; Elazar 1991:74). An Australian example is provided by Walsh who states that a coordinate conception of federalism, even allowing for “spillover effects”, does not fit easily with restraining the potential coercive power of a central government (Walsh 1993:44). If checks and balances are to be achieved by dividing power between different governments, not giving any government sole power over an area should increase the checks and balances. This argument suggests that preventing domination by either level of government should be reflected in the criteria used for judging the success of joint arrangements. Another argument, related to the one above, is that joint responsibility increases the responsiveness of government to the people as there are more points of access to the system. This is seen as enhancing democracy. Grodzins and Elazar both advance this argument, although Grodzins links increased responsiveness to the features of the American party system as well as to federalism (Elazar 1991:74; Grodzins 1966). Australia writers such as Christine Fletcher, Cliff Walsh and Rolf Gerritsen have also argued that having more than one

level of government involved increases the options for citizens to have their point of view heard, and thus increases the responsiveness of the political system to the concerns of its citizens (Gerritsen 1990, Fletcher 1991:3; Fletcher and Walsh 1991:27-28; Walsh 1993:44). As Cliff Walsh puts it:

As already noted, the fiscal federalism literature has long argued that, even with the best feasible design system of jurisdictional boundaries, interjurisdictional spillovers of benefits or costs of regional public sector activities would be likely to occur. ...This obviously provides a rationale for specific-purpose grants as a further exception to application of the principle that a one-to-one relationship should exist between spending and revenue-raising decisions by all jurisdictions....

However, notwithstanding the elegant simplicity of the spillover argument, it is based on a very narrow perspective of the optimal design of federal systems - one which presumes a neatness and tidiness in the distribution of responsibilities between levels of government that is difficult to reconcile with the claimed political virtues of federal systems in helping to constrain the potential coercive power of governments, and in providing a more responsive government to citizen/voters through multiple access created by their membership of a series of overlapping political jurisdictions.

Once it is accepted that federal systems serve these wider political purposes, a much richer set of intergovernmental interactions must not only be expected, but accepted as legitimate (Walsh 1993:44).

Gerritsen suggests that competition between governments for support from the population to implement policies can lead to increased efficiency as well as responsiveness (Gerritsen 1990:231). Such a view may be seen as a parallel to economic liberalism in the market where competition between overlapping entities is common. Views on competition between governments are discussed further below under the heading “competitive federalism.”

Not all commentators see the ability for groups and citizens to go to different levels of government as an advantage. One approach sees this ability as anti-democratic as it



enables the will of the majority to be thwarted by a minority. Riker described federalism as “minority tyranny” (Riker 1964:142). Similarly for Maddox:

federalism at least compromises, and in many respects directly impairs, the concept of sovereignty and therefore, by implication, affronts the notion of the common good (Maddox, 2000:191).

This argument leads to an opposition to all forms of federalism. Maddox’s argument depends on the common good being identified with the view of the majority, and with democracy being regarded as the view of the majority. It also requires that the nation is regarded as the right geographical area for the expression of the majorities view rather than other areas, such as the States. Consideration of these issue are outside the scope of this study.

Other commentators see the ability to approach different levels of government as leading to inefficiency and causing difficulties for governments in making and implementing decisions. For example, Peter Walsh, commenting on environmentalists:

They know that economic sabotage is maximised if both State and Commonwealth governments dabble in “environmental” policy as they can shop around for the best deals (Walsh 1997:156).

This shows a basic divergence in the emphasis placed on goals for the political system, on the coordinate side priority is given to efficiency, while the concurrent argument examined above puts greater stress on the responsiveness of the system to interest groups and individuals. While such a basic divergence can not be resolved, the concurrent argument examined above suggest that the ability of joint

arrangements to be responsive to citizens and interest groups and to provide multiple access points is one of the criteria which should be used for judging their success.

A third argument advanced by those seeing concurrent federalism as desirable is that joint arrangements enable the sharing of information between the different States and the Commonwealth. It also enables innovations to be tried out in one jurisdiction before being implemented generally (Gagnon 1993:72-4; Goodsell 1989:21). Galligan summed this up as “two Governments are better than one” (Galligan 1995:202 ). This argument suggests that the ability to share information and encourage innovation is one of the criteria upon which joint arrangements should be judged.

From the above account of concurrent federalism, the main desired advantages in areas of joint responsibility between Commonwealth and State governments are: constraining the coercive power of governments; increasing the responsiveness of governments to its citizens; and enabling governments to learn off each other.

## **COMPETITIVE FEDERALISM**

This third approach to federalism encourages competition between governments. This may be between governments at the same level, i.e. between different State governments or between governments of different levels, i.e. between Commonwealth and State governments (Kincaid 1991:89).

Supporters of competitive federalism criticises concurrent federalism for having centralist tendencies and for creating “collusion” between governments at different

levels (Dye 1990:7; Kincaid 1991:89). Collusion refers to different levels of government combining to advance their mutual interests at the expense of third parties (Bish 1978:23). This approach draws on “public choice theory”, which sees all individuals, including politicians and officials as seeking to advance their own self interest (Boston 1991:2). For public choice analysts this has implications for the political system:

The appropriate administrative solutions for the delivery of public goods and services are considerably different from conventionally prescribed solutions once it is assumed that government decision makers have their own structure of preferences which may or may not match those of all the citizenry (Sproule-Jones 1975:7).

Competition between governments is seen as a way of ensuring that governments do reflect the wishes of their citizens (Kincaid 1991:89). There are several different versions of this argument. Some writers emphasise competition between governments at the same level, that is State and or local governments (Dye 1990; Grossman 1989; Kasper 1993; Nahan 1995; Walker 1999). These often support decentralised governments as being closer to the wishes of the people than higher level governments and see competition between lower level governments as assisting responsiveness (for example Oates 1972:13, Grossman 1989:8). Tiebout argued that the ability of citizens to “vote with their feet” by moving from one jurisdiction to another ensures that lower level governments reflect the wishes of their citizens:

If consumer-voters are fully mobile, the appropriate level of government, whose revenue-expenditure patterns are set, are adopted by consumer voters (Tiebout 1956:424).

Tiebout recognised that the preconditions he specified, including the mobility of voters and that expenditure and revenue patterns of governments were fixed and known to voters, might not be realistic. However he considered that his arguments showed that, at least in theory, a decentralised system enable voters preferences to be met (Tiebout 1956:419-424).

Thus for many supporters of competitive federalism a decentralised system with maximum authority to lower level governments and competition between them is the desired approach to a federal system. Such an approach leads to a coordinate position with no role for joint arrangements or areas of joint responsibility. It does therefore raise the issues of spillover effects and the question of national minimum standards discussed previously. Some supporters of competitive federalism desire a very limited role for the national government. For example Kasper:

My own choices would be for the Commonwealth to look after foreign affairs, defence, monetary stability, nation-wide transport and communications, laws and regulations concerning civil and business interaction, and little else. These functions could be funded from a low tax on corporate and personal incomes (Kasper 1993:64).

Such a narrow list of Federal functions might be expected to produce little in the way of spillover effects, although whether it would prove possible to confine a national government to such a limited role might be questioned. However such a list is considerably narrower than the powers the Australian Constitution give the Commonwealth government; in particular Kasper gives no welfare functions to the Commonwealth. As we noted earlier, the income maintenance function of the Commonwealth produce spillovers in both the housing and disability service field.

Thus, if we accept a division of powers roughly in line with the current Australian Constitution, it seems unlikely that spillovers can be avoided.

In relation to the arguments on necessity for national minimum standards Kasper sees no necessity for national minimum standards. He would give full responsibility for welfare functions to local governments, commenting:

Just imagine how much attention would be dedicated to the local poor if local taxation had to pay for them. Poor people might begin to migrate from jurisdictions with stingy welfare to generous ones, and that would give the ratepayers of Australia great influence over how much welfare they really wish to provide (Kasper 1993:64).

This does not meet the point discussed earlier that even if a local community wished to provide more generous welfare for their poor, they could not afford to do so. The issue is not whether a higher or lower level of provision of welfare is beneficial or harmful. It is whether, as a result of inwards migration from less generous areas and outwards migration of the wealthy wishing to pay lower taxes, it would be possible for a community to provide more than the lowest standard, whatever their wishes were. That a community would be forced to adopt the lowest level is held by some who generally support competitive federalism, for example Oates, who comments:

The curious part is that this (the wealthy moving out to avoid higher taxes) could happen even if all the members of the community, including the wealthy, genuinely desired to eliminate poverty through an explicitly redistributive policy. Every individual might stand willing to vote for a negative income tax program, and yet, if any one person perceived an avenue which he could avoid his own contribution to the program, it might well be in his interest to do so. The point is that the contribution of any single person or family to the general elimination of poverty in a society is likely to be negligible. There is, therefore, a real incentive for so-called free-rider behaviour by which an individual would leave to others the burden of financing redistributive programs. For this reason, the migration of relatively wealthy individuals from a locality that adopts an aggressive

redistributive program may be perfectly consistent with a general community commitment on the part of that society to a policy aimed at reducing or eliminating poverty (Oates 1972:7-8).

The question as to whether decentralisation of welfare functions does in fact lead to a “race to the bottom” has been the subject of some controversy in the United States following changes to welfare programs there. The issue was debated in the Summer 1998 issue of the journal “Publius” with some contributors arguing that welfare provision was being reduced as a result of decentralisation while others denied this (Francis 1998; Lurie 1998; Piven 1998).

From the above it can be seen that some of those advocating competitive federalism see little need for any areas of joint responsibility, either because they doubt that the “race to the bottom” actually occurs, or they accept its results. Other supporters of competitive federalism do see the need for some areas of joint responsibility. Many of these wish to see limited and discrete Commonwealth action in relation to those areas. For example Grossman comments:

These interests, as well as States’ interests, would be better serviced however if the Commonwealth took direct responsibility for the relevant function....For example, the Commonwealth might have a clear interest in seeing that access to tertiary level education is available to students of lower socio-economic groups. This policy need not require total funding of universities et al by the Commonwealth, but instead, could be implemented by grants (ie scholarships) made directly to members of the target groups, or grants made to the States specifically for this purpose (Grossman 1989:47).

Thus while some areas of joint responsibility between the Commonwealth and States are accepted, joint arrangements are either to be avoided, or very tightly confined. Broad joint arrangements, such as the Commonwealth State Housing Agreement, would be avoided. Of course, whether the sort of limited intervention advocated by

Grossman can be kept limited may be doubted. Taking Grossman's example, if there are insufficient places for the students the Commonwealth wishes to see educated, or the standards are not considered high enough, less limited Commonwealth intervention may be needed if the Commonwealth is to achieve its aims. This issue is considered further in chapter 5, in the context of Commonwealth involvement in disability services.

Conclusions drawn from the theories of competitive federalism that place emphasis on competition between governments at the lower level have much in common with those from coordinate federalism. Both emphasise the separation of functions between levels of government. What distinguishes this version of competitive federalism is the emphasis placed on competition between lower level governments resulting in governments being more responsive to the wishes of its citizens.

Not all versions of competitive federalism concentrate on competition between governments of the same level. Kincaid points out although competition between governments at the same level has been the main concern of competitive federalism there is another approach which accepts competition between different levels of government (Kincaid 1991:90-92). For writers accepting competition between different levels of government, overlap and duplication between jurisdictions is not necessarily bad (Sproule-Jones 1975; Ostrom 1987). In this they contrast with many adherents of coordinate federalism and some of those noted above who support competitive federalism. Ostrom developed what he called the theory of a compound republic, which drew an analogy between governmental arrangements and that of an industry.

A federal system of administration viewed as industry structures would be composed of diverse, independent agencies collaborating in supplying and arranging for the availability of different bundles of goods and services (Ostrom 1987:204).

Under this conception, governments would sometimes compete and sometimes collaborate, depending on what they saw best suited their interests. Kincaid sees the possibility of competition between different levels of government as restraining the monopolistic impulses of central government (Kincaid 1991:91). As noted above for public choice theorists the danger in such a conception is that different levels of government might decide to engage in collusion rather than cooperation that benefits all of society. Thus it is necessary to be able identify when collusion is likely to occur (Bish 1978:31).

The above approach can be seen as adding a competitive gloss to concurrent federalism. Overlapping responsibilities are accepted as increasing the potential for responsiveness of the system to citizens. Whereas the concurrent federal views discussed earlier favoured joint arrangements and agreements for areas of overlapping responsibility, this approach favours competition between governments of different levels. This is seen as reducing the risk of undesirable centralism. This type of competitive federalism contrasts with that which emphasises competition between governments at the same level. As noted above that type adds a competitive gloss to coordinate federalism.

For all adherents of competitive federalism, both those accepting competition between different levels of government as well as those concentrating on competition between



governments at the same level, Commonwealth-State arrangements will be judged on whether they increase the responsiveness of the system to citizens. Although adherents of concurrent federalism also desire increased responsiveness, competitive federalism sees this as coming about through different means. For those emphasising competition between governments at the same level responsiveness comes from decentralisation and competition between governments, not from an increase in the number of access points to the governmental system. For those accepting competition between governments of different levels, responsiveness comes from competition as well as an increase in access points.

The avoidance of collusion is another virtue desired for Commonwealth-State arrangements by many adherents to competitive federalism. Kasper, for example, argues that areas of joint responsibility are to be avoided altogether, in part because of the perceived danger of collusion between different levels of government. For others, such as Grossman, areas of joint responsibility where different governments act independently may be accepted but joint arrangements where governments act together are treated with suspicion. Even for some of those who may sometimes accept joint arrangements, for example Bish, the avoidance of collusion remains a concern.

## **CONCLUSIONS**

With the exception of some versions of competitive federalism, the three approaches discussed above all allow for some role for the Commonwealth government in the areas I am considering (housing and disability services). This is despite these areas

being constitutionally the responsibility of the States alone. However the reasons for that involvement, the desired nature of the involvement, and the criteria for judging the success of that involvement differ between the different approaches.

For coordinate federalism the emphasis is on limited Commonwealth involvement to meet specific reasons, in particular to alleviate spillover effects where these are identified. In the case of housing and disability services spillovers from the Commonwealth's social security power were noted above. Arrangements are to be judged on the avoidance of inefficiencies through duplication and on the achievement of the specific reasons for having an area of responsibility. For those supporters of coordinate federalism who see decentralisation as desirable the ability of State governments to reflect local priorities and circumstances will also be a criteria.

For concurrent federalism the emphasis is on the positive advantages claimed for collaborative arrangements. Thus a more extensive area of joint arrangements is supported than under coordinate federalism. Joint arrangements are to be judged by the extent to which they increase the responsiveness of governments to citizens and an increase in democracy, the extent to which they encourage sharing of information and innovation by particular States.

For some supporters of competitive federalism who concentrate on competition between States, no areas of joint responsibility should exist. However these writers wish to change the current Australian constitutional arrangements for the allocation of responsibilities between different levels of government. Other supporters of competition between States do accept that some Commonwealth involvement may be

needed for the same reasons accepted by supporters of coordinate federalism, but would rather see discrete independent federal intervention than joint arrangements. Those writers supporting competition between national and lower level governments accept areas of joint responsibility, and expect competition to increase the responsiveness of governments to citizens. However they are also likely to be suspicious of joint arrangements between governments as running the risk of collusion. Thus for those supporters of competitive federalism who support areas of joint responsibility the arrangements are to be judged by the extent that they increase efficiency and the responsiveness of governments to citizens, and the extent to which collusion is avoided.

While the emphasis on different advantages of joint arrangements between the approaches varies, and in some instances might conflict (for example efficiency versus responsiveness or achievement of national minimums versus reflecting local priorities) some common points can be seen. All three approaches require that both level of governments influence the outcomes of areas of joint responsibility. Coordinate federalism requires that the Commonwealth achieve its specific reasons for being involved, for example it mitigates any spillover effects. On the other hand the States are to be free in all other respects. For concurrent federalism both governments need to be able to influence the outcome as benefits are seen to arise from having more than one level of government involved. Competitive federalism requires strong influence from State governments as these are seen as more truly reflecting the wishes of the people, but to the extent that the Commonwealth has a legitimate reason for being involved, it needs to be able to achieve that reason. Thus a prime criteria for judging arrangements in areas of joint responsibility between

Commonwealth and State governments is that a balance of influence is achieved between the different levels of government.

To sum up, the criteria against which areas of joint responsibility and joint arrangements are assessed are as follows, although it is recognised that not all can always be achieved simultaneously and that differing approaches to federalism will place emphasis on different criteria:

1. The arrangements should facilitate Commonwealth government policies necessary to mitigate “spillover effects” and to provide the desired level of national uniformity.
2. States should be able to reflect local priorities and circumstances.
3. The responsiveness of governments to citizens should be increased.
4. The ability for States to innovate and for States to learn from each other and the Commonwealth should be encouraged.
5. Duplication of administration, inefficiencies, and delays caused by joint processes should be minimised.
6. Opportunities for “collusion” between different levels of government should be minimised.

This list identifies the major advantages and disadvantages of joint arrangements claimed by the three major approaches to federalism. In using it to assess the success or not of a particular joint arrangement some criteria may conflict, and the verdict may depend on the approach to federalism taken. The answer could differ if, for example, more emphasis is placed on efficiency and reflecting local priorities than on

achieving national minimums and responsiveness to citizens. The list does however provide a basis to enable such a judgement to be made.

## **CHAPTER 3: A FRAMEWORK FOR ANALYSING THE RESULTS OF AREAS OF JOINT RESPONSIBILITY**

### **INTRODUCTION**

The previous chapter examined justifications for Commonwealth involvement in areas of the States constitutional responsibility and considered possible criteria for judging the success of such arrangements. In order to analyse, against such criteria, the results of areas of joint responsibility between Commonwealth and State governments, a framework for analysis that enables different arrangements to be distinguished from each other is needed. If such a framework is to enable conclusions to be drawn about which arrangements perform better, the framework needs to identify the various factors that influence how joint arrangements and areas of joint responsibility operate.

The criteria identified in the last chapter variously require that: the Commonwealth government, the State government, or both levels of government are able to influence the results of the arrangements. The Commonwealth needs to be able to influence the results if criteria 1 (the arrangements should facilitate Commonwealth government policies necessary to mitigate “spillover effects” and to provide the desired level of national uniformity) is to be achieved, although this influence does not have to exclude some State influence as well. The States need to be able to influence the results for criteria 2 (States should be able to reflect local priorities and circumstances) although this need not exclude some Commonwealth influence. Criteria 3 (the responsiveness of governments to citizens should be increased) and 4 (the ability for States to innovate and for States to learn from each other) may require

that both levels of government can influence the results. As noted in the previous chapter some supporters of concurrent federalism see responsiveness being increased by the ability of citizens to go to more than one level of government to meet their wishes. This requires both levels of government to be able to influence the results for this to be successful. The ability to innovate and learn from other governments also requires that both levels can influence the results. If only the Commonwealth influences the results it is hard to see how the States can learn. On the other hand if the Commonwealth has no influence it is hard to see how the States could learn from the Commonwealth. The other two criteria are potential disadvantages of joint arrangements.

From the above if all the claimed advantages are to be present both the Commonwealth and the States will have to have been able to influence the results and neither level dominate to the exclusion of the other. Some criteria for identifying if one level of government is dominating the other is required. This is discussed below.

As well as determining whether one level of government level is dominating the other a framework for analysis also needs to be able to consider the various factors that influence the degree of control the exerted by one level over the other and the factors that enable both levels to influence the results arising from the arrangements. The focus will generally be on whether the Commonwealth is able to exercise control or influence over the States. The areas being considered are areas which are the Constitutional responsibility of the States. This means that States would generally be free to act as they wished and thus have sufficient control to achieve their objectives.

State control may be restricted by specific arrangements or by restraints flowing from the overall federal structures, such as vertical fiscal imbalance created by federal financial arrangements. As this thesis is concerned with two areas where both levels of government are specifically involved the focus is on particular arrangements, not general structures.

Following an examination of the criteria for determining whether one level of government is dominating the other this chapter then looks at theories on how control is achieved in bureaucracies and how organisations achieve influence in inter-organisational arrangements. The aim is to try to identify the factors that influence how joint arrangements work in federal systems. Control within a bureaucracy is examined first as conclusions on exercising control within a bureaucracy are also likely to apply in inter-organisational contexts. Similarly lessons that apply to inter-organisational contexts generally are likely to be relevant to inter-governmental contexts. From these examinations conclusions are drawn as to the factors that need to be considered when analysing joint arrangements between Commonwealth and State governments. Both the processes leading up to a joint arrangements, and the processes involved in implementing the arrangement are considered. Approaches to categorising joint arrangements are examined and a framework for analysis, which takes account of the factors identified in this chapter, is suggested.



## **WHAT CONSTITUTES DOMINATION OF ONE LEVEL OF GOVERNMENT BY ANOTHER?**

In order to test whether the Commonwealth has been able to dominate the States in negotiations for joint arrangements criteria are required for determining if domination has occurred. The approach taken is to consider that one level has dominated the other in the negotiations if the following three conditions are met:

1. One level achieved almost all of its main objectives and the other level did not,
2. At least some objectives were achieved against opposition from one or more members of the other level, and
3. The other level is required to undertake actions which otherwise would not have been undertaken.

The elements have been chosen as, if they all are present, it is clear that the relationship between the levels of government is quite unequal. Any advantages claimed for joint arrangements between levels of government that require both levels of government to have an input would not apply. Should one or more be absent, then at least some degree of influence on the results of the negotiation can be attributed to each level of government, so it is possible for the claimed advantages to be present. This does not mean that the input of each level of government would necessarily be equal.

The first criterion is necessary as if the main objectives of each level are not identified, it would be possible for one level to have succeeded in achieving a lot of

minor objectives, but none they considered important. In that case simply totalling the number of points gained by each side during the negotiations would be misleading.

Care has to be taken too to identify where one level of government modified its position prior to the negotiations, as a result of previous experience or expectation of the other levels position. In this case while it may appear that that level one most of its points, in fact it had already conceded positions to the other level. The second criterion, that objectives were obtained against opposition, is necessary for domination to have occurred. If there was agreement to a provision this suggests that both levels of government had input into the decision. While persuasion is a form of influence, it is distinguished from power in that there is no threat of severe sanctions (Bachrach and Baratz 1963:637). This lack of sanctions means that it is not domination. Of course it is possible that one level of government may, through persuasion, initiate most of the policy positions, but this type of policy leadership is distinct from domination as it requires the agreement of the other level. The third criterion, that changes in actions occur, is necessary to ensure that the results were actually brought about by the other level of government. While a level of government may oppose a requirement in a joint arrangement, it is still possible that that level of government was intending to act (or refrain from acting) in accordance with the provision whether or not it was included in the arrangement. For example a lower level of government may oppose conditions that restricts its possible range of actions out of a general opposition to restrictions, even though it was already acting in accordance with the restrictions. This situation does not represent domination by the

higher level.<sup>1</sup>

The above concept draws from views of power put forward by authors such as Dahl, but is not being put forward as a general definition of when one level of government exercises power in relation to another. It is a test for domination which would occur if only one level of government had significant input into the arrangement. Dahl defined power as: “A has power over B to the extent that he can get B to do something that B would not otherwise do” (Dahl 1957:202-3). Dahl did not necessarily require that results be those intended; this was left to the researcher to decide in the context of the research (Dahl 1957:205). However intention is being regarded as necessary for domination in a Commonwealth-State context. Should one level create changes in behaviour in the other, but these changes were not those that intended by the upper level, the result then reflects the involvement of both levels of government. It is probably different from that which would have occurred if only one level of government had been involved. Whether or not intentionality is required for an exercise of power, it is required for the current, more limited purpose of determining whether one level of government has dominated the other (see for example Wrong 1979:3).

Dahl’s concept of power has been the subject of criticisms, one of the most well known being that of Bachrach and Baratz who criticised Dahl for overlooking other ways in which power can be exercised:

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<sup>1</sup> Another situation would be where a higher level of government succeeded in giving greater discretion of action to the lower level even though the lower level did not want the greater freedom. The lower level would not have to use the new freedom they had or change their actions. Thus this situation would not be considered domination.

Power is also exercised when A devotes his energies to creating or reinforcing social and political values and institutional practices that limit the scope of the political process to public consideration of only those issues which are comparatively innocuous to A (Bachrach and Baratz 1962:948).

Such objections do not really apply to intergovernmental relations. If they were to do so it would be necessary to assume that one level of government was able to monopolise influence on social and political values, which seems unlikely. In fact, if one level of government wishes to achieve a point in negotiations, issues desired by the other level are likely also to have to be included. One example is the early meetings of the Special Premiers Conference in 1990 where as Galligan has explained:

Hawke also offered the necessary carrots to secure the States' cooperation: overhaul of Commonwealth State fiscal relations (Galligan 1995: 204, see also Painter, 1998(c): 38).

In applying the above concept of domination for intergovernmental relations in the areas considered by this thesis it should be noted that the upper level of government (the Commonwealth) is more likely to wish to initiate changes to joint arrangements than the States (the lower level). As the areas being examined are State responsibilities, it is to be expected that joint arrangements will apparently reflect Commonwealth aims, as it is the Commonwealth that needs the arrangement in order to achieve its objectives. For example, if the Commonwealth is providing funds to the States for a broadly expressed purpose, a State can deliver the purpose in a new way without requiring any changes to the joint arrangement unless the new method is explicitly forbidden. On the other hand, if the Commonwealth wants the States to use a different method, the arrangement will need to be altered. Thus the Commonwealth could appear to be the only party achieving anything, but actually not dominating the

States in that the States were still able to do all they wanted. States can and do initiate changes to joint arrangements, but equal amounts of initiation is not to be expected, or necessary for an equal partnership. For this reason domination can only be considered to occur where the Commonwealth consistently achieves its main objectives against the opposition of State governments.

As this chapter is concerned with the negotiation of arrangements, whether the negotiated arrangements are implemented is not the focus of this chapter. However the above concept of domination means that consideration of implementation can not be totally separated from consideration of the negotiations. First, where during the negotiation concessions are forced which alter the proposals intended to achieve a key objective of one party a judgement has to be made as to whether the objective was substantially achieved or not. This can only be done by looking at the outcome to see whether, despite the concessions during the negotiations, the objective was achieved. In making this assessment it is necessary to consider whether the outcome was affected by factors other than the changes that occurred during the negotiations.

Second, in some cases one party might accept the proposals of the other party because it is judged that they can not or will not be implemented. In this case it would be misleading to attribute domination in the negotiations as compliance was never intended. It is difficult to identify such occasions as the expectation of non-compliance is unlikely to be admitted. For this reason, where key changes against opposition occur, should the changes not actually be implemented this will be noted. A full discussion of the situation will be given in chapter 8.

## **ISSUES RELATING TO CONTROL WITHIN BUREAUCRACIES.**

This section considers how the executive government exercises control within a bureaucracy. Issues relating to control within a bureaucracy may also apply to control in inter-organisational and inter-governmental contexts. If a method of attempted control does not work within a bureaucracy, it is difficult to see how it could work when applied external control.

The focus on control by the executive government implies that inter-governmental relations centers on control or influence by the national level government over the lower level governments. This may not always be the case, for example relatively junior elements of the national bureaucracy may have direct interaction with elements of the lower level government's bureaucracy and achieve influence somewhat independently of the central executive government. However national government control or influence (as distinct from influence from other parts of the national level bureaucracy) is necessary in order to mitigate spillovers or achieve national minimum standards of provision as these are essentially government objectives. Mitigating spillovers and achieving a degree of national uniformity were identified in Chapter 2 as reasons for national government involvement in joint arrangements. Thus the national executive government needs to be able to exercise some control or influence if these reasons for involvement are to be achieved. Further if higher level influence comes from disparate sections of that level then it is likely that States would also be able to exert some influence on the results. Thus the possibility that domination by the national level can prevent the States from reflecting local priorities only occurs where national executive governments exercise control. Similarly that national domination

will prevent the possible advantages of joint arrangements of increased responsiveness and learning from other governments can only occur if national executive governments are exercising control. For these reasons focussing on control and influence by the national executive government enables a framework to be developed that can assist in determining whether particular arrangements show the claimed advantages of joint arrangements. However the framework must also allow for the possibility of national level influence from parts of the national level bureaucracy other than the executive government.

That control can only be exercised in the classic Weberian manner, i.e. through a hierarchy with simple orders from the top down, is no longer accepted in much modern organisation theory (Levy 1998:57-58). It has been recognised for some time that informal structures can exist which are as important, if not more important, than the formal power structure of an organisation (Simon 1957:148). One such approach that goes beyond the formal structures stresses the existence of interlocking networks and shared understandings as being vital to control and the implementation of aims. It is these networks and understandings that give the context that enable an instruction to be carried out. Dunsire's works, *Implementation in a Bureaucracy*, and *Control in a Bureacracy*, are good examples of this approach (Dunsire 1978a, 1978b). Dunsire examines the concept of an office (in the Weberian sense) and argues that each office has its own requirements and knowledge that the holder has to know:

Since no other office can occupy quite the same niche (that is be in the same order of comprehension and deal with the same transactions), the office-holder acquires a kind of authority which is different from that conferred by rank authority of competence. Others will defer to him because of what he knows (Dunsire 1978a: 222).

The implementation of an order will then depend on the knowledge, including interpretations, of the office holders through whom the order passes. Without this order might produce unexpected, or confusing, results. As knowledge of near offices is easier to grasp than more distant ones, it follows that the issuing of a command from the top requires the previously developed knowledge of a number of office holders. Without this, implementation would not occur (Dunsire 1978a): 231).

Control, for Dunsire, involves more than simply the issuing of commands and includes establishing the structures and procedures through which commands are implemented. For Dunsire substantive control is the issuing of orders, directives and so on. Structural control is the shaping of the structures (or offices) through which commands are implemented. This is a form of control as it determines the pattern of collection, storage and distribution of knowledge. Thus it directs the attention of subordinates and channels their perceptions of problems. Procedure control is the establishment of procedures which office-holders are to follow. This can include procedures that require office holders to pay attention to cross-cutting objectives, i.e. other objectives than the direct objective being implemented. An example is equal opportunity procedures which assure attention to matters like fairness, promptness, and “due process” on the part of decision makers whatever their substantive field or specialism (Dunsire 1978b: 223). This exercises control over how office holders perform their jobs and places contradictory pressures on office holders, called by Dunsire “unstable equilibrium”(Dunsire 1986:325). By adjusting the cross-cutting pressures, executive governments or other senior bodies or people can exercise control over office holders. Before such control can be exercised appropriate structures and procedures will need to be in place, for example a body to monitor the



achievement of equal opportunity. This emphasises that much more is involved than simply issuing an order.

Other approaches stress that policies are not just made by the highest level, in a “top-down” process but that policy making may also be a “bottom-up” process where policy is made at all levels. (for example Sabatier 1986:314). As Barrett and Fudge explain:

If we take implementation to describe the day-by day working of an agency (whether it involves relations between organizations or relations within organizations), then policy-making may be seen as an attempt to structure this operation in such a way which limits the discretionary freedom of other actors. As such, it may be seen from either a top-down or bottom up perspective. It is the former which is most frequently identified as policy making: the setting of parameters (perhaps by means of law) by actor at the 'top', who have the power to constrain those 'lower down'. But we may also identify the phenomenon the other way round, when lower level actors take decisions which effectively limit hierarchical influence, pre-empt top decision-making, or alter 'policies' (Barrett and Fudge 1981:25).

Such an approach stresses that “policy” is altered during the process of implementation and is not solely made by the higher level actors, so implementation is not simply a matter of issuing orders. The methods by which lower level actors are able to influence outcomes are discussed later.

The analysis so far applies to single organisation as well as inter-organisational arrangements. Clearly difficulties will occur when a different organisation is required to carry out the policies decided (Sabatier 1986, 315). Establishing the necessary procedures and structures is obviously not easy, or necessarily possible, when a separate organisation not controlled by the higher level decision maker is involved.

Where governments are involved this may be more difficult than with other

organisations, such as contracted private sector firms, as the prestige of an elected government may make it harder to introduce required procedures (Page 1991:5).

Pressman and Wildavsky's well known study in Oakland, California *Implementation: "How Great Expectations in Washington are dashed in Oakland: Why It's Amazing That Federal Programs Work at All"* pointed out the problems for the national government in implementing programs through other organisations which had conflicting objectives and priorities (Pressman and Wildavsky 1973).

Particular difficulties apply in federations. A national government in a federation may be unable to use some of the methods of implementation and control noted above from Dunsire. Structural control, that is reshaping the structure of the implementing agency, is not possible for a national government as it has no authority over the State government's structures. Procedural control, i.e. the introduction of procedures which put cross cutting pressure on those implementing policies, may also be more difficult for a national government to apply to lower level government agencies. These factors point to a difference between relations between governments in a federation and other intergovernmental relations, such as between State and local governments. Ultimately a higher level government has the power to restructure or abolish local government, whereas in Australia the Commonwealth government can not change the structure of the States without a referendum.

The above analysis raises problems for any view of joint arrangements in a federation which requires the national government to control what other governments do through issuing commands and expecting them to be carried out. For such reasons some

commentators, especially those coming from a public choice viewpoint and thus seeing all the various actors in a federation acting on the basis of their own interests, see national governments in a federation as being able to exercise very little control. For example, as was noted in chapter 2, Reissart and Schaefer saw the Federal republic of Germany as being faced with problems of institutional deadlock (Reissart and Schaefer 1985:122).

Despite such arguments some approaches to federalism do require the national government to exercise control through commands. An Australian example is the approach recommended by the Australian Parliament's Joint Committee on Public Accounts (chapter 2). However the earlier arguments show that any framework for the analysis of joint arrangements in a federation has to be able to go beyond the formally stated power structures and identify whether and how national government control is actually exercised.

## **FACTORS ENABLING DIFFERENT LEVELS OF GOVERNMENT TO INFLUENCE OUTCOMES**

Many writers see relations in a federation as actually or potentially characterised by mutual bargaining and mutual dependence, rather than as a hierarchy with commands being issued and obeyed (Franz 1986:485; Sharpe 1986:176; Chapman 1989:59-60; Chapman 1993:76; Bird and Chen 1998:53). Franz draws on power or resource dependence theory to reach such a conclusion. (Stoker 1995:101-102; Considine 1994:172-178). This theory starts from the position that a power relation exists wherever one person or body needs another to achieve a task or outcome:

Whenever one unit required information, money or authority from another, it was subject to influence (Considine 1994:172).

A well known example is that of the Canadian writer Richard Simeon, who coined the phrase “Federal-Provincial diplomacy” to describe policy processes in Canada.

Simeon argued that federal and provincial governments started with different policy positions as a result of four factors: varying basic economic interests of the various regions; ideological concerns, status concerns, ie governments seeking to protect and enhance their own importance and prestige; and finally, differences in perspective occasioned by the different political, economic and social environments of the different governments (Simeon 1972:196). Governments were able to use different political resources to attempt to achieve their different aims. For Simeon available political resources included: legal authority; the degree of support governments believe they have in the underlying population or at least amongst attentive publics for a particular position; skills and expertise; information, and the size and wealth of the government. He saw the perceived degree of public support as perhaps the most important (Simeon 1972:202-218).

Lower level governments tend to be in a weaker legal or Constitutional position relative to higher level governments. However other writers, as well as Simeon, see factors other than the legal or constitutional position as enabling lower level governments to influence arrangements in areas of joint responsibility. Page, for example, points out that the prestige of being an elected government may give local governments ability to gain their way despite central government wishes (Page 1991:5). Page sees two broad ways in which local governments can influence decisions, through their constitutional and legal positions, and by using their political

authority to influence national government decisions (Page 1991:5). Similarly, Rhodes and Pickvance point to the ability of local government in Britain to use political channels to influence central government's decision (Rhodes 1981:32; and Pickvance (1991:54).

Some writers on Germany point to the role of the States in administering programs as giving the States ability to influence the national government's decisions, despite the national government's legislative dominance (Esser 1989: 98; Spahn 1993:96).

In Australia both Commonwealth and State governments have resources that give each of them bargaining power during the negotiation of joint arrangements. Typically, in a joint Commonwealth-State arrangement in Australia the Commonwealth will be providing money, while the States will actually be carrying out the program. States may also have more information about local conditions than the Commonwealth. Thus both the Commonwealth and the States have the ability to have some influence over the outcome (Goodsell 1989: 14). Political influence, including the marshalling of public opinion, may be exerted by the States as well as the Commonwealth so that in practice domination by the Commonwealth is difficult (Davis 1995:139; Spahn 1993: 88).

Many commentators, especially in Australia, do not see the bargaining power between State and Commonwealth governments as equal. Campbell Sharman, for example, sees the financial power of the Commonwealth as enabling it to force its position on the States during negotiations, although he notes that States may be able to avoid implementing all the requirements placed on them (Sharman 1998:270). Similarly

Glynn Davis argues that the Commonwealth's financial and legal position gives it the upper hand in negotiations with the States. He sees policy coordination at the State level (a unified policy position held by all State agencies) as one way for the States to improve their bargaining position (Davis 1998:161-164). The informal channels identified above as enabling lower level governments to influence those at a higher level can also be used by higher level governments to influence those at a lower (for example Sharpe 1986:177).

Another literature that identifies informal as well as formal structures as influencing policy formulation within federal arrangements is that of "policy diffusion". A number of empirical studies, especially in the United States of America, have examined the spread of policy initiatives between States in a federation (for example Andrews 2000, Regens 1980, Walker 1969, Welch and Thompson 1980). There have also been a small number of Australian studies (Nelson 1985, Carroll and Johnson 1999). Several studies have identified a link between national government involvement and the spread of policy initiatives among the States. For example in the United States Welch and Thompson concluded that national government fiscal incentives (programs where funds were available to States to perform specific tasks) increased the speed at which State governments implemented specific policy initiatives. This finding applied irrespective of the subject area of the policy initiative (Welch and Thompson 1980:725). The Australian studies also noted Commonwealth influence. Nelson noted that, although her study excluded issues with a major Commonwealth component, some Commonwealth influence was detected. Of the four issues that had a diffusion rate (the time taken to spread to all States) of less than five years, two (domicile legislation and control of radioactive substances) followed

consideration by Councils of Commonwealth and State ministers (Nelson 1985:83-84). Carroll and Johnson examined the introduction of retirement village legislation in the States following the withdrawal of the National Company and Security Commission (NCSC) from the field as the Commonwealth Companies Act was considered no longer suitable for the area (Carroll and Johnson 1999:68). They found that 81% of the policy items relating to retirement villages in State legislation came originally from the NCSC (Commonwealth) legislation.

However the literature also suggests that other factors, apart from formal intergovernmental arrangements and the copying by States of prior Commonwealth initiatives, apply to the transfer of policy initiatives between governments. Welch and Thompson found that national government incentives did not explain all the variation in the speed of implementation of policy initiatives (Welch and Thompson 1980:725). Regens noted that in the field of energy policy a number of policy initiatives occurred without national government impetus (Regens 1980:53-54). Carroll and Johnson found that policies could be adapted and altered as States picked up Commonwealth policies. They also noted that patterns of transfer between States were diverse and complex (Carroll and Johnson 1999:69). Andrews study of electricity deregulation also found that there were multiple pathways for the spread of innovations (Andrews 2000: 33-34). Walker's analysis provides an explanation for the above findings. He noted that States varied from those that are quick to adopt innovations to those that are slow to do so. He concluded that States copy each other, that the likelihood of a state adopting a new program is higher if other States already have implemented such

a program.<sup>2</sup> The likelihood was higher still where the idea had been adopted by a State considered as similar:

Decision makers are likely to adopt new programs, therefore, when they become convinced that their State is relatively deprived, or that some need exists to which other States in their “league” have already responded (Walker 1969:897).

Walker noted that States had to know about programs adopted in other States before they could respond to them. Thus interstate networks were important for the transfer of policies (Walker 1969 896-897). Others have also noted this, for example Martin in his study of the take up of the concept of a “living wage” in different American cities, concluded that an important factor in the implementation of the policies was the existence of networks between cities:

Cities are more likely to pass an ordinance if other cities have passed similar ordinances, and activists are more likely to advocate policies if they are part of a network with other activists who have done so successfully (Martin 2001:489).

Thus the “policy diffusion” literature shows the importance of channels of communications. Formal Commonwealth-State arrangements and associated structures for consultation will provide channels for the transfer of policies. However policies may also be transferred through other channels, including informal channels, that may or may not involve both levels of government.

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<sup>2</sup> The Australian studies also found that some States were more likely to innovate than others. Nelson found that Victoria, New South Wales and South Australia were more likely to lead, and Queensland, Western Australia and Tasmania more likely to follow behind (Nelson 1985:79). Carroll and Johnson noted that Victoria and New South Wales undertook more policy innovation than the other States (Carroll and Johnson 1999:79).



In order to analyse the results of areas of joint responsibility the processes of both formulating and implementing the arrangement need to be considered. The analysis needs to identify and include the various factors that enable governments to influence the outcomes of joint arrangements, such as financial resources, legal resources and the ability to marshal public opinion.

So far only formulating joint arrangements has been considered. Similar reasoning can be applied to the process of implementation. For example the “bottom-up” view considers that the most important actors are not the official policy makers but rather the street-level bureaucrats, for example classroom teachers, social workers, pollution control inspectors, who interact directly with the public and service recipients. In practice, whatever the formal power structures show, these street level bureaucrats have a very substantial discretion in how they operate. Thus implementation depends on the relationships between the street level bureaucrats and service recipients (Sabatier 1986:314). For Prottas the power of street level bureaucrats comes from having sole access to the information necessary to ensure that clients cooperate with the program:

the role the street-level bureaucrat plays in mediating the relationship between the organization and its clients gives him a powerful leverage over both. Public service bureaucracies have a complex environment . To effectively deliver their services they must complete the difficult task of transforming the citizens who approach them into clients they can process. The bureaucrat does this job for the organization and so, by playing a boundary-spanning role, profoundly affects the work of the rest of the organisation. This boundary-spanning role allows the street-level bureaucrat simultaneous access to information about clients and about the organisation. No other bureaucratic actor yet the joining of these information sources is a precondition for bureaucratic processing (Prattas 1979:149).

For Barrett and Hill this power of the street-level bureaucrat is a resource for negotiation and bargaining, not a fixed function of the bureaucratic arrangement. Street level bureaucrats are also dependent for their position on the client and the organisation employing them. Thus the street level bureaucrat, the client and the organisation all have resources that can be used for negotiation and bargaining (Barrett and Hill 1986:41-44). In a joint Commonwealth-State arrangement, such as the Commonwealth State Housing Agreement, the State governments and not the central government will usually negotiate or bargain with the street level bureaucrats. This weakens the position of the Commonwealth government in implementing its policies as it does not influence this process.

The bargaining process between governments is influenced by informal as well as formal political channels. This can apply to the implementation stage as well as to negotiating an arrangement. It may, for example, prove difficult for a Commonwealth government to enforce provisions of a Commonwealth-State agreement should the State have popular support for its position, especially if a federal election is approaching. Conversely a State may find it hard to oppose a Commonwealth requirement if opinion favours the Commonwealth position. Thus marshalling public opinion is a resource that can be used by either level of government to influence the implementation of a joint arrangement.

A framework for analysing the results of areas of joint responsibility between Commonwealth and State governments needs to consider how the arrangements might enable governments to influence implementation in informal as well as formal ways. For example the existence of committees with non government representatives

advising on the operation of a program might enable one level of government to influence the actions of the other through convincing the non-government representatives to argue a position on implementation to the other government. Here the existence of a committee for one purpose may assist governments to develop alternative, informal, lines of communication through third parties that can be used to attempt to influence the other level of government. Such attempted influence need not be confined to issues relating to the role of the committee

Another approach which stresses that the starting point for analysis of intergovernmental relations is not the legal or power structure is that of network analysis. This approach concentrates on the interrelationships between the various actors involved (Metcalf 1978:48-50; Scharpf 1978:366; Franz 1986:486). Networks can fulfil a range of functions, including sharing information, and articulating a common interest and pursuing an agenda of their own (Considine 1994:118-120). For Rhodes and Marsh networks develop where a limited number of key administrative, political and interest group leaders interact frequently and develop shared values as a result of being interdependent through sharing resources (Rhodes and Marsh 1992:186). Such networks or communities can assist in the implementation of joint arrangements by developing shared values, knowledge and understandings. For some critics influenced by public choice theory, such networks can result in those involved combining to further their own mutual advantage at the expense of others (Bish 1978:23). This could affect the implementation of an arrangement by, for example, Commonwealth and State officers combining for the own advantage in ways which do not serve the interests of their respective governments.

Whether policy networks are seen as an aid or hindrance to the implementation of such arrangements, the possibility of the development of such networks is important to understanding the operation of joint arrangements. Some types of structures, for example joint committees of Commonwealth and State officers (sometimes with the addition of non-government sector representatives) will clearly foster the development of such networks. Any analysis of joint arrangements needs to consider the likelihood, and results, of networks developing.

## **METHODS OF CLASSIFYING JOINT ARRANGEMENTS**

In order to analyse the results of joint arrangements it is necessary to distinguish between different joint arrangements. Different types of arrangements may produce different results. Most classifications of joint arrangements concentrate on the financial arrangements and formal powers granted to the different levels of government. The analysis in the last section suggests that such classifications are likely to be inadequate as they will not take into account the range of factors that influence outcomes for areas of joint responsibility.

In Australia there is an official classification for areas where the Commonwealth pays funds to the States. This is between General Purpose Payments (GPPs) and Specific Purpose Payments (SPPs). GPPs are provided as general budget support and are not subject to conditions regarding their use. SPPs are (in most cases) conditional on policy objectives set out by the Commonwealth, or agreed between the Commonwealth and the States (DOF 1995). There are however some apparent anomalies in the official classifications. In 1995-96 Identified Roads Grants and the

Building Better Cities (BBC) program were included as GPPs. Some commentators have argued that the BBC should have been included in SPPs (Walsh and Thompson 1993:20, Mathews and Grewal 1997:592-593). The program involved agreements between the Commonwealth and States that certain projects would proceed, although the funds themselves were not tied to be used on specific purposes. Similarly with roads funding, the purpose has been identified, even if detailed conditions are not attached. This type of arrangement can be seen as an intermediate type between GPPs and SPPs and has been described as FAGS (Financial Assistance Grants) with Tags (Walsh and Thompson 1993:20).

Even apart from the anomalies, the GPP/SPP division is not useful for the purpose of assessing the effectiveness of different Commonwealth-State arrangements as SPPs can cover a very wide range of activities. This is the case with the Commonwealth State Housing Agreement. Distinctions within SPPs need to be able to be made.

Other suggested Australian types of arrangement include block grants and broadbanded programs. Block grants are payments to States under very broad conditions, for example that they be used for a specified general area. Health funding changes under the Fraser government have been described as introducing block grants (Groenewegen 1989:250,252). Broadbanded programs involve combining, into a single program with broad conditions, several specific purpose programs (Functional Review of Housing 1991:27). These two additional categories both involve minimal conditions and do not enable us to distinguish between different arrangements where more than minimal conditions exist.

Overseas classifications for federal systems are generally similar to those used in Australia. This can be seen from Costello who states, in relation to Europe, that:

there are two principal forms. Conditional grants come with strings attached i.e. The grantor defines the specific purposes on which funds are to be spent. Unconditional grants give discretion to the recipient to spend the funds as they please.

Conditional grants can be subdivided into two varieties, matching grants and lump-sum grants. Matching grants occur when the amount received is determined on the basis of expenditure by the recipient, i.e. an ad valorem subsidy provided by the grantor. In turn matching grants can be open or closed ended, referring to whether there are quantitative upper limits on the resources made available. Conditional lump sum grants are block transfers of a fixed amount which must be spent for the purposes specified by the grantor.

Unconditional grants, while not restricting the expenditure choice of the recipient, may in fact come with some conditionality. Hence they can be divided into lump-sum (no restrictions) or effort related types. Usually the effort required of the recipient concerns the generation of revenues from other sources, e.g. taxes, charges and loans (Costello 1993:109).

This classification does add some distinctions in relation to the financial arrangements, in particular by distinguishing between matching and non matching requirements and whether matching can enable the States to commit the Commonwealth to increased funding. However arrangements differ in more than their financial aspects.

North American classification systems tend to be similar to the Australian and European suggestions, concentrating on the financial arrangements and whether conditions are attached. For example Break presents the following table as illustrating the dimensions of intergovernmental grants:

Table 3-1. The Many Dimensions of Intergovernmental grants

1. *How funds are used by the recipient*
  - a. Unrestricted
  - b. General, with limited restrictions
  - c. Block, within broad program areas
  - d. Categorical or functional, within narrow program areas
2. *How funds are allocated to recipient*
  - a. Formula, unrestricted
  - b. Formula, subject to limited restrictions
  - c. Formula, with administrative checks
  - d. Competitive applications by grantees (project grants)
3. *Degree of participation by grantor*
  - a. None (beyond provision of grant funds)
  - b. Administrative oversight
  - c. Technical services; cooperative management
  - d. Grantee matching requirements up to the limit of grantor funds (closed-end matching grants)
  - e. Grantee matching requirements with unlimited grantor funds (open-ended matching grants) (Break 1980:74).

Such a classification system does enable more detailed distinctions to be made for financial arrangements. It also allows for distinctions in relation to the amount, but not type, of conditions included for the use of grants. However it does not enable all dimensions that can affect the results of joint arrangements to be taken into account. For example it was noted earlier that the presence or lack of shared understandings can assist or hinder the Commonwealth government in achieving its objectives through joint arrangements. Classifications such as Break's do not identify the extent to which shared understandings are necessary to achieve Commonwealth objectives. This requires identifying different types of conditions placed on the recipient of grants as well as the amount of restrictions.

## **FRAMEWORKS FOR ANALYSING CENTRAL LOCAL RELATIONS**

Some of the British writers who examine central-local government relations have developed approaches which attempt to take into account the various factors in intergovernmental relations identified above. Rhodes, for example, developed a framework which aimed to take account of what he termed the “forgotten dimensions” of central-local relations. He saw central-local relations as having been analysed either in terms of the agent or the partnership models. The agent model regarded local authorities as implementing national policies, whereas the partnership model saw both levels of government as being co-equals. (Rhodes 1981:14) Such approaches are not methods of classifying individual joint arrangements as they refer to the totality of the relationship between the different governments. However, as with the classification systems for individual arrangements discussed above, they concentrate on the formal power relationships between the levels of government.

For Rhodes the dimensions ignored by a concentration on formal power structures were, first, a need for a theory that recognised that relationships can range from compliance to non-compliance and from a high degree of dependence through interdependence to a high degree of discretion. The possibility of bargaining between the two levels of government needed to be allowed for, as well as the fact of central control. Second, variations in local discretion needed to be explored, including identifying which resources, apart from financial resources, are important for the amount of discretion exercised by local governments. Third, the variety of relationships between central and local governments had to be considered. Rhodes noted that relations between central and local governments took place between a



variety of different parts of each level of government. Different patterns of links could occur. Fourth, the range of both formal and informal political channels of influence needed to be allowed for. Finally the role of professional officers, and how they influenced central-local relations, needed to be considered (Rhodes 1981:28-33).

The framework Rhodes developed in order to take account of the various factors he identified was divided into two parts, using Perrow's terminology, the "figure" and the "ground" (Perrow 1979:234).<sup>3</sup> The "figure" is concerned with the analysis of interactions between the levels of government and the effects of these interactions, whereas the "ground" refers to the underlying distribution of power, rules, interests and values existing in the society (Rhodes 1981:98,111). This study is only concerned with, in Perrow's terminology, the figure.

Rhodes's framework analysed the figure for intergovernmental relations under the following headings.

(a) Dependence and Resources. This is based on the proposition that organisations are dependent on other organisations for resources. The range of resources identified by Rhodes was:

(1) Constitutional-legal resources

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<sup>3</sup> Perrow derived his terminology from an analogy to a figure against a background, "...a figure, which is largely visible because of the background which it is set out from, dissolve that background and the figure is no longer visible" (Perrow 1979:234)

- (2) Hierarchical resources, which for Rhodes is the authority to issue commands and to require compliance conferred by the position of the actor in an organisational hierarchy. Rhodes treated hierarchical resources as distinct from constitutional-legal resources in order to emphasise the supervisory element in the relationship between centre and local governments.
- (3) Financial resources
- (4) Political resources, and
- (5) Information resources, which for Rhodes includes expertise required by the other level of government as well as knowledge.

(b) Goals. For Rhodes goals are not set by the central government. The respective goals of each level of government determine the resources required. Further the goals of each level of government are the product of internal political processes of negotiation and bargaining. Goals change over time, so focus of analysis is on identifying the actual goals of specific groups, not on the formal goals of organisations.

(c) Dominant Coalitions and the Appreciative System. For Rhodes the “appreciative system” is a combination of value and factual judgements that describe “reality”. This, as well as the resources of the various participants affect the relations between central and local governments. Rhodes sees the “appreciative system” as coming from the coalition of interests that was dominant in society.

(d) The Process of Exchange, Rules of the Game and Strategies. Rhodes uses the term “process of exchange” to refer to the variety of forms of interaction between central

and local government. For Rhodes, the “rules of the game” includes informal understandings as to how interaction is to take place, for example expectations of consultation, even though such “rules” are not formally required. “Strategies are the various methods used by one level of government to seek to influence the other.

(e) Discretion. Rhodes, following Jowell, defines “discretion” as “the room for decisional manoeuvre possessed by a decision maker” (Jowell 1973:179). Such discretion is, for Rhodes, not simply the result of formal legal structures, but of all the other elements included in the figure aspect of his framework (Rhodes 1981: 99-111).

Rhodes’s framework does enable all the factors affecting relations between different levels of government identified earlier in this chapter to be considered. However the framework is not really suitable for the purposes of this study. It allows for detailed study of individual instances of the relationship between different levels of governments, but does not easily allow for comparison between different types of arrangements. His discussion of “goals”, for example places the emphasis on the changing goals of different parts of organisations, a focus that does not enable concentration on differences between types of arrangements. The goals of parts of organisations, for example units responsible for policies for a particular disadvantaged group, are not likely to change should intergovernmental arrangements be different. Similarly, appreciation systems will be similar in a society, irrespective of differences in the types of intergovernmental arrangements. The current study requires a framework which identifies dimensions that vary with different types of intergovernmental arrangement.

Rhodes' framework can also be seen as less appropriate for the study of federations than of central-local relations. His inclusion in his list of resources of hierarchical resources, in order to emphasise the supervisory nature of central-local relations may not be appropriate for federations. It was noted earlier in this chapter that writers such as Franz and Chapman see notions of hierarchy as inappropriate to federations, even if they can apply to other intergovernmental structures.

Rhodes made a number of changes to his framework. He considered criticism of his theory that he had not paid sufficient attention to the inequality of the relationship between the levels of government, with the constitutional superiority of the central government an important factor in this inequality. While accepting that this could occur, he saw the larger political system, including factors not part of the executive power structure such as the party system, as also playing a part in decision making which could mitigate the central power (Rhodes 1986:4-7). This points to the major change in Rhodes framework. He considered that he had given enough theoretical weight to the possible role of policy networks and policy content when compared with the role of the relationships between particular types of institutions (Rhodes 1986:28). In other words Rhodes was not seeing the structural differences between different intergovernmental arrangements as necessarily important when compared with broader power structures in society, those covered by the notion of "ground" in his framework. This study concentrates on the differences between intergovernmental arrangements as these are seen as "making a difference", although the importance of the factors considered by Rhodes is not denied (chapter 1).

Another framework for analysis of intergovernmental relations from British writers on central-local relations has been put forward by Page and Goldsmith. They identify three broad dimensions that they see as being able to be used to evaluate the relationship between central and local governments. These are the functions, the access and the discretion of local government (Page and Goldsmith 1987:3).

Functions refers to the scope of activity of the lower level of government. This applies to the overall role of local government and thus is not relevant to the current purpose of analysing joint arrangements in federations.

The access of local government refers to the nature of contacts between central and local government actors. Page and Goldsmith point out that local governments may have limited discretion in that they are subject to severe constraints, but they may have had significant influence on shaping the nature of those constraints (Page and Goldsmith 1987:7). This points to an important dimension of joint arrangements, but does not identify the factors of joint arrangements that increase or decrease the parties access.

Discretion is the room left for the local government to make decisions taking into account the constraints imposed by laws and the financial arrangements (Page and Goldsmith 1987:7). Again while this is an important dimension for analysing joint arrangements it does not identify the features of joint arrangements which may limit, or increase, the discretion of the lower level of government.

The frameworks considered above do allow factors other than formal powers and financial factors to be taken into account, however they do not focus on the features of the joint arrangements themselves which influence the outcomes of the arrangements.

## **A FRAMEWORK FOR ANALYSING JOINT COMMONWEALTH STATE ARRANGEMENTS**

The above two sections point to the need for a framework of analysis for joint arrangements that enables all factors that influence joint arrangements to be considered. Such a framework should also focus on the features of the arrangements themselves and not use external factors. The existing frameworks considered did not satisfy both these requirements.

An approach that meets the above requirements can be derived from the instrument or tools of government approach. Salamon explained that:

The central premise of the tools paradigm is that it is possible to discern in the multitude of governmental programs, each with its special purposes and operating details, a limited number of distinctive devices or tools by which the program operates. Furthermore, it assumes that each of these devices has a characteristic set of basic features and an assorted array of likely consequences wherever it is applied. While hardly defining policy outcomes by itself, the choice of tools is thus assumed to impart a certain “spin” to programs that influences the likelihood of particular results (Salamon 1989: 28).

Often three families or categories of tools or instruments are identified: regulatory or legal; economic or financial; and communicative (de Bruijin and Hufen 1998:17; van Nispen and Ringeling 1998: 206). Hood identified four broad classes of tools: information; authority; treasure, and organisation (Hood 1983: 4). While these

families or categories are similar to the resources of governments identified by other writers, such as Rhodes who was discussed above, tools identify specific actions of government which attempt use these resources to influence results. Thus particular governmental arrangements can be described by the tools they employ.

Using Hood's terms it is clear that treasure, in particular moneys, applies in the current context. Financial measures in joint arrangements include the provision of funds for a particular purpose. While any Specific Purpose Payment involves this in a general sense, sometimes funds are directed to particular purposes within those specified by the overall arrangement, or maximum or minimum limits placed on the amount of funds that may be used for particular purposes. These are examples of the higher level of government using treasure to influence the lower level within a joint arrangement. Many variations of financial arrangements are possible. The upper level government may offer the States a fixed amount of money, or the amount available may depend on State actions. In the latter case there may, or may not, be an upper limit on the amount the Commonwealth makes available. States may or may not be required to provide resources of their own in order to receive funds (matching requirements). In analysing financial arrangements an important consideration is the financial result for the State of not taking funds offered. This is not necessarily the loss of the full amount offered. Where matching requirements exist, not having to match the funds might be seen as offsetting the funds available, if the State did not wish to use their funds for the purpose. Other arrangements can also exist, where for example funds are offered on more favourable terms (for example loans at a lower interest rate) if they are used for the specified purpose. In this case the loss to the State is the value of the more favourable terms being offered.

The concept of authority can also be applied, especially to the rules contained within a joint arrangement. Hood saw authority as “the power of officials to demand, forbid, guarantee, adjudicate”(Hood 1983:4). Within joint arrangements Commonwealth officials may gain such powers in respect of State actions as a result of the acceptance by the States of the joint arrangement. This acceptance is clearest in the case of an agreement, where the rules were negotiated and agreed between the parties, but may be assumed in other cases where the rules are known at the time of the offering of the funds, and the funds are accepted. Specifically agreeing to the rules may be a condition of the offer of the funds. In some cases, such as the CSHA, but not the CSDA, the arrangement may be enshrined in legislation. However the presence of legislation does not alter that the ultimate source of the authority is the acceptance of the arrangement by the States. In areas allocated by the Constitution solely to the States Commonwealth legislation can not bind the States without their acceptance of the legislation. In this respect authority within joint arrangements differs from authority in society in general, where authority is ultimately backed by the coercive power of the State. However once State’s have accepted the arrangement, Commonwealth officers gain the right to ask questions, pass judgement as to whether State actions are in accordance with the arrangement and otherwise to actions to ensure the arrangement is implemented. This fits Hood’s concept of authority as noted above.

Within joint arrangements authority rules may limit the discretion of the States to act in two broad ways. There may be general requirements as to how the States should act. For example the Commonwealth State Housing Agreement (CSHA) has from



time to time included requirements to set rents in particular ways and conditions specifying whether, and on what terms, States may sell dwellings constructed under the agreement. Alternatively the requirements may be specific in that the rules may give the upper level of government the right to exercise authority on a case by case basis. The approval of the upper level may be required for any action by the States under the arrangement, or under certain specified circumstances. The use of a right to refuse agreement is an exercise of authority, as is trying to enforce a general requirement.

Information is also applicable to the implementation of joint arrangements. Hood saw governments position in relation to information as “nodal” i.e. they are in a central position to both receive and impart information (Hood 1983:4). Both receiving and imparting information apply within joint arrangements. The upper level of government may use information to try to influence the lower level. One method is to simply supply information, for example on the need for a particular type of provision. Another is political argument to try to persuade the other government to do something they do not wish to do. Both cases are distinguished from authority as they need not involve any rule governing the State’s exercise of their discretion. Persuasion may be tried through formal channels specified in the arrangement or agreed between governments. Examples include requirements to consult before taking certain actions; joint advisory committees; and regular meetings between the different levels of government. Persuasion may also be tried using less formal channels or through third parties, for example by trying to convince non government organisations to put pressure on the other level of government. For the purposes of examining joint arrangements, only formal channels included in the arrangements are considered,

informal channels can exist in relation to any arrangement, so can not be seen as a distinguishing feature of a particular arrangement.

Joint arrangements can also include mechanisms for the receiving of information by the upper level of government, such as statistics and information on activities funded through the program. This information can then be used to try to influence the lower levels actions.

Hoods's fourth category, organisation, can apply in areas of joint responsibility. The upper level can establish structures to enable it to operate independently of the lower level, for example disability services prior to 1991. Such organisational ability may enable the direct achievement of Commonwealth objectives. It may also influence the attitudes and actions of States. The knowledge that the Commonwealth could choose to implement programs independently may make States more willing to compromise in discussions on the details of a proposed joint arrangement.

Organisation can also be used to establish joint Commonwealth and State agencies within areas of joint responsibility in order to carry out specific functions. Examples include the Australian Training Authority, the National Food Authority and the National Road Transport Commission (Finn 1995: (Slater 1995; Taplin 1995). Within the areas considered in this study there are a few examples. The Australian Housing and Urban Research Institute (AIHW) is jointly funded by Commonwealth and State governments to carry out housing research (FACS 2000:91). The Steering Committee for the Review of Commonwealth State Service Provision (SCRCSSP) publishes performance information, including in the health and welfare fields (SCRCSSP 2001).

The Australian Institute of Health and Welfare, a Commonwealth statutory body, collects information on housing and disability services by agreement with the Commonwealth, State and Territory governments (AIHW 2001:40-41,45-46).

Organisation is used in relation to the CSHA and the CSDA to provide information that is then used in the context of those Agreements. As well as the arrangements to provide information in conjunction with the AIHW and SCRCSSP mentioned above, the establishment of joint advisory committees for some sub programs of the CSHA provided a means for the exchange of information between Commonwealth and State governments (chapter 8).

It is also possible for the Commonwealth to use organisation to obtain or impart information for use in joint arrangements separately from the States. An example is the funding of non-government organisations such as the Community Housing Federation of Australia (FACS 1999:16).

In relation to the CSHA and the CSDA, as these agreements are administered by State government agencies, there is limited scope for the Commonwealth to use organisation directly to achieve Commonwealth objectives. To use organisation directly (as distinct from assisting with information, as described above) would require the Commonwealth to structure the State government's administrative agencies, something they do not do in these areas. This contrasts with direct Commonwealth programs, such as the Commonwealth Rehabilitation Service, where the administering agency is established and controlled by the Commonwealth. For this reason organisation will not be considered as a tool for the purpose of examining the

CSHA and the CSDA, although it is important as a resource for supporting other tools.

One criticism of the tools approach is that the categories are rarely distinct and separate (van Nispen and Ringeling 1998: 207). This can be seen in the area of intergovernmental relations. For example the offering of money to the States for a specific purpose can be a use of either or both of treasure and persuasion. Where a State does not desire to undertake the activity proposed the offering of money is a statement that the activity is desirable, coupled with funds to stress the seriousness of the upper level of government's view. The upper level is "putting its money where its mouth is". The result of offering money may increase the political pressure on the lower level to accede to the request, even if lack of funds was no barrier to the State undertaking the activity. This then would be a case of money acting primarily as information (indicating the seriousness of the view that the activity should be undertaken) rather than as treasure. Conversely the lower level of government might be willing to undertake the activity, but lack the necessary resources; here a grant tied to the purpose is acting purely as treasure. The provision of funds by itself brings about the desired action with no element of persuasion. Often funds for a specific purpose will operate both as information and treasure.

Similarly, structures involving joint Commonwealth-State committees will normally involve both information and authority. By sitting on a committee the Commonwealth can use information to try to persuade States to undertake a particular course of action, but often the Commonwealth will also be able to exercise authority through requirements for Commonwealth approval for the committee's decisions. Other

arrangements, such as a requirement for a committee to reach consensus decisions also has an authority element as effectively each government has a right of veto.

This means that it is not possible to classify joint arrangements by simply allocating them to one of the identified families of tools. Allowance has to be made for arrangements that use tools that combine different elements. Also many arrangements will contain more than one tool or method to try to obtain its outcome.

As a result of the overlap between these three dimensions, this thesis does not use a single list of categories. Instead the arrangements considered are examined by describing them in terms of each of the different types of tools.

The approach of instruments or tools of government has been also criticised for concentrating on a rational-legal approach and being hierarchical in its approach (van Nispen and Ringeling 1998: 207). It does not take into account the context of the arrangement or enable policy networks to be considered (de Bruijin and Hufen 1998: 16). These criticisms would mean that the approach would not meet the requirements for a framework set out above as a full range of factors, including political factors, would not be able to be taken into account. Allowing for tools that blend elements from two or all three of the major categories meets this objection, as the inclusion of an information element allows for factors other than the formal powers and financial arrangements to be included. For example arrangements for consultation to achieve shared understandings are regarded as part of the description of the arrangements.

A related criticism to that of not being able to include policy networks and political factors is that the approach may be seen as one-way only and not allowing for both levels of government to influence each other. As Kooiman puts it:

There seems to be a shift away from more traditional patterns in which governance was basically seen as “one way traffic” towards a “two way” traffic model (Kooiman 1993:4).

Types of instruments have been developed which are bi-lateral or even multi-lateral, that is they allow for the parties each to influence each other (van Nispen and Ringeling 1998: 216). While most have been developed in the economic or environmental area they can apply to the social areas included in this study (de Bruijin and Hufen 1998:19-22). An example, as noted earlier, is that of the existence of joint Commonwealth and State committees as part of joint arrangements . These bi- or multi-lateral tools still fall into the categories of financial, communication and authority (van Nispen and Ringeling 1998: 207).

Although the use of tools in this study allows for tools to blend types, and includes bi- or multi-lateral tools that allow for policy networks, it still retains the distinctive feature of tools analysis noted by Salamon (above). Distinct tools can be identified each with their own likely outcome. Although the categories may combine, we can still identify the combinations, where two or more categories are combined, and where they remain separate. While the context, such as political factors or networks can influence the outcome, the tools approach has never claimed that they are the sole determinant of the results of action, only that they influence the outcome. As Milward and Wamsley state:

The advantage of bringing “tools” together with networks is that you get two levels of analysis, the collective choice level and the operational level...The collective choice level of analysis is brought out in the examination of the type of tool chosen to structure a program. The tool connects the network to the social choice mechanism of the State. Thus this level of analysis will concern the choice of the terms and conditions that bound the play of the game. The operational focus is that of the policy networks (Milward and Wamsley 1985:114).

This reflects the aim of the current study, to examine the effects that different arrangements for areas of joint responsibility have had, while acknowledging that other factors also influence the outcomes.

In this study the analysis of the different tools used will be considered against the resources held by both the Commonwealth and State and Territory governments.

While tools are resources they may require the support of other resources to be effective. For example organisation may be required in order to obtain the information that is being used as a tool. Similarly to use authority, information may be necessary to determine whether rules or commands have been obeyed. Nor are all the resources used to support tools themselves tools. For example Simeon and Rhodes (above) both identified political resources as important, although this does not correspond to a category of tool. The resources considered will be financial, information, authority, political and organisational. It will be argued that different tools require different levels and types of resources, so the availability of resources is an important factor in whether the Commonwealth can succeed in influencing State and Territory actions through the tools included in joint arrangements.

## CONCLUSIONS

In order to develop a framework for analysing the results of areas of joint responsibilities a framework that enables different types of joint arrangements to be distinguished is required. Such a framework needs to be able to take into account the various factors that can affect the results of the arrangement. A major focus is whether under the arrangements, the Commonwealth can influence the States and Territories. The areas being studied constitutionally belong to the States and thus the States are entitled to act as they wish in the absence of specific Commonwealth action. However the thesis also examines the extent of the Commonwealth's influence and the ability of the States and Territories to achieve their wishes.

A consideration of organisation theory and implementation studies indicated that the Commonwealth could not simply rely on formal powers and its financial position in order to influence the States and Territories actions. This means that other factors, including political factors, have to be able to be taken into account.

Official classifications concentrate on official powers and financial arrangements, as do most other Australian and North American categorisations of joint arrangements. British and European frameworks for studying central-local relations, such as that by Rhodes, do enable a range of political and other factors to be considered, but do not identify clear distinctions between different types of joint arrangements.

An analytical framework that both enables a full range of factors to be considered and provides distinctions between different types of joint arrangements can be derived



from the tools of government approach developed by Hood and others. The framework used in analysing the CSHA and CSDA divides joint Commonwealth, State and Territory arrangements by the types of tools they use i.e. financial, authority, information, and combination (of two or all three) tools. This thesis considers the above tools in relation to the amount and nature of resources the tools demand of Commonwealth, State and Territory governments. While in any given case many other factors apart from the nature of the joint arrangements will also influence the outcome of the arrangements, the above framework enables the major features of the joint arrangements themselves which affect the ability of one level of government to influence another, to be determined.

## **CHAPTER 4: NEGOTIATION AND DEVELOPMENT OF THE COMMONWEALTH STATE HOUSING AGREEMENT 1945-1972**

### **INTRODUCTION**

This chapter examines the introduction and negotiation of the Commonwealth State Housing Agreement (CSHA) from 1945 until the 1972-73 financial year, including the States Grants (Housing) Act 1971 that replaced the CSHA for the 1971-72 and 1972-73 financial years.

The major issues considered are the reasons for the Commonwealth becoming involved in the area in the first place and the relative success of the Commonwealth and the States and Territories in negotiations for the agreements and arrangements during this period.

Housing is not one of the powers given by the Constitution to the Commonwealth in Australia. Chapter 2 discussed different justifications for Commonwealth involvement in areas constitutionally that of the States and Territories. It was noted that different views of federalism (coordinate, concurrent competitive) gave rise to different justifications for involvement. This chapter examines the reasons for Commonwealth involvement in housing through the CSHA, and how these reasons fit into the various conceptions of federalism.

It was noted in the previous chapter that for the advantages claimed for the involvement of two levels of government in areas of joint responsibility required that

both levels have a reasonable say in the arrangements. However it is sometimes claimed that the Commonwealth dominates negotiations for joint arrangements, in particular through the use of its financial power. If true, this would negate many of the advantages seen for joint arrangements. This chapter considers whether either level of government has been able to consistently dominate in the negotiations for the CSHAs, using the criteria for determination whether domination exists discussed in the last chapter. The reasons for one or other level of government succeeding in negotiations are also examined. In chapter 3 it was noted that Simeon concluded that political factors were the most important for intergovernmental negotiation in Canada; whether this also applied to the negotiations for the CSHA in Australia during this period is discussed.

This chapter covers the period up until 1972 as, during this period the Commonwealth had a relatively low level of financial leverage over the States compared with later years. Thus if financial factors are the most important factor in intergovernmental negotiations, the Commonwealth should have been less successful in negotiations during this period than in later periods.

The relatively low amount of Commonwealth financial leverage in this period arises as, up until 1971 the States effectively chose the amount of their Loan Council allocation they wished to use for housing (Jones 1972:17). These funds they received under CSHA terms and conditions. The interest rate was concessional compared with normal Loan Council funds. The concession ranged from 0.25% in 1945-46 to 1.5%

in 1955-56 and was 1% from 1956-57 until 1970-71.<sup>1</sup> Another financial incentive that applied until 1955-56 was that the Agreement included provision for the Commonwealth to reimburse the States 60% of losses incurred by their rental operations. In fact the provisions relating to reimbursing losses did not prove effective. Only three States (Queensland, Western Australia and Tasmania) ever received any payments for rental losses (ACIR 1984:Table C3). This arrangement ceased after 1955-56.

These financial arrangements meant that if a State did not like the conditions attached to the CSHA, they could chose to take all their funds as normal Loan Council funds. The loss to the States for doing so was the loss of the concessional interest rate, a shorter repayment period and, prior to 1956, the possibility of payments in respect of rental losses.

During the 1971-72 and 1972-73 financial years, under the States Grants (Housing) Act, the States received a fixed amount of grants as interest subsidies and some grants to assist with rental costs. They received their capital funds for housing as normal Loan Council funds. Thus if they had rejected the conditions attached to the grants they would have lost the grants, but still received their capital funds for housing. The potential loss to the States for not accepting funds under the CSHA was greater after 1973. From 1973 onwards the States, if they wished to reject the CSHA conditions, would have lost all their funds under the CSHA without being able to use Loan Council funds to replace them. This is discussed in the next chapter.

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<sup>1</sup> The long term bond rate was the rate at which the Commonwealth raised loans on behalf of the States. The rates are published in the Commonwealth budget papers and the Commonwealth of Australia Year Books for the respective years.

The financial arrangements discussed above were, of course, also the product of negotiations between the Commonwealth and the States. This does not alter that, for negotiations within the agreed frameworks, the Commonwealth's financial leverage was lower prior to 1973, and the results of the negotiations within the agreed frameworks might be expected to reflect that. The overall frameworks might be expected to reflect the overall bargaining position of the parties, including the overall financial leverage of the Commonwealth in all areas, not just housing. If so the pre 1973 arrangements would appear to reflect a weaker overall position for the Commonwealth. This would be another reason for expecting, if financial factors are in fact the crucial factors, the Commonwealth to achieve more in negotiations for the CSHA after 1973 than before.

This chapter commences with a discussion of Commonwealth involvement in housing prior to the first CSHA and the reasons for Commonwealth involvement are then examined. This is followed by a consideration, in chronological order, of the negotiations for the various CSHAs in the 1945 to 1971 period. The chapter concludes with a consideration of the States Grants (Housing) Act of 1971.

As well as the CSHA this chapter considers a separate Commonwealth program which provided funds to the States for housing purposes, the States Grants (Dwellings for Pensioners) Act of 1969. This program was closely related to the CSHA and was eventually absorbed into the Agreement.

## **BACKGROUND TO THE FIRST CSHA AND REASONS FOR COMMONWEALTH INVOLVEMENT IN HOUSING.**

The first Commonwealth involvement in housing was an extension of existing Commonwealth powers and thus could be seen as fitting a coordinate view of federalism. However it will be argued in this section that that the large scale Commonwealth involvement in housing that occurred from 1945 was based on a concurrent, not a coordinate, perception of federalism.

Prior to 1945 the Commonwealth had only limited involvement in housing. That involvement was specifically related to the defence and banking powers given by the Constitution to the Commonwealth. The first Commonwealth involvement was during the First World War when the Commonwealth used its defence powers to build some houses for munitions workers in Lithgow in 1918. The defence powers were also used for the war Service Homes Act of 1919 that provided low interest loans for eligible returned servicemen. The aim behind this Act was to reward servicemen and facilitate their return to civilian life rather than more general housing related aims.(ACIR 1984:App. A:6). This early involvement in housing can be seen therefore to be purely a spillover from defence activities.

During the 1920s the Commonwealth used its banking power to encourage involvement by governments in facilitating home ownership for others than returned servicemen. In 1928 the Commonwealth authorised the Commonwealth Savings Bank to lend to Government (Commonwealth, State or municipal) agencies administering home ownership schemes. Loans were made available in NSW, SA and WA as well

as the ACT. While this is a spillover from the banking power, it can be seen to involve specific housing aims as well as banking aims. This involvement did not however lead to large scale lasting Commonwealth involvement as the depression of the 1930s put a stop to any expansion of this activity and the scheme terminated in 1930. The depression also led to the termination of the War Service loans in 1931, although limited lending resumed in 1934-35 (ACIR 1984:App. A:6).

Circumstances created by the depression and the Second World War did lead to ongoing housing involvement by the Commonwealth. A severe housing shortage emerged in Australia as a result of the depression and World War II and was estimated in 1944 as likely to be around 300,000 dwellings in January 1945 (CHC 1944: 19). In April 1943 the Commonwealth government established the Commonwealth Housing Commission using the defence power as the Commission was established through the National Security (Inquiries) Regulations. The terms of reference were to inquire into and report to the Minister of State for Post-War Reconstruction on the following matters in relation to the public safety and defence of the Commonwealth :

- (a) the present housing position in Australia; and
- (b) the housing requirements of Australia during the post-war period (C HC 1944:2).

Thus, although the defence power was used to establish the Commission, its role went considerably beyond defence related aspects. This shows an intention by the Commonwealth to move more generally into areas given by the Constitution to the States. The Commission reported in 1944 and recommended Commonwealth involvement in the provision of housing. Provision by government, rather than the

private sector was seen as necessary as a result of the scale of building required to overcome the housing shortage. As well the Commission considered that government involvement was necessary if low income earners were to be housed, commenting:

It has been apparent, for many years, that private enterprise, the world over, has not adequately and hygienically housed the low income group (CHC 1944:24.)

Commonwealth rather than State government involvement was recommended primarily as the Commission regarded housing as a national problem. In particular the Commission argued:

that there was a need to co-ordinate housing activities throughout the Commonwealth and that being entitled to a good standard house should not depend upon the economic position or policy of the State in which he (*sic*) happens to reside

that States had not dealt adequately with the housing of people in the past

that the financial resources of the Commonwealth are greater than those of the States (CHC 1944:25).

The report also advanced a number of reasons specific to the immediate post-war period, including:

any building done during war-time, or the immediate post-war period, will be dependent on the availability and distribution of building resources, which are presently controlled (by the Commonwealth)

housing will have a large influence on the level of employment in the post-war period

the Commonwealth Government is responsible for the repatriation of defence personnel., and housing will be one of their most important needs (CHC 1944:25).



The reasons advanced by the Commonwealth Housing Commission reflect a concurrent rather than a coordinate approach to federalism (chapter 2). Some of the reasons given are those that might be accepted by a coordinate approach. Housing for defence personnel could be seen as a spillover from the defence function and assuring a minimum standard is accepted by some adherents to coordinate federalism a reason for Commonwealth involvement in areas constitutionally that of the States. However the stress on Commonwealth involvement as a result of the size of the problem requiring Commonwealth resources, and that the States had not made adequate provision in the past, do not fit a coordinate approach to federalism.

Chapter 2 argued that spillovers do provide a justification for Commonwealth involvement in housing through the CSHA. However this argument does not apply to the recommendations of the 1944 Commonwealth Housing Commission or the early years of the CSHA. Spillovers exist from social security to housing, as the provision of public rental housing by the States could affect the liability of the Commonwealth for social security assistance. However the assistance recommended by the Housing Commission and provided through the CSHA in its earlier years was not particularly directed to recipients of social security pensions and benefits, so the State's housing provision did not strongly influence the amount paid by the Commonwealth in pensions or benefits. Assistance was, for the commission, to be provided for discharged service personnel and those inadequately or unhygienically housed as well as those on low incomes (CHC 1944:67). Thus in times of a general housing shortage those to be housed would not necessarily be social security recipients.

Lasting and large scale Commonwealth involvement in housing arose then as a result of concurrent principles based on the size of the problem to be met and the need for Commonwealth resources if the problem was to be overcome.

## **THE 1945 CSHA**

It will be argued that, despite a low level of financial leverage, with the 1945 CSHA the Commonwealth succeeded in achieving their main objective, the provision of rental housing, in the face of opposition from at least one State. It seems unlikely that this would have occurred without the CSHA. However it can not be concluded that the Commonwealth dominated the States, as the Commonwealth failed to achieve a number of other important objectives.

Negotiations for the Agreement commenced following the final report of the Commonwealth housing Commission in 1945. That the key objective for the Commonwealth was the provision of public rental housing can be seen from the following statement of the minister responsible for introducing the legislation for the Commonwealth State Housing Agreement into federal parliament, John Dedman:

the principle deficiency in Australian housing policy to date has been in respect of good standard houses to be let at rents within their capacity to pay, to families who can not afford, or are not ready to, or on account of their occupations do not desire to, purchase houses (Dedman 1945: 5385).

The Commonwealth's objective can also be seen from the fact that the 1945 Agreement was for rental housing only, despite the Commonwealth Housing

Commission having recommended the provision of both rental and home ownership (CHC 1944: 13).

South Australia did not initially take any funds under the CSHA. The South Australian Housing Trust explained, that it was thought inadvisable to relinquish freedom of operation for the sake of a slightly lower interest rate (SAHT 1953:5). Don Dunstan has attributed the wish for South Australia to operate outside of the CSHA to Premier Playford's opposition to rental rebate, commenting:

Playford was not at all keen on the rebate conditions. It went against his notions of proper domestic economies and his view that the State should not be in the business of subsidising peoples incomes (Dunstan 1981:21).

However by 1953 the concession on the CSHA interest rates was 1.5% and, as the State was having difficulties in keeping rents to acceptable levels using Loan Council rate funds, South Australia commenced to use CSHA funds (SAHT 1953:5). This may appear to be financial factors forcing South Australia into the Agreement. However South Australia had no in principle objection to the objectives of the CSHA as this extract from a speech by the South Australian Minister for Housing in 1945 shows:

At present I feel there will not be much immediate advantage in it (the CSHA) for South Australia but, if conditions alter, it may become an important method of giving relief to persons on the basic wage in respect of high housing costs (Playford 1945:1256).

Also, if Dunstan is correct that the objection to rental rebates was a major factor in South Australia's non participation, that South Australia did not provide rebates after joining the Agreement should be noted (SAHT 1958:18). This suggests that it is

unlikely that South Australia would have joined if they had been required to undertake actions to which they strongly objected.

South Australia was not the only State that did not fully participate in the first CSHA. Tasmania withdrew from the CSHA in 1950 primarily because they wished to be able to sell dwellings on terms to tenants. The 1945 CSHA required that dwellings be sold for the cost of provision, with the proceeds repaid to the Commonwealth. Tasmania was also unhappy about the rent formula contained in the CSHA (Agricultural Bank of Tasmania, 1952:8). Once they withdrew from the Agreement Tasmania, like South Australia, used full interest rate Commonwealth Loan Council funds for housing. Tasmania rejoined the CSHA in 1956, after a new Agreement which allowed sales of dwellings on terms determined by the States had been introduced. This shows that the financial incentives were not strong enough to keep Tasmania in the CSHA in the face of restrictions that Tasmania did not wish.

Other States also opposed the exclusion of home ownership from the agreement and that dwellings could only be sold for the cost of provision, with the proceeds repaid to the Commonwealth (Jones 1972: 118-119).

Opposition to the terms of the CSHA for other reasons came from Queensland which was strongly opposed to the provision of public rental housing at all. Queensland government ministers expressed opposition to public rental housing (Bruce 1945:1609). Robyn Hollander, in her account of Queensland housing and the CSHA from 1945 to 1964, comments that:

Both the Queensland Government and the QHC (Queensland Housing Commission) had implacable opposition to the provision of public rental housing. Yet the QHC did construct large numbers of dwellings under the CSHA (Hollander 1990:344).

The Commonwealth did achieve its aim of the provision of public rental housing despite Queensland's opposition to the concept and the non-participation of South Australia and Tasmania for part of the period of the 1945 CSHA. All States provided public rental housing for the entire period either inside or outside the Agreement. Hayward, pointing to South Australia and Tasmania's provision of housing outside the CSHA for housing during part of the 1945-55 period, has suggested that States would have provided public rental housing without an Agreement (Hayward 1996:29-30). However it seems unlikely that, without the CSHA, all States would have provided public rental housing on the same scale. While South Australia, Victoria and New South Wales had commenced to provide rental housing prior to 1945 the other States had not. Prior to the Agreement Queensland and Western Australia did not have housing authorities in place able to run rental housing programs (Jones 1972). Queensland's opposition to the provision of public rental housing was noted above.

Thus the Commonwealth did achieve its key objective and alter States behaviour despite low financial leverage and the opposition of at least one State. In the light of South Australia's and Tasmania's actions in withdrawing from the Agreement why other States, in particular Queensland, participated in the CSHA and provided public rental housing needs to be considered. A possible explanation for Queensland's participation lies in the politics of the situation. The housing shortage was a very real public concern in the post-war period (Murphy 1995:7-9) The Commonwealth had responded with a program promoting rental housing. For a State not to take up the

offer was to focus attention on the problem, and the State government's lack of response to it. The two States that did not fully participate in the CSHA (SA and TAS) both were running their own, separately financed, public rental programs which they argued were preferable to the Commonwealth's. In Queensland the reason given by the Government for participating in the CSHA was that, although home ownership and not rental was the policy of the Queensland (Labor) Government, the urgency of the housing shortage required acceptance of the Commonwealth's offer (Bruce 1945:1609). This shows that an offer by the Commonwealth of assistance can create political pressure on the States to respond although the Commonwealth's actual financial leverage is low. The losses faced by the States in not accepting the offer were relatively low.

Despite achieving its key objective against some State opposition and causing changes in States' actions the Commonwealth can not be said to have dominated the States in the negotiations for the 1945 CSHA. The Commonwealth had other important objectives, apart from the achievement of public rental housing, which it did not achieve. This can be seen from remarks made by the Commonwealth Minister (John Dedman) in the second reading speech which introduced the measure into the Commonwealth Parliament:

This agreement is a compromise. It is the best that we have been able to get in agreement with the States and I will not pretend, that in all matters, it satisfies the Commonwealth (Dedman 1945:5389).

The Commonwealth was particularly unhappy about the exclusion of provisions relating to dwelling standards, the Minister commenting:

we are not yet entirely happy about the provision with regard to standards , particularly maximum standards.... There is no provision yet for the enforcement of maximum standards beyond which the Commonwealth would not be liable to meet losses (Dedman 1945:5389).

There were other areas where the final CSHA differed from the recommendations of the Commonwealth Housing Commission, at least in part as a result of State opposition. These included the lack of standards for town planning and the lack of provision of community facilities on housing estates (CHC 1944:26-40, 113-115).

Indeed, having an agreement at all was a compromise on the part of the Commonwealth. The Commonwealth would have preferred not to have an agreement at all, but to simply pay funds to the States under specified conditions (Mendelsohn 1972:272). However, as was noted in chapter 1, the Commonwealth had received advice that it was unable, under the Constitution, to enforce the repayment of loans to the States without an agreement .

In summary, the 1945 CSHA was a compromise, with neither level of government achieving all they wanted. The Commonwealth did achieve its key objective, the provision of rental housing, despite opposition from some States. The Commonwealth did achieve provision of housing from the States that otherwise would not have occurred. However, the Commonwealth can not be said to have dominated the States as it did not achieve other objectives important to it. Further the Commonwealth's success in achieving the provision of public rental housing was more the result of political pressures, in particular expectations of public reaction, than the Commonwealth's financial position.

## **THE 1956 CSHA**

As with the 1945 CSHA, with the 1956 CSHA the Commonwealth achieved its main aims, despite low financial leverage and some State opposition. Also, as with the 1945 Agreement, the 1956 CSHA was a compromise, with the Commonwealth failing to achieve some other important objectives.

Two main objectives for the Commonwealth in the negotiations for the 1956 CSHA were to promote home ownership and to reduce the subsidies for public rental housing.

The Commonwealth considered not renewing the Commonwealth State Housing Agreement in 1956, but instead simply providing a Commonwealth scheme to assist home ownership (Murphy 1995:17-20). Murphy comments that the Cabinet documents (which he examined) do not make it clear why this course of action was not implemented, but suggests that it may have been because the Commonwealth did not want the bad publicity associated with no longer funding public housing (Murphy 1995:21-22).

The promotion of home ownership in the 1956 Agreement was to be achieved, in part, by directing that a proportion of CSHA funds (a minimum of 20% in 1956-57 and 1957-58 and a minimum of 30% thereafter) be used for loans to home purchasers, with the loans being primarily provided by building societies. The promotion of building societies was also an objective of the Commonwealth government (Spooner 1956:1306).



Another aspect of the emphasis placed on home ownership by the Menzies government was a desire to reduce the level of subsidises to the States for rental housing. Reductions in these subsidies were justified on the basis of equity for home purchasers as against renters. In introducing the Act, the Minister, Senator Spooner, stated that it was not fair on home purchasers to be expected (through taxation) to subsidise public renters to the existing extent, and commented that not all public tenants were on low incomes. Another concern was that subsidies for rental might discourage home purchase. As Senator Spooner explained:

It would be very bad indeed if we reached a situation in which, by subsidising interest rates on houses for renting, we attracted, supported or encouraged a search for cheap rented houses from government and discouraged home seekers from building their own homes under their own arrangements (Spooner 1956:1524).

Reducing the level of subsidies was thus clearly another major aim for the Commonwealth in the 1956 CSHA negotiations. Under the new Agreement subsidies were reduced by making the interest rate on loans taken through the CSHA effectively 1% below the full Loan Council rate (instead of 1.5% as applied in 1955-56) and removing the provision allowing for Commonwealth funding of rental losses.

The States strongly opposed both the reduction in subsidies and the compulsory use of some funds to provide home loans. For example the NSW Housing Minister, Mr Landa, made the following comments in introducing legislation for the 1956 Agreement to the NSW Parliament:

The proposals failed to recognise many of the fundamentals of an arrangement for the provision of a proper standard of housing for families mainly in the lower

income groups. Those relating to an increased rate on advances, with consequential higher rentals, and diversion of portion of the normal loan allocation to bodies other than State Housing Authorities, without any increase in the total allocation, were considered by all States to be unwarranted. The requirement that houses be provided for serving members of the defence forces from advances to the States, and the Commonwealth's refusal to continue the loss-sharing arrangement and the rental rebate provisions of the old agreement were further generally most unsatisfactory features. Despite all protests of the States and our eloquence at several conferences, we did not succeed in shifting Commonwealth ground to any material extent..... It was with the greatest reluctance and under pressure of circumstance that the Government accepted this agreement as the best arrangement that, despite its most strenuous efforts, it was able to make with the Commonwealth (Landa 1956:3625).

State opposition was not confined to the States with ALP Governments, such as NSW. Similar sentiments, although more mildly expressed, were stated by the Victorian Liberal Minister for Housing, Mr Petty, when he introduced legislation for the Agreement into the Victorian Parliament:

I point out that, although the Commonwealth has not made provision to reimburse to the State any losses incurred through rental rebates or other causes the State government has continued to grant rebates to people in the lower income bracket who are in necessitous circumstances. The cost of this charge has increased rapidly over recent years. ....the government considers that the Commonwealth government should have continued to provide from its revenues for payment of its share of rental rebates (Petty 1956:181).

Despite this opposition all States accepted funds under the 1956 Agreement and provided loans for home purchasers. That all States accepted the above compromise and signed the 1956 CSHA does, at first sight seem surprising considering the opposition they expressed and that the financial leverage of the Commonwealth over the States was weaker in 1956 than at the end of the 1945-55 period. The effective interest rate concession received by the States was 1% compared with 1.5% in 1954-55 and the possibility of receiving subsidies for rental losses had been removed. Two reasons why no State decided to ignore the CSHA and take funds at full Loan council

rates can be suggested. One is partly financial and partly political. Although the interest rate concession was only 1%, as all States were calculating rents on the basis of their costs, this higher interest rate would have been reflected in the rent levels unless States allocated additional funds from their own sources. The alternative for the States was to raise rents, but States were reluctant to raise rents for political reasons (Jones 1972:119; this is discussed further in chapter 8). The other reason was purely political. For a State to refuse to take funds to provide loans for home purchasers would have left them vulnerable to Commonwealth charges that they were against home ownership. Given the popularity of home ownership in this period rejecting the loans could have been expected to be unpopular with voters (Murphy 1995:7-9).

The States then had three choices in 1956, to accept the CSHA, reject the CSHA and raise rents to cover the increased costs, or reject the CSHA and provide some funds from their own resources to effectively act as an interest subsidy on Commonwealth Loan Council funds. It seems likely that political as well as financial pressures were involved in their decision to accept the CSHA.

Thus, in the negotiations for the 1956 CSHA the Commonwealth did achieve these two major aims. It is also clear that States acted in a way in which they would not otherwise have done. Prior to 1956 no State had been offering the type of loan desired by the Commonwealth and up until 1961 no State provided more than the minimum required for home purchase loans. From 1961 until 1971 only one State (South Australia) provided more than the minimum.<sup>2</sup> The question of whether States acted

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<sup>2</sup> Funds allocated to home purchase loans, and total CSHA allocations to States, may be found in the Commonwealth of Australia Year Books for the relevant years.

differently does not arise in relation to the changes to the subsidy arrangements, as the States were not being asked to change their actions.

However despite achieving the above two objectives the Commonwealth did not totally dominate in the negotiations for the 1956 CSHA. The reductions in the level of subsidies to the States made it difficult for the Commonwealth to insist on many conditions for the States use of CSHA funds. The difficulty from the Commonwealth point of view of the negotiations with the States was alluded to in the Second Reading Speech:

To prepare an Agreement which gives effect to the Commonwealth policy and, at the same time, is acceptable to the States, has not proved an easy task (Spooner 1956:1303).

The 1956 CSHA was to leave States free in most areas of its operations under the CSHA. Unlike in the 1945 Agreement the States could charge what rents they liked and decide the level of rental rebates (if any). They could sell dwellings on any terms and conditions they wished. In addition the various requirements in the 1945 CSHA for States to notify the Commonwealth of details of their housing program were removed. In essence then, the 1956 CSHA was a compromise whereby the Commonwealth gained the use of some funds for building societies and higher interest rates for Commonwealth funds whereas the States gained much greater freedom from Commonwealth imposed restrictions. In his second reading speech for the 1956 CSHA Senator Spooner summed it up this way:

In brief, it may be said that the Commonwealth provides the States with funds at a favourable interest rate which States may use for their own housing programs, be they building houses for rent, or for sale, or both. At the same time, funds are

provided through the States for the encouragement of home building primarily through building societies (Spooner 1956:1307).

This compromise meant that the Commonwealth had major objectives which were not achieved. In particular the Commonwealth wished to see public rental housing targeted to low income earners. During the Parliamentary debate on the 1956 CSHA, the responsible Commonwealth minister, Senator Spooner stated that:

I believe that there are two classes in the community that are entitled to consideration and help. They are the ex-servicemen, who are able to obtain war service homes, and there are those in poor financial circumstances, particularly widows and those with families, who are entitled to assistance (Spooner 1956:1524).

This remained an objective for the Commonwealth throughout the period until 1972, as is illustrated by remarks made by the then Commonwealth minister, Les Bury when introducing the Home Savings Grant legislation in 1964:

We consider that subsidised homes built by the States with funds provided under the Commonwealth and State Housing Agreement ought to be reserved for those with very small means and on low incomes. This housing is made available at below its true economic cost for social reasons (Bury 1964:1530).

However, despite these statements of intention on the part of the Commonwealth, the CSHA from 1956 to 1972 contained no mechanism to direct assistance to those on low incomes. Jones found in his 1972 study that public rental housing was not tightly targeted to those in the lower socio-economic divisions of society (Jones 1972:26-32). Similarly the Commission of Inquiry into Poverty, using August 1973 data (too early to reflect any changes caused by the introduction of the 1973 CSHA) found that “most of the poor are not public tenants and that most public tenants are not poor....” More precisely the Commission’s report found that 72% of Housing Commission dwellings

were occupied by families or individuals with incomes more than 120% of the poverty line. Only 51,000 public housing dwellings were occupied by poor families or individuals (income less than 120% of the poverty line) (Henderson 1975:164).

A minor gain by the States during negotiations for the 1956 CSHA was to the arrangements for providing housing for serving service personnel. Supplementary funds were to be provided by the Commonwealth specifically for the provision of housing for serving members of the armed forces. The 1956 CSHA required the States to set aside a proportion of funds, up to five percent of total advances, to be used for this group. The Commonwealth undertook to match this amount, thus sharing the cost of housing service personnel on a fifty-fifty basis. This was a concession achieved by the States during the negotiations (Murphy 1995:23-24).

The 1956 CSHA then saw the Commonwealth achieve two major objectives against State opposition and with weakened financial leverage, but fail to achieve other important objectives such as directing assistance to low income earners. This agreement was clearly a compromise with both levels of government influencing the outcome.

## **THE 1961 AND 1966 CSHAS**

These Agreements were very similar to the 1956 Agreement, and there is no evidence that the Commonwealth attempted any major changes. Some States did wish to see changes but, as with the earlier CSHAs, the outcome was a compromise position.

The process of negotiation for the 1961 and 1966 Agreements consisted of discussions at Commonwealth and State Housing Ministers meetings. (Rankin 1966:697). During negotiations for the 1966 CSHA some States claimed that the conditions on which they received funds made it difficult for them to house very low income earners, such as aged pensioners. For example Victoria commented that:

a provision should be included to make a special contribution to the housing of elderly pensioners Without some assistance the Commission will be forced to reduce the rate of construction of these units that has currently been achieved (HCV 1965:6).

Pensioners had low incomes and the rents they could afford to pay were insufficient to cover the cost of repaying CSHA advances at an interest rate of 1% below the long term bond rate. Victoria, in common with most other States, used proceeds from sales to offset the cost of rebates where tenants could not afford to pay the normal rents. The availability of these funds, and other calls on their use, limited the amount of pensioner dwellings that could be subsidised in this way. However not all States desired funds for pensioner housing, Queensland saw families as higher priority (QHC 1966:3).

Victoria also argued for additional payments for slum clearance, on the grounds that this was more expensive than other provision. (HCV 1965:6). The Commonwealth did not meet either this or the request for funds for pensioners through the CSHA, although in 1969 it provided funds for pensioners outside the CSHA with the introduction of the States Grants (Dwellings for Pensioners) Act. Victoria's request for additional funds for slum clearance was never met.

The 1969 Act provided Commonwealth grants to the States for housing for single Aged Pensioners who were in receipt of supplementary assistance (an additional payment for pensioners who were renting). This meant that they had minimal income apart from the pension. The Commonwealth justified restricting the Act to single pensioners on the grounds that they were among the groups most in need of assistance (Bury 1969:953). This illustrates the Commonwealth's concern to provide rental housing to those on low incomes. Pugh has argued that one reason for confining it to single aged pensioners was that most existing provision by the State housing authorities was for pensioner couples, and the Commonwealth did not want the States to use the additional finance to substitute for existing activity (Pugh 1976:49). This seems plausible as the States chose how much funds to allocate to the CSHA, and if additional funds had been provided for existing activities, some States might have reduced their allocation to the CSHA.

It would have been possible for the Commonwealth to have included these funds within the CSHA, although this would have involved altering the financial basis of the Agreement to include grants. One possible reason for the Commonwealth to act outside the CSHA was to impose tighter conditions on the States than applied under the 1966 CSHA. As well as containing strict eligibility criteria for those eligible for assistance the State Grants (Dwellings for Pensioners) Act required the States to provide details of the building program to the Commonwealth. Such notification procedures had been removed from the CSHA in 1956. Eligibility or similar criteria were not specified in the CSHA during this period. All States accepted the funds for pensioners, including Queensland, despite their preference to house families. Queensland's acceptance of these funds is discussed in chapter 8.



The 1969 Act then represents another compromise, the request from some States for additional funds for pensioners was accepted, but outside the CSHA in a way which enabled the Commonwealth to introduce tighter controls. This shows that the Commonwealth had not been totally satisfied with its influence over State provision under the CSHA.

### **THE STATES GRANTS (HOUSING) ACT 1971**

The 1966 Agreement terminated in 1971 and instead of being renewed it was replaced by the States Grants (Housing) Act 1971 (No 111 of 1971). The imposition of this arrangement despite opposition from some States could be seen as the Commonwealth flexing its financial muscles. However it does not fit the definition of domination outlined earlier as the States were not required to alter their provision of housing, or alter their actions in any way against their wishes. The only difference was that they received their Commonwealth funds in a different manner.

The 1971 Act provided a fixed amount of grants to the States as interest subsidies to lower the effective interest rate on the Loan Council funds the States applied for housing purposes. The States received all their Loan Council funds, whether applied to housing or not, at the same interest rate. The Act did not fix the amount of Loan Council funds the States were to apply for housing purposes. The Act also provided for some additional payments to the States to assist them to provide rental rebates.

The introduction of the changed arrangements in November 1971 was something of a surprise. In April 1971 the Commonwealth Government introduced legislation to enable the States to receive some additional funds under the 1966 CSHA after its former expiration date of 30 June 1971, the Commonwealth Housing Minister commenting that:

It will not be possible to negotiate a new Agreement with the States in time for presentation to Parliament before the end of the present sittings .....I expect shortly to be in a position to commence negotiations with the States and to reach agreed conclusions in good time for introduction of appropriate legislation early in the budget sittings (Cairns 1971a:1907).

A number of possible reasons for the Commonwealth changing the arrangements can be advanced. The stated reason by the Commonwealth government was that the States Grants mechanism enabled the amount of subsidies to the States to be made transparent. As the Commonwealth Housing Minister explained:

The States have for many years now received the benefit of a concessional rate of interest ...Advances under the Housing agreement...have been used to provide reasonably priced rental accommodation for low income families We believe...(that assistance)...should be provided in a different and more readily identifiable form, so that the amount of the benefit provided can be seen by all (Cairns 1971b:3035-3037).

However it is likely that there were also other considerations. The new arrangements enabled the Commonwealth to fix the amount of Commonwealth subsidy provided to the States, something that the earlier CSHAs did not do. As inflation and interest rates were rising in this period, the Commonwealth may have wished to place limits on the amount of subsidy they would provide. Under the previous arrangements, if the States had decided to increase the proportion of Loan Council funds they took under the CSHA this would have increased the amount of the Commonwealth subsidy.

Another factor may have been that, as formal agreement from the States was not required, the Commonwealth could present the States with a “take it or leave” proposition. Avoiding negotiations with the States may have appealed to the Commonwealth as the States were arguing for more generous financial conditions under the CSHA (Meagher 1971:2466). The Commonwealth could decide the amount of subsidy it was prepared to offer, and not have to negotiate on it.

Not surprisingly States were unhappy with the lack of consultation involved with the new approach. For example the Victorian (Liberal) Housing Minister commented:

the States had considered over several Conferences the basic needs of a continuing arrangement and, quite rightly in my opinion, expected that the Commonwealth would consult with them in due course. Instead the Federal government spelt out the new conditions, the basic principles of which were declared to be non-negotiable..... Because of the attitude of the Federal Government, the States are now reluctantly placed in a situation where they must agree to a virtual direction to accept hand-outs of which only the future will determine the real value (Meagher 1971:2462).

The Commonwealth claimed that the new arrangements were more generous to the States than the prior CSHA. Some States, such as Queensland and Western Australia did see advantages in the arrangements for their States although Victoria remained opposed (Cairns 1971:3613). Whether in fact the new arrangements were more generous to the States depended on the amount of Loan Council funds the States allocated to housing. Should the States have significantly increased this, then the new arrangements would not necessarily have been more generous. As the 1971 States Grants (Housing) Act arrangements were terminated after two years following the election of the Whitlam government this cannot be assessed. The reason the Act was

terminated was that it did not enable the new government to achieve its objectives, in particular ensure an expansion of public rental housing (Johnson 1973:3). This could not be achieved as the States, not the Commonwealth, decided the amount of capital funds available for housing.

As noted above, the introduction of the States Grants (Housing) Act could be seen as the Commonwealth using its financial position to give the States a “take it or leave it” proposition. This contrasts with the negotiation for the CSHAs from 1945 onwards which, as the brief account above shows, were clearly involved compromises, with neither the Commonwealth nor the States gaining all they wished. This suggests the not surprising conclusion that the process of having to come to a formal agreement can increase the influence of the States over the final arrangements compared with arrangements that do not require formal agreement. However there was no change to how the States could spend Commonwealth funds under the 1971 Act and, as noted above, the financial terms were arguably more favourable for the States. Also the arrangements limited the control the Commonwealth could achieve, as there was no link between Commonwealth payments and the amount the States allocated for housing from their Loan Council allocation. Whether the Commonwealth could have succeeded in a “take it or leave it proposition” that attempted to impose tighter conditions on the States, or otherwise influence their actions, is a matter for conjecture.

## CONCLUSIONS

Using the concept of domination outlined in chapter 3 it can be seen that the Commonwealth did not dominate the States in negotiations for the CSHA in the 1945 to 1972 period. The Commonwealth did achieve its key objectives of the provision of public rental housing (1945) and loans for home ownership (1956) against some State opposition. In these areas the Commonwealth did produce some changes in State actions. However the Commonwealth had other important objectives it did not achieve. These included control over standards of housing (1945) and directing rental housing to those on low incomes (1956).

Financial factors did play a part where the Commonwealth achieved its objectives but other factors, especially political ones, appear to have been at least as important. Political factors were particularly important in the achievement of the provision of rental housing. Perhaps the closest the Commonwealth came in the 1945 to 1972 period to using its financial position to dominate the States was with the 1971 States Grants (Housing) Act. However this Act did not require the States to provide housing in ways in which they would not otherwise have done.

The CSHA during this period was a compromise. If either the Commonwealth or the States had had sole control the outcomes would have been different. Sole Commonwealth control would have resulted in Commonwealth control over the standards of public housing provision, estate design and facilities and, after 1956 greater emphasis on housing only low income people in public rental housing. Sole State control would have led to less or no public rental housing in some States, greater

sales of dwellings before 1956 and probably no loans for purchasers of private dwellings out of government housing funds. Also Queensland would not have provided public rental dwellings for pensioners from 1969.

The Commonwealth's financial leverage over the States in relation to the CSHA was relatively low in the 1945 to 1972 period. The next chapter examines negotiations for the CSHA from 1973 onwards when the Commonwealth's financial leverage was relatively greater.

## **CHAPTER 5: NEGOTIATION AND DEVELOPMENT OF THE COMMONWEALTH STATE HOUSING AGREEMENT 1973-1999**

### **INTRODUCTION**

In the last chapter the negotiations for the Commonwealth State Housing Agreement in the 1945 to 1972 period were examined. The focus was on whether the Commonwealth achieved its objectives for the negotiations and whether they could be said to dominate the States, i.e. achieve their objectives against opposition from at least some States and produce changes in States' actions that otherwise would not have occurred. In this chapter the negotiations from 1973 to the current Agreement (1999) are considered.

The financial arrangements for the 1973 and subsequent CSHAs differed from those of earlier Agreements and gave the Commonwealth greater financial leverage than they had prior to 1973. From 1973 the Commonwealth determined the allocations to the States instead of the earlier arrangements where the States chose the amount of funds they wished to use through the CSHA. Thus, from 1973, if a State chose not to participate in the CSHA they would receive no funds, and would no longer have the option of taking those funds outside the Agreement at a higher interest rate. Walsh and Thompson have argued that the operations of the Commonwealth Grants Commission mean that if a State refuses to accept a Specific Purpose Payment they would eventually receive a corresponding increase in their general purpose payments. This would take five years (Walsh and Thompson 1993: 15). However this indirect and gradual effect is unlikely to have the same impact as funds available immediately.

These altered financial arrangements mean that, if financial factors are the most important in determining the outcome of negotiations, the Commonwealth should have had more success in achieving its objectives, and be more likely to have dominated the States, after 1973 than before. This chapter, after considering the negotiations for each CSHA from 1973 to 1999, compares the results of negotiations after 1973 with those from the earlier period.

This chapter includes consideration of two programs which were introduced outside the CSHA, the Crisis Accommodation for Families in Distress Program (1981) and the Mortgage and Rent relief Scheme (1982). Both of these programs were absorbed into the CSHA in 1984.

### **THE 1973 CSHA**

The 1971 State Grants (Housing) act was terminated by the then newly elected Whitlam government and replaced with the 1973 CSHA as the new government had objectives that could not be achieved through the earlier Act. The main aim for the 1973 CSHA was to increase the supply of public rental housing for lower income people, as the Minister for Housing Les Johnson, explained:

We recognise that for many families, the poor families, the young families without a main breadwinner, and for those whose occupations keep them mobile, home ownership may be desired, yet financially impossible.

Therefore, there must be a large supply of rental housing within their means.



We feel that the welfare of lower income families has received scandalously inadequate attention over the last 25 years (Johnson 1973a:4).

This aim could not be achieved under the States Grants (Housing) Act as the States determined the amount of their Loan Council funding applied to housing and the Commonwealth had no mechanism that could direct the States to apply more capital funds to housing.

The Whitlam Government acted quickly to alter the arrangements for the funding of public housing after it was elected in December 1972. Legislation for a new CSHA was introduced into Federal Parliament in April 1973, which meant that the whole process of undertaking negotiations for the agreement had to take place in a few months.

Before the introduction of the new Agreement the government had provided additional funds to the States for public rental housing. Under the Housing Assistance Act 1973, introduced in March the Commonwealth provided loan funds to the States at an interest rate of 4% to be used for the provision of rental dwellings. Funds had to be expended by 30 June 1973 on dwellings that the States would not have otherwise commenced before that date. Dwellings provided with these funds were not to be sold. The aim of this measure was to give an immediate boost to State provision of public rental housing before the 1973 CSHA came into force (Johnson 1973b:554).

The Commonwealth's first proposals for the 1973 CSHA were quite different from the Agreement that was introduced. The Commonwealth originally proposed a rental only Agreement, with strict controls on eligibility and sales of dwellings. This

illustrates the intention of directing assistance to low income renters. The Commonwealth also proposed uniform provisions for rents and rental rebates and Commonwealth involvement in the setting of standards for housing developments (Sellek 1975:241). Thus achieving controls over the rents charged and the standards of State provision were other Commonwealth objectives for the 1973 agreement.

The initial Commonwealth proposals were strongly opposed by the States. As Austin Sellek, one of the negotiators for the Commonwealth put it:

the States made it clear that there was a limit on the extent to which they were prepared to accept direction from the Australian Government in relation to housing matters. Most argued strongly against restrictions on the sale of dwellings, strict eligibility tests and a uniform rental and rebate system. All flatly refused to accept Australian Government direction on technical and environmental matters such as the size of flat blocks, densities, plot ratios and so on (Sellek 1975:241).

This opposition from the States was not on party political lines as one of the strongest opponents of the original Commonwealth proposals for the 1973 was South Australia, one of the ALP governed States. As Don Dunstan, then Premier of South Australia explained:

The Commonwealth decided that it must increase money for housing but ensure that it went into housing for the most needy in the community. The three Eastern States had an unsatisfactory record for housing the poor, and building as little as they did, still put a substantial proportion of their funds to other than welfare housing. We on the other hand, did very much better, not only in proportion but actual numbers, for welfare housing, but had taken money to provide for houses for workman-artisans in industry, as a public service, better than they could obtain from private “spec” building and finance. It was therefore a feature of South Australian society that a workman usually looked to the Government for a house to rent or buy.

The Whitlam Government, with a majority bulging from the metropolitan areas of Melbourne and Sydney, determined to force those State Governments into building

many more welfare houses, and decided that a condition of Commonwealth finance for housing was that recipients be on a means test which excluded anyone with an income well below average weekly earnings of a skilled artisan. This of course might accomplish their objective in the East, but completely wreck the long established and fair housing program in the Labor-governed States. I presided over a meeting of Housing Ministers in Adelaide where all this was made plain, and the Federal Minister was immediately under bitter attack from all State Ministers, but particularly his Labour colleagues. It took a great deal of tact and persuasion on my part to stop an enormous public blow-up there and then, and we had to fight constantly to reverse this nonsense over the next two years (Dunstan 1981:224).

Despite the opposition from the States the 1973 CSHA did introduce changes, although they were not as radical as the Commonwealth wished. Eligibility limits were introduced for both rental and home purchase. For rental housing, and housing built for sale on terms by the States, the limits were an income of not more than 85% of Average Weekly Earnings (AWE) for families; no more than 60% of for an aged or invalid couple and 40% for a single aged or invalid pensioner. For loans for home purchase the limit was 95% of AWE. Between 20% and 30% of Commonwealth funds had to be used for loans for home purchasers. No more than 30% of family dwellings constructed under the 1973 CSHA could be sold, however dwellings constructed under earlier Agreements could be sold without limit.<sup>1</sup> This was a compromise, the proposals for uniform rents and rental rebate systems and Commonwealth involvement in standards were dropped, and the restrictions on eligibility and sales were less severe than proposed by the Commonwealth. Nor was the agreement only for rental housing. Thus the Commonwealth did not achieve its objectives of influencing rents charged or the standards of State provision and only partially achieved, in the terms of the Agreement, the aim of directing assistance to low income renters. The States were still not happy with this outcome, for example the Queensland Housing Commission commented in 1976 that:

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<sup>1</sup> There was no mention of sale of non-family dwellings constructed under the 1973 Agreement. In 1974 the CSHA was amended to allow States to sell more than 30% of 1973 CSHA (family) dwellings with Commonwealth approval.

Most States have argued since 1972 that it (the CSHA) reflects too much of Commonwealth thinking and too little of States views (QHC 1976:4).

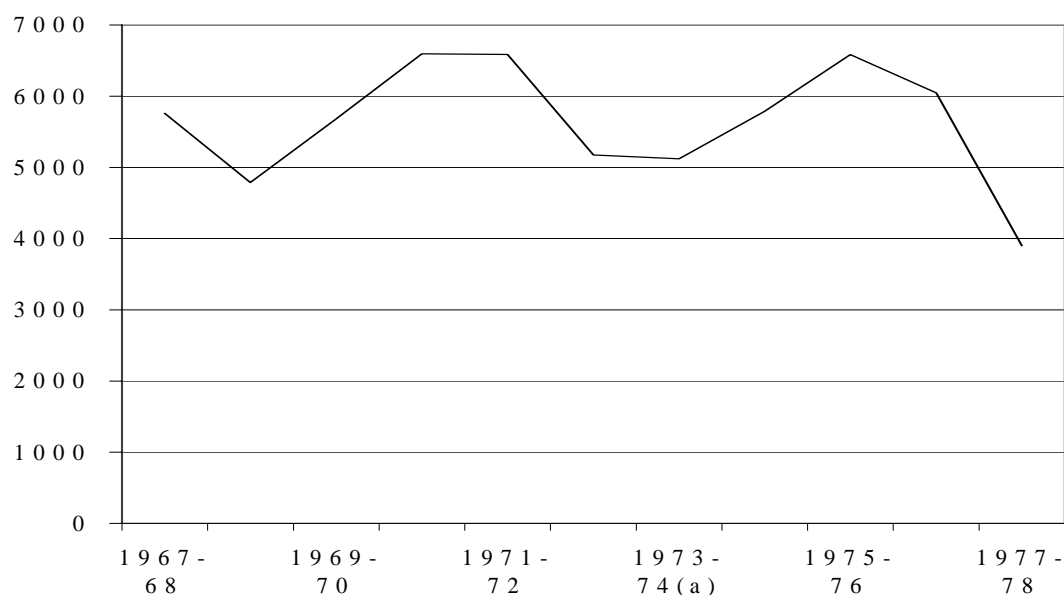
Thus the 1973 changes that did come in were against the wishes of the States. One reason the States accepted the changes was that the financial inducements for the States included in the Agreement increased Commonwealth funding and an increased level of concession on the interest rate charged by the Commonwealth on CSHA advances. As the Tasmanian Housing Department stated:

The Federal Government insisted on these terms, because of the need to provide rental housing to the low income sector of the Australian community. Although not precisely fitting the situation in Tasmania, the conditions of the new arrangements are acceptable, because of the promise of increased funds allocations and the low, fixed rate of interest. It was the latter condition that all States fought for unsuccessfully when the previous arrangements were being negotiated with the then Federal Government (Housing Department Tasmania 1973:3).

However it is very doubtful that the changes caused States to vary their provision in any marked way. In particular the changes in the 1973 CSHA did not produce changes in State actions sufficient to meet the Commonwealth's objective of redirecting assistance to low income renters. Most notably assistance was not directed away from home ownership towards rental housing. Sales of dwellings continued at high levels, despite the restrictions on sales included in the 1973 CSHA. Those restrictions applied only to dwellings constructed under the 1973 CSHA, and States increased sales of dwellings constructed under earlier Agreements (Carter 1980:19).

Figure 5.1 below shows the sales of dwellings during the life of the 1973 CSHA and in the previous five years.

**Figure 5.1 Number of CSHA Dwellings Sold , Australia, 1967-68 to 1977-78**



**Source:** Commonwealth of Australia Yearbooks

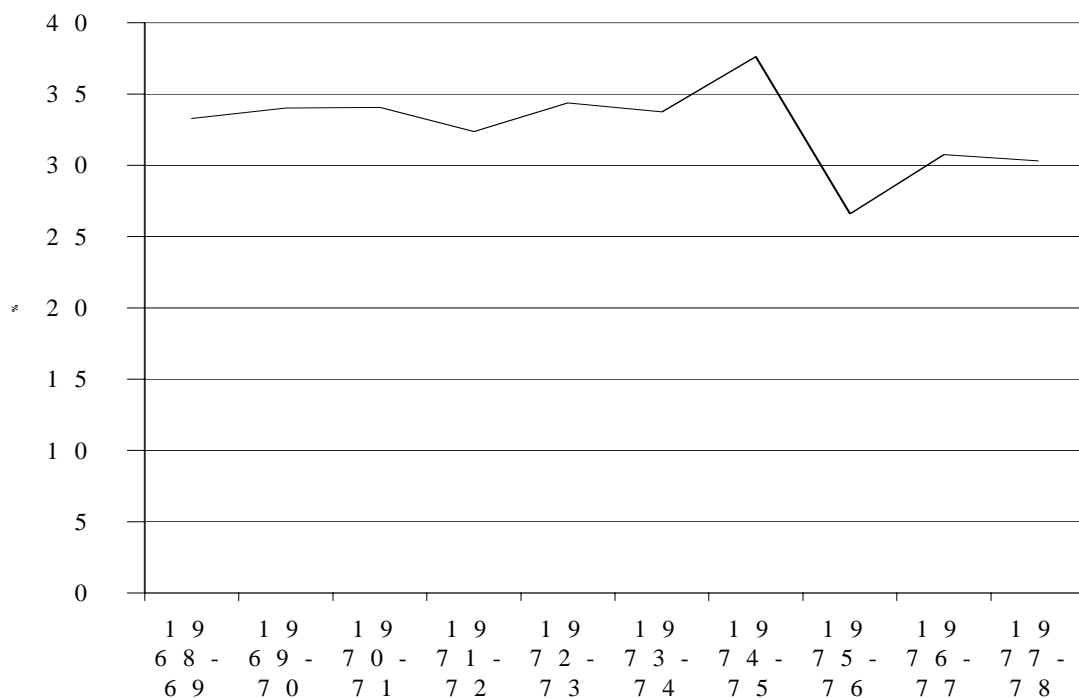
(a) Data for 1973-74 is from unpublished Department of Housing tables and may not be consistent with other years.

As the figure shows, sales fluctuated around the same levels as in previous years except for a decline in sales in the final year of the 1973 Agreement. This decline can be attributed to State action rather than the provisions of the 1973 CSHA. Three States, New South Wales and Tasmania changed the financial conditions on which dwellings were sold and New South Wales also placed restrictions on which dwellings could be sold (DHCT 1977:21; HCNSW 1977:4; SHCWA 1977:7).

Another aspect of the attempt by the Whitlam government to redirect assistance to rental housing were restrictions on the amount of funds States could use for loans. The 1973 CSHA required between 20% and 30% of Commonwealth advances be spent on home purchase loans compared with the previous requirement that a minimum of 30% be spent on these loans. As four of the six States had not exceeded

the 30% minimum, this requirement did not require marked change. The following graph shows the percentage of funds allocated to home purchase loans for the years 1968-69 -70 to 1977-78, thus covering the five years prior to the 1973 CSHA being introduced as well as the five years of the 1973 CSHA. As can be seen from 1975-76 onwards there was a slight reduction in the proportion allocated to home ownership loans, compared with the period before the introduction of the 1973 Agreement. That there was no reduction in 1973-74 reflects that clause 9 (30) of the 1973 CSHA allowed those States allocating more than 30% to the loans prior to 1973-74 to allocate more than 30% with the Commonwealth Ministers approval. The increase for 1974-75 is the result of an amendment which allowed more than 30% to be allocated for 1974-75 only and was explained as being the result of exceptional circumstances applying for that year only (Johnson 1974:3042).

**Figure 5.2 Proportion of CSHA Funds Allocated to Home Ownership, Australia, 1968-69 to 1977-78**



**Source:** Commonwealth of Australia Yearbooks

When the funds used for home purchase are considered together with the sales of dwellings it is clear that the Commonwealth's objective of redirecting assistance to rental housing was not achieved except to a very small extent. Thus the concessions achieved by the States during the negotiations for the 1973 CSHA relating to the sale of dwellings and allocation of funds for loans for home purchasers resulted in the Commonwealth achieving only very partially its main objective for the 1973 Agreement. This occurred despite the increased financial leverage the Commonwealth had in 1973 compared with earlier arrangements

### **THE 1978 CSHA**

The Fraser Commonwealth government, which came to power in November 1975, allowed the 1973 CSHA to run until its expiry date of June 1978. They had had two main objectives for the 1978 CSHA: to separate subsidies from capital funding for housing and to limit subsidies to those in need.

The initial Commonwealth proposals for the 1978 CSHA show the aim of separating subsidies from the provision of capital funds for housing. The Commonwealth proposed that funds advanced for housing be at non-concessional interest rates with subsidies to be provided in a form to be decided later. The Commonwealth intended that, for rental operations, the subsidy be rental subsidies linked to the rebates while for home ownership, the subsidy be linked to the gap between the interest rate charged by the Commonwealth to the State and the interest rate the borrower could afford to pay (Harris 1978:9-10).

These proposed changes reflected the recommendations of two Inquiries held in the 1970s, the Commission of Inquiry into Poverty and the Priorities Review Staff's Report on Housing. The Commission of Inquiry into recommended that instead of the existing practice of public housing being let at low rent levels, rents should be at market levels with income supplements paid to low income households who would be given the choice to rent or buy (Henderson 1975:165). The Priorities Review Staff came to similar conclusions. They recommended that market rents be charged for public rental housing and either means tested rebates or a system of means tested vouchers which could be used to buy or rent dwellings (PRS 1975:62).

The announcement in the 1976-77 Budget of the Housing Allowance Voucher Experiment (later called the Housing Allowance Experiment) shows the intention of the Fraser government to pursue approaches similar to that recommended by the Poverty Inquiry and the Priorities Review Staff. The Experiment aimed to evaluate the role which housing allowances might play in assisting low income households to obtain reasonable accommodation which they can afford (EHCD 1978: 1-2). When announcing the experiment the Treasurer commented:

It takes into account the view of the Commission of Inquiry into Poverty that the first principle in the provision of assistance to low income people is that assistance must be linked to the person and not the house (Lynch 1976).

However in June 1978, just before the first payments were to be made, the Commonwealth Government announced that the experiment would not proceed, citing cost as the reason (Toohey 1978).



The States rejected the Commonwealth proposals to change the financing arrangements for the CSHA to separate subsidies from the provision of capital funds and sought a continuation of subsidies provided by way of interest concession on funds advanced. They argued that if non-concessional funds were used, no housing could be made available at affordable rents without rebates for any persons likely to be eligible for public housing (SAHT 1977:5). The 1978 CSHA continued the previous financial arrangements. Although by the time the 1978 CSHA was introduced the Commonwealth had terminated the housing allowance experiment, this only occurred after the 1978 CSHA had been finalised.<sup>2</sup> Thus opposition from the States was a major factor in the Commonwealth not achieving the separation of subsidies from the provision of capital funds for housing. Also it is probable that, despite the cessation of the Housing Allowance Experiment, the Commonwealth still would have preferred different financial arrangements for the CSHA. Other options for the delivery of subsidies separately, apart from allowances, had been recommended by the Priorities Review Staff report.

The Commonwealth's other aim for the 1978 CSHA, that of limiting subsidies to those in need, is shown by the statement of principles included in the Agreement, which included:

(a) housing assistance will

(i) facilitate home ownership for those able to afford it but not able to gain it through the private market;

(ii) provide adequate rental housing for those of the community deemed to be in need of governmental assistance at a price that is within their capacity to pay

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<sup>2</sup> The 1978 CSHA was debated in federal Parliament in May 1978 while, as noted above, the housing allowance experiment was terminated in June 1978.

(iii) provide assistance for home ownership and assistance with rental accommodation in the most efficient way and thus exclude from eligibility those not in need, to minimise continued availability of assistance to those no longer in need and to accord benefits which are designed so that assistance being provided related to the particular family's or individual's current economic and social circumstances (Housing Assistance Act - No 79 of 1978, Recital C).

A number of changes were introduced in the 1978 CSHA which reflected this aim. Rents charged for public housing were to be "market related" (clause 18(1)) with rental rebates for those unable to afford the market related level (clause 18(2)). The interest rates on home loans increased by 0.5% a year (clause 25) and the conditions governing sale of rental dwellings were changed to require that dwellings be sold for cash at market value. Purchasers could use loans, including CSHA loans, to purchase the dwelling, but the rental account had to receive the cash value of the loan (clause 20(2)). This meant that highly concessional loans, subsidised from the rental account, could no longer be made.

The Commonwealth did, in the terms of the Agreement, achieve its objective of limiting assistance to those in need. Indeed some commentators have seen the 1978 CSHA as representing a major shift in the history of the CSHA which was imposed by the Commonwealth on the States (for example Kemeny 1983:5; Troy 1996:2). They focused on the changes to the rental arrangements contained in the 1978 CSHA and saw the Agreement as making public rental housing a residual sector catering almost entirely for those receiving pensions or benefits. This change has been characterised as a move from "public housing" (ie, publicly provided rental housing for all who wished it) to "welfare housing" (housing only provided for those who were unable to look after themselves) (Paris, Williams and Stimson 1985:105-106).

In fact, the rental changes were not opposed by all States, the NSW Labor government had introduced market related rents in November 1976 (HCNSW 1977:4). However some States, for example South Australia, were opposed as the following passage from the debate on the 1978 CSHA in the South Australian Parliament illustrates:

**The Hon. Hugh Hudson (Minister for Housing)**

We are saying that the current rent of \$25 a week is a market-related rent, and we do not have to go substantially further in adjusting rents for the double units.

**Mr Evans**

Is that a subsidised rent?

**The Hon Hugh Hudson**

We say it is a market related rent. It may be 80 or 90 per cent of the rent that the honourable member would charge. We fought to get 'market rent' rent out of the agreement and to get 'market -related' included.

**Mrs Millhouse**

How do you define it?

**The Hon. Hugh Hudson**

That is up to the State Minister. I do not know whether the member for Coles has ever had a shotgun pointed at her. I may discuss this with her afterwards!

However, there are problems in negotiating agreements that arise where there is unequal bargaining power. Our choice was that if we disagreed we got no money at all. To get any money out of the Agreement we had to end up agreeing to something (Hudson 1978:1705-1706).

As well as showing the South Australian governments attitude to market -related rents the above passage makes it clear that South Australia did not intend to change its actions in relation to rents as a result of the 1978 CSHA. This means that the Commonwealth did not dominate the State in this instance. In fact the extent to which

these rent requirements changed actions in any State is not clear and considerable variation in rent setting existed. This is discussed further in chapter 8.

On the other hand the changes to home ownership, and in particular to the sales conditions for dwellings, did produce changes in State actions. South Australia, for example, was forced to cease its “rental purchase” home scheme despite preferring to keep it (SAHT 1979:11).

Another change in the 1978 CSHA was to the allocation of funds between home purchase and rental assistance. The 1978 Agreement required that a minimum of 40% of CSHA advances be spent on home purchase, compared with the 1973 requirement of between 20% and 30% to loans for home purchase. That this change actually required States to spend more on home purchase is not clear. The changes to the provisions for sale of dwellings in 1978 transferred the subsidies on sales from rental housing to home purchase. Thus comparisons between the 1973 and 1978 Agreements are difficult. As there were considerable sales of dwellings under the 1973 CSHA, the comparable level of expenditure on home ownership in terms of the 1978 CSHA will have been greater than that reported. The exact comparison can not be calculated but it is quite possible that in fact more than 40% was going to home ownership prior to the introduction of the 1978 CSHA.<sup>3</sup>

In summary, with the 1978 CSHA the Commonwealth failed to achieve its objective of separating subsidies from the provision of capital for housing, but did achieve

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<sup>3</sup> Under 1973 and earlier agreements dwellings were sold on concessional terms. The cost to the rental account would vary between States and between dwellings depending on how long the dwelling had been tenanted by the purchaser.

provisions to limit subsidies to those in need. However, while in the areas of home ownership and sales of dwellings the changes did alter States' actions, this is less clear for the rent provisions, as a result of uneven implementation. Thus the Commonwealth did not dominate the States with this Agreement.

## **THE 1981 CSHA**

The 1978 CSHA was allowed to run the full three years of its term and expired on 30 June 1981. It was replaced by the 1981 Agreement which commenced on 1 July 1981. The main Commonwealth objective for the 1981 CSHA was to increase its influence over the provision of housing by the States, in particular over the balance between home ownership and rental and in the types of provision undertaken by the States. This is shown by the Commonwealth's initial proposals for the Agreement. These included separate agreements for rental and home purchase. There was also a proposal that \$30 million be reserved for "innovative approaches" to rental housing, such as leasing of dwellings, joint ventures with the private sector and community housing. Separate agreements for rental and home purchase would have enabled the Commonwealth instead of the States to determine the priorities between rental and home purchase (HCNSW 1980:4).

The States strongly opposed the proposals for separate rental and home ownership agreements and innovative grants on the grounds of restriction of State autonomy as the following comments by the New South Wales Housing Commission show:

The insistence on the diversion of funds to new approaches to welfare housing suggests a sorry ignorance at the Federal level of the state of the private rental and

property markets in New South Wales which at present makes all the alternatives studied by the Housing Commission less attractive in terms of cost than the traditional forms of public housing provided in this State....

Under the terms of the proposed new Agreement the Commonwealth could, if it wished:

- (i) ignore a State's knowledge and opinions and direct unlimited proportions of available funds into areas of need as perceived by them
- (ii) impose increasingly onerous conditions on the States to use their own funds for housing purposes specified by the Commonwealth (HCNSW 1980:4).

As a result of this opposition the Commonwealth dropped the proposals for separate agreements and innovative grants. States become free to allocate funds between home purchase and rental assistance as they preferred.

The strong opposition by the States to the Commonwealth proposals was in part the result of changes introduced by the Commonwealth during the life of the 1978 Agreement. These changes were incorporated into the 1981 CSHA. In the 1979-80 budget the Commonwealth used the provisions of part three of the 1978 Housing Assistance Act to " earmark " funds for Aboriginals and those eligible for rental housing under the CSHA (Howard 1979:50,51). Part three of the Act, which was technically separate from the Agreement, allowed the Commonwealth to provide grant funds for rental housing for specified classes of persons. In the first year of the 1978 CSHA it was used to provide funds for pensioners only. These funds replaced those provided previously under the States Grants (Dwelling for Pensioners) Act. The extension of earmarking in 1979-80 gave the Commonwealth greater control over the groups who received assistance, and also had the effect of increasing the proportion of funds allocated for rental housing. This use of the provisions was opposed by the States (HCNSW 1980:4).

However, as noted above the 1981 Agreement gave the choice on the balance between home purchase and rental back to the States. The 1981 Agreement did continue to allow the Commonwealth to “earmark” grants for particular groups, however this was only used for pensioners and Aboriginals (DHC 1985:25-26). Thus the result of the use of the “earmarking” provisions by the Commonwealth was to require the provision of funds for Aboriginal housing (funds for pensioner housing had been required since 1969), but otherwise not to increase Commonwealth influence over State provision. The effectiveness of the earmarking provisions for pensioners and Aboriginals are discussed in chapter 8.

Another change in the 1981 Agreement was the incorporation of requirements for States to match Commonwealth funding into the Agreement. Prior to 1978 there were no such requirements. These were introduced in the 1978-79 Commonwealth budget although there was no mention of matching in the 1978 Agreement, which had been concluded a few months earlier. The Commonwealth saw matching as recognising:

the cooperative approach of the welfare housing arrangements between the Commonwealth and the States (McVeigh 1981:2440).

The States however opposed the introduction of matching arrangements (for example HCNSW, 1983:7).

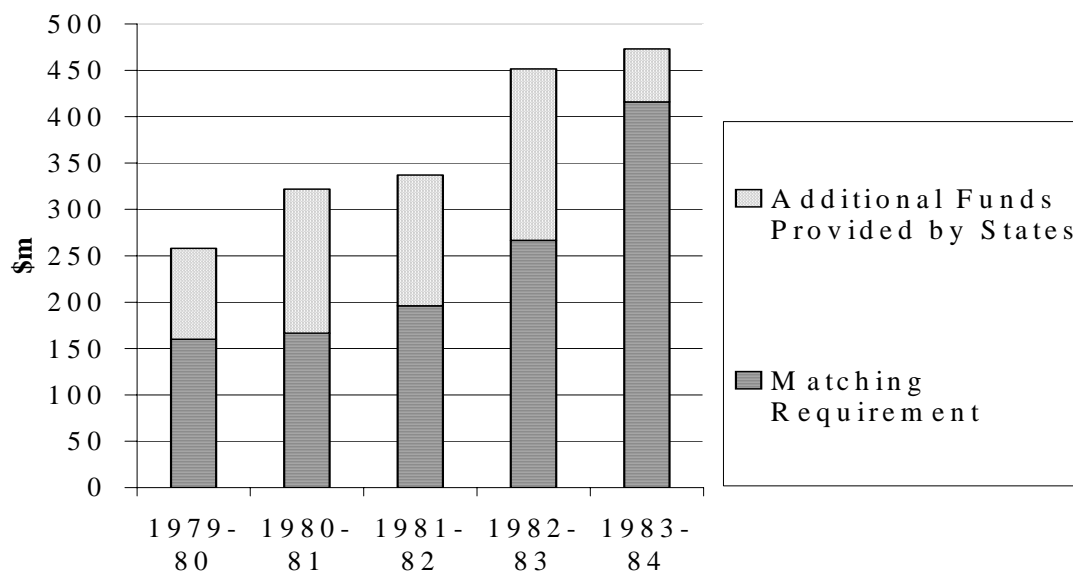
As the matching requirements were introduced at a time of reducing Commonwealth funds for the CSHA they could be seen as replacing Commonwealth funds with State funds. However whether the matching requirements did, in fact, increase the total

amount of funds is not clear. In 1978-79 the States received \$200 million as base funding and a further \$130 million was available provided the States matched this amount on a \$1 for \$1 basis. However they were able to count towards matching funds spent on housing programs other than the CSHA (DHC 1980:5). This makes it difficult to judge the extent to which any additional funds were applied to housing, as the States would have allocated at least some funds to other programs without the introduction of the matching requirements.

In 1979-80 the matching requirements were altered. States were required to match the entire amount of advances provided under the CSHA, but not the grant funds under part three of the Housing Assistance Act. The States could no longer count funds applied to housing programs outside the CSHA, but were allowed to count surpluses from the Home Purchase Account and the Rental Housing Account for matching purposes. These surpluses resulted from repayments of loans in the case of Home Purchase Assistance and from any profit on rental operations and the sales of dwellings and land in the case of rental housing. Under the 1978 and 1981 CSAs these funds had to be re-applied to the CSHA irrespective of the requirement for matching, so such funds were not additional funds. Such surpluses accounted for the majority, but not all, of the States matching requirements for the years 1979-80 to 1983-84. However, in each of these years, the States allocated to the CSHA funds in excess of their matching requirements, as figure 5.3 shows.



**Figure 5.3 CSHA Matching Requirements and Funds Provided, Australia , 1981-82 to 1983-84**



**Source:** Housing Assistance Act Annual Reports, various years.

That the States more than met their matching requirements indicates that these funds would have been provided by the States without the matching requirement. Thus this change, although imposed by the Commonwealth and opposed by the States, does not appear to have changed State actions.

In summary, with the 1981 CSHA the Commonwealth largely failed to achieve its main objective of increasing influence over State actions. The only long term result which altered State actions was to require funds for Aboriginal housing, and this had occurred with Commonwealth action during the course of the 1978 CSHA. It was however formally incorporated into the 1981 CSHA.

## **THE 1984 CSHA**

The 1984 Commonwealth State Housing Agreement was introduced following the election in March 1983 of the Hawke ALP government. The new government replaced the 1981 CSHA with the 1984 Agreement and terminated the 1981 CSHA two years before it was due to expire. The government had two main aims for the new CSHA, to move the provision of public housing towards a “public housing” rather than a “welfare housing” model and to increase the Commonwealth’s control of States provision under the Agreement.

While in opposition the Labor Party developed a program for public housing that essentially intended to implement a public housing approach. The aim was to expand and upgrade the provision of public housing in order to make it a tenure of choice, open to all who desired it. A key policy to achieve the public housing approach was the replacement of the provisions requiring rents to be set at market rates (with rebates for low income earners) with rents based on the cost of provision (Uren 1982:2). The question of the rents to be charged in public housing was a major symbol of the difference between a public housing and a welfare housing approach (Paris, Williams and Stimson 1985:105-106). Other policies in Labor’s proposals had the aim of increasing the Commonwealth’s control over States provision of housing. Specific policies included: specifying the amount of funds to be used for rental and home purchase assistance; specific allocations for new public housing construction and for the purchase of dwellings for public housing; and the earmarking of specific amounts of funds for community housing, local government and the upgrading of community amenities in public housing estates (Uren 1982).

The 1984 CSHA differed in a number of respects from the proposals developed by the ALP in opposition. The objective of gaining greater Commonwealth direction over the provision of housing by the States was only partially achieved. The proposals to have separate allocations for home purchase and rental, and for construction and purchase of rental housing, did not proceed. Nor was the specific allocation of funds to provide funds for community amenities on public housing estates implemented. These changes were at least in part, the result of opposition from the States to tighter Commonwealth control. This can be seen in the following statements to the Queensland Parliament by Sir William Knox, who was supporting the (Queensland) governments negotiations for the 1984 CSHA:

That is why I am congratulating the Minister and his officers. They have looked after Queensland. They have been able to agree on a uniform approach throughout the nation without the loss of autonomy or the right to determine the destiny of the funds within the limits of government policy..... This was a particularly difficult agreement and required an enormous amount of time of the Minister and his officers. It is not a Commonwealth act; it is a Commonwealth and State agreement. After an enormous amount of negotiating agreement has been reached.

When the new agreement was first mooted, there was diverse opinion throughout the nation as to what should be done and what policies should be adopted. In a previous debate, I mentioned that some people are anxious to socialise the housing industry in Australia, to make all housing public housing..... I am pleased that the Queensland Government has stood out against these moves, even though some other governments have not done so (Knox 1985:3808).

An additional factor may have been that the shadow Minister responsible for developing the proposals, Tom Uren, did not become the Minister responsible for housing in the Hawke government.

Specific funds were provided for community housing and local government housing, although these were combined (with a lower amount of funding than proposed) as the

Local Government and Community Housing Program (LGCHP). Specific funds were also provided for crisis accommodation (CAP) and mortgage and rent relief schemes (MRRS). The MRRS had been introduced outside the CSHA in 1982-83 and CAP incorporated the Crisis Accommodation for Families in Distress Program which was introduced outside the CSHA in 1981-82. LGCHP, CAP and MRRS did increase the specific types of provision they were aimed at compared with previous State provision, and, as was noted above, their introduction was opposed by some States. Thus, with the 1984 CSHA the Commonwealth did in part, but only in part, achieve its aim of increasing control over States' provision.

The Commonwealth's objective of altering the rent setting procedures to reflect a public housing approach was not achieved. The 1984 CSHA did introduce a rent formula based on the cost of provision. However the Agreement required that States charge rents that were not less than that which would result from the application of the formula. Thus States could charge rents on a basis other than the cost rent formula, provided the result was rents higher than cost rents. Queensland, for example, continued with the rent setting system they had introduced in 1982 that charged rents as a proportion of income for all tenants without an upper limit. This could result in rents higher than either cost or market rents. Queensland described this rent setting arrangement as "...a final step to a 'true' welfare housing role"(QHC 1983:5). This shows that the Commonwealth failed to move Queensland to a public housing model. Tasmania introduce a similar rent charging scheme to that of Queensland in 1988-89 (DCSH 1990:59,65). Andrew Parkin, in a number of articles, has argued that the rent setting provisions of the 1984 agreement did not particularly restrain the States in their setting of rents (Parkin 1988;1991; 1992).This view can

also be seen in the following passage from the debate in the Western Australian Parliament on the 1984 CSHA:

**Mr Mackinnon (opposition)**

Finally I ask the Minister to address the clause relating to the cost-rent formula. It seems to me that formula means that the State can do virtually what it wants to do.

**Mr Wilson (Minister for Housing)**

That is right, we made sure it was written that way (Wilson 1984:4575).

In summary, with the 1984 CSHA the Commonwealth did partially achieve, against opposition from some States, its goal of increasing control over State provision. However the aim of forcing States to charge a rent that reflected public housing principles was not achieved.

## **THE 1989 CSHA**

The 1989 CSHA was introduced following a “National Review of Housing Policy” held in 1988 (DCSH 1988). As a result of the review the 1984 Agreement was terminated prior to its expiry date of 30 June 1994 and replaced, even though there was no change in government.

The main objectives of the Commonwealth government in introducing a new Agreement were, first, to prevent a decline in the rate of expansion of the public housing stock and, second to increase its ability to achieve specific priorities and objectives through the agreement.

In relation to the first the Commonwealth was concerned that borrowings for housing by some States at commercial interest rates would result, in the future, in a decline in the funds available to expand the public rental stock (Staples 1989:2278-2281).

In relation to the second, the Commonwealth minister responsible for housing, Peter Staples, in his second reading speech for the 1989 CSHA, commented:

In the past States have been able to use general agreement funds without any reference to specific Commonwealth priorities or objectives. A new system of priority setting will be implemented under the Agreement through the establishment of a joint Commonwealth State planning process.

It is envisaged that the development of Commonwealth State plans will ensure that (the needs of) all groups, including youth, people with disabilities, Aboriginals and the Aged are met under public housing (Staples 1989:2280).

The first objective was addressed through changes to the financial arrangements for the CSHA. First, all Commonwealth CSHA funds were to be grants. While this had been the practice since 1984-85, in theory under the 1984 CSHA some loans could have been provided. Second, the ability of the States to nominate loans for housing under the CSHA from their Loan Council allocation was withdrawn; however the States received the equivalent amount in the CSHA allocation. Third, matching requirements were changed so that States could no longer use loans as funds to match their CSHA grants. Half of the States matching requirements had to be met with grants. The other half could be met with the value of Home Purchase Assistance loans paid (funds for which could come from the private sector or repayments of past loans) Grant matching funds had to be used for rental housing. These new matching arrangements were phased in over the first four years of the 1989 CSHA. Finally States were allowed to use Commonwealth CSHA grants for repayment of past

Commonwealth CSHA loans. This effectively converted past loans to grants, and recognised that if States could not afford to repay new loans, they also could not afford to repay old ones. Overall the financial changes were welcomed by the States, for example the South Australian Housing Trust commented:

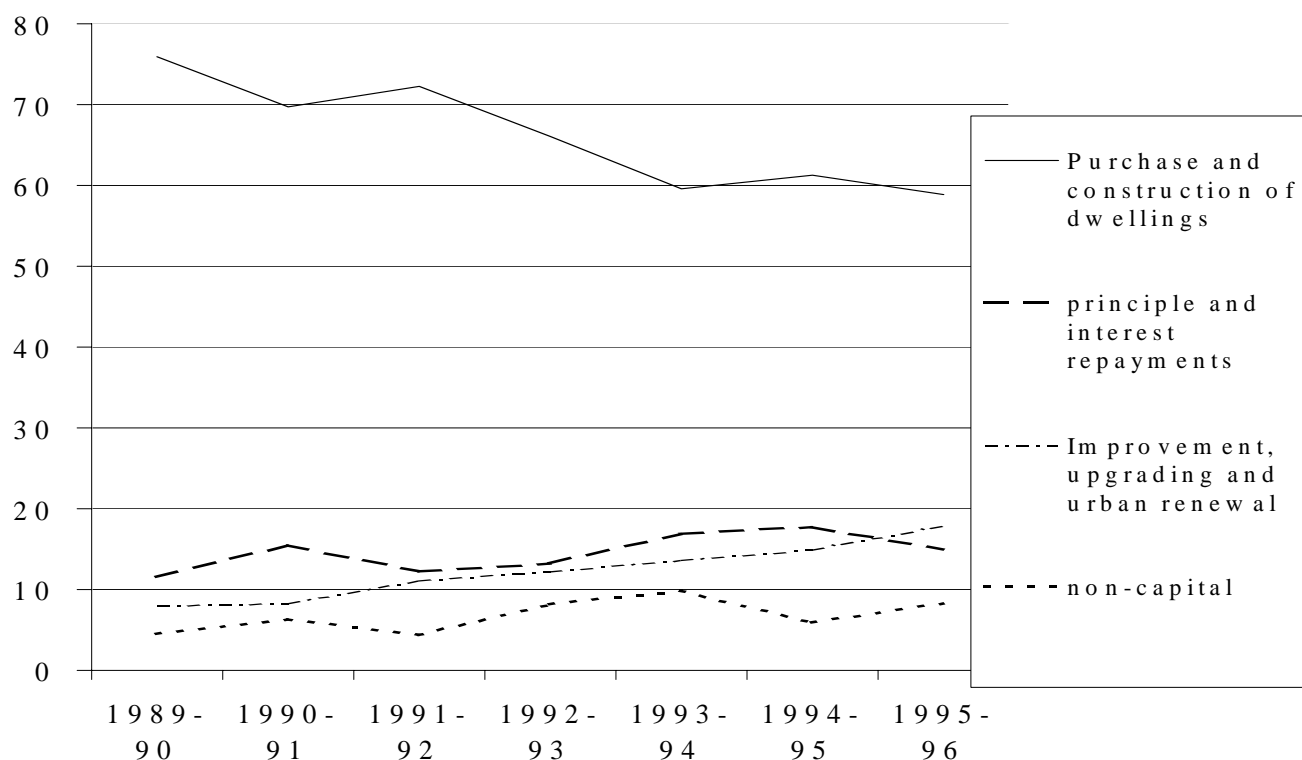
There are a number of valuable new features of the new Agreement including recognition that tenants of public housing cannot afford to pay market interest rates on the capital used to provide such accommodation. This is reflected in a welcome move to grant only funding (SAHT 1990:3).

The Agreement also introduced new restrictions on how the States could spend Commonwealth funds. However, as happened in negotiations for earlier CSHAs, the Commonwealth was forced to make some concessions to the States during the negotiations. The final arrangements differed from the recommendations of the Commonwealth's National Housing Policy Review that preceded the 1989 Agreement. The Review recommended that at least 90% of funds should be used for a rental capital account to expand the stock of public rental housing (DCSH 1988:100-101). Following negotiations with the States the amount that had to be used for the rental capital account was reduced to 80%, or 75% with Commonwealth permission. Another change from the recommendations of the review was that renovations to and renewal of existing public housing were, in the 1989 CSHA, allowed to be funded from the rental capital account. The Review had recommended that these be funded outside of the rental capital account (DCSH 1988:101).

The restrictions on State spending introduced in the Agreement appear to have made very little difference to States actions as during each year of the 1989 CSHA the States spent well under the permitted 20% of funds on non-capital purposes. That they

were not close to the limit suggests that the expenditure on capital purposes (including principle and interest repayments and improvements/upgradings and urban renewal) would have taken place in any event.

**Figure 5.4. Expenditure of Rental Capital Account by Purpose, Australia, 1989-90 to 1995-96**



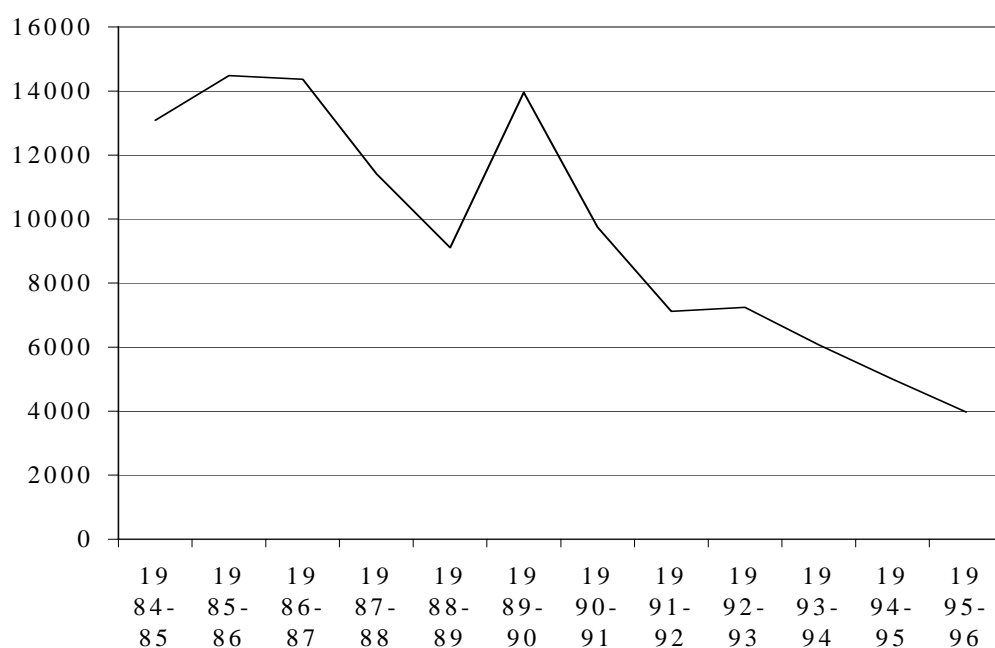
Source: Housing Assistance Act Annual reports

However the changes to matching arrangements did result in changes to States' actions. Prior to the introduction of the 1989 CSHA around 30% of States' matching funds were loan funds. These were ineligible under the 1989 CSHA. Only 18.5% of matching funds were grants prior to 1989, the 1989 CSHA required these to be 50% (DCSH 1988:90).

The objective of preventing a decline in the rate of additions to the rental stock was not achieved, as the following graph illustrates.



**Figure 5.5 Net Additions to CSHA Rental Stock, Australia, 1984-85 to 1995-96**



**Source:** Housing Assistance Act Annual Reports, various years.

The concessions gained by the States during the negotiations for the 1989 CSHA contributed to the failure to achieve this objective, but other factors were also important. The Commonwealth Department of Social Security identified the increased use of CSHA funds to cover losses on rental operations, and the increased expenditure on improvement and upgrading of dwellings, as the major reasons for the decline in stock additions (DSS 1996:14). The 1989 Agreement allowed the States to spend funds on repayments of Commonwealth loans up to the amount of rental losses. This had been a recommendation of the National Housing Policy Review so this factor was not a result of the concessions achieved by the States during the CSHA negotiations. However, as noted above, using rental funds for upgrading of dwellings was a concession obtained by the States. Thus, to the extent that these increased funds

reduced the capacity to expand the stock, the concessions during the negotiations did contribute to the failure to achieve the objective of preventing a decline in the rate of addition to stock. Roughly similar amounts were spent on these two purposes identified by the Department of Social Security with in most years slightly more on repayments of loans as is shown in figure 5.4 above.

The other concession obtained during negotiations, that of the amount of funds that could be spent on other than capital purposes, appears to have had no affect on the use of funds for capital purposes, as less than the Review recommended amount (10%) was in fact used in other ways (figure 5.4).

The second objective, increasing Commonwealth control over provision, was to be achieved through the introduction of a system of State plans, agreed between the Commonwealth minister, and individual State ministers. These plans were to include:

- (a) an assessment of housing need
- (b) an assessment both of the resources available to provide programs of assistance and of the assistance resulting from those programs....
- (c) allocation priorities and targets.....
- (d) program delivery priorities and targets (1989 CSHA 28(2)).

There was little apparent opposition from the States to this planning process; for example the New South Wales Housing Minister commented, in relation to the 1989 CSHA:

This Government was able to negotiate a fair amount of flexibility in the Commonwealth State Housing Agreement (Schipp 1990:9170-71).

This quote shows a lack of concern about the planning processes introduced in the 1989 Agreement restricting State actions. Whether the planning processes were effective from the Commonwealth's point of view in achieving the objective of increasing control over State provision is not clear. This is discussed in chapter 7.

In summary, with the 1989 CSHA the Commonwealth was forced, in the negotiations, to make compromises on its proposals aimed at preventing a decline in the rate of additions to the rental stock. These compromises in part, although only in part, contributed to the failure to achieve that objective. The Commonwealth did achieve its objective of introducing a planning process. However as strong State opposition was not present, this can not be regarded as domination, and it is not clear that these processes did in fact force major changes on State actions.

## **THE 1996 CSHA**

The 1996 Commonwealth State Housing Agreement came about as a result of the Council of Australian Governments (COAG)'s decision to examine areas of joint Commonwealth-State responsibility across a wide range of areas. COAG was established on 11 May 1992 by the Commonwealth and the States to provide a formal mechanism for regular Heads of Government meetings similar to the Special Premier's Conference held in October 1990. COAG has a wide ranging charter of consultation on matters of mutual interest between governments with a focus on achieving micro-economic reform (Edwards and Henderson 1995:22). The desire to operate cooperatively led to areas of State concern, such as simplifying

Commonwealth-State relations being considered alongside the Commonwealth's economic reforms (Painter 1995:7).

Three broad Commonwealth objectives can be identified during the consideration of housing that came out of the COAG. The first was to simplify Commonwealth-State arrangements by increasing the flexibility of States and Territories in delivering housing assistance and to increase the accountability of governments by enabling the results of joint arrangements to be monitored. The second was to increase Commonwealth control over State and Territory provision. The third was to radically reform the provision of housing assistance so that the Commonwealth ceased providing funding to the States for public housing and instead provide rental subsidies for both public and private tenants on low incomes.

Only the first was openly pursued during negotiation for the 1996 CSHA. The second can be seen from some of the changes introduced with the 1996 CSHA and the third was pursued through COAG separately to the 1996 CSHA. It is considered here as it occurred at the same time as the negotiations and implementation of the 1996 CSHA and like that agreement, arose from the COAG considerations of housing.

### **Simplifying Commonwealth State Relationships**

In February 1994 COAG asked Commonwealth and State ministers to report on housing policy reforms that would clarify the roles and responsibilities of the Commonwealth and the States in relation to housing and address the issues identified in the Industry Commission Report on Public Housing. The Industry Commission had

reported in 1993. In April 1995 the Council consider the ministers report and set out the following principles for housing assistance:

1. Clearer delineation of Commonwealth and State/Territory roles and responsibilities, with the Commonwealth taking primary responsibility for income support and the States and Territories for public housing support and management
2. National needs assessment, ie the level of assistance required to be assessed on a consistent basis across all States and Territories
3. Outcomes-based arrangements to be implemented; ie instead of specifying inputs such as the purposes on which funds could be spent the assistance to be provided, for example the number of dwellings, would be specified.
4. Consumer rights and responsibilities to be defined and implemented, for example the right to continue to receive assistance provided the rent was paid would be spelled out (COAG 1995).

COAG decided that, in the short term, progress towards reforming housing assistance would be achieved through the re-negotiation in 1995 of the Commonwealth State Housing Agreement. The aim of the new Agreement was to simplify Commonwealth State arrangements by increasing the flexibility of States and Territories in delivering housing assistance and to increase the accountability of governments by enabling the results of the Agreement to be monitored. This can be seen from the words of the Commonwealth minister when introducing the enabling legislation for the 1996 Agreement:

The intention of the new CSHA is to enable the States and Territories to get on with the job of delivering quality housing programs and to enable the Commonwealth to clearly monitor performance (Ruddock 1996:617).

This then was the Commonwealth's key aim for the 1996 CSHA. Such an approach was also a key aim of the COAG deliberations on Commonwealth-State relations

across all areas. A Bill to give legislative force to the 1996 CSHA was introduced to the Commonwealth Parliament towards the end of 1995, but lapsed as it was not passed before Parliament was prorogued for the 1996 election. The newly elected Howard Government introduced another Bill after the election. The new Bill was substantially the same as the lapsed Bill. The 1989 CSHA was terminated and the 1996 Agreement took effect from 1 July 1996.

In order to achieve the aim of simplifying arrangements and focussing on outputs rather than inputs, many of the Commonwealth controls over State expenditure and activities that had been contained in earlier CSHAs were removed. These included the requirement that a minimum proportion of funds be spent on capital purposes. Also removed were requirements specifying the level of rents and rental rebates (reduced rents charged to tenants unable to pay full rents) to be charged.

Another simplification was that two of the previous “Specific Purpose Programs” were eliminated. The 1984 and 1989 CSHAs had contained five Specific Purpose Programs within the CSHA which provided funds for specific purposes, i.e., crisis accommodation, community housing, mortgage and rent assistance, rental housing for Aboriginals and rental housing for pensioners. These programs were subject to their own guidelines which, in some instances, contained detailed administrative procedures including joint Commonwealth and State or Territory advisory committees and joint approval processes for projects or programs. The Specific Purpose Programs had received criticism for administrative duplication, overlap and for causing delays (The Functional Review of Housing 1991). Those Specific Purpose programs that remained in the 1996 CSHA were simplified by specifying less detailed administrative

measures, for example Commonwealth approval of programs and projects was removed from the Crisis Accommodation Program and the Community Housing Program (FACS 1999:4).

In place of the specific restriction and controls contained in the earlier CSHAs, the 1996 Agreement included a series of performance measures, with monitoring of the results by the Commonwealth. These are discussed in some detail in chapter 8.

The Commonwealth did achieve, in the negotiations for the 1996CSHA its aim of simplifying Commonwealth-State relationships and of introducing procedures for monitoring State performance. Whether the performance monitoring measures proved effective from the Commonwealth's point of view is not clear; this is discussed in chapter 8.

### **Increasing Commonwealth Control Over State and Territory Provision**

The changes to the planning arrangements introduced in the 1996 CSHA shows increasing Commonwealth control over State provision was a Commonwealth objective for the 1996 Agreement. The changes included more emphasis on bi-lateral agreements between the Commonwealth and an individual State or Territory. Such an approach had been recommended by the Industry Commission in its report "Public Housing" (Industry Commission 1993:106). One of the advantages claimed by the Commonwealth Department of Family and Community Services for the 1996 CSHA compared with its predecessors was it increased "the accountability and transparency of State operations" (FACS 1999:4).

Joint Commonwealth-State plans had been introduced in the 1989 CSHA. Changes in 1996 included a new provision to enable the Commonwealth to seek to re-negotiate a plan should there be a significant divergence between the results of assistance and the targets for assistance agreed between the Commonwealth and a single State or Territory (Newman 1996).

The Commonwealth and State plans, which were to be jointly agreed between the Commonwealth and State or Territory minister, were required to set out assessed need; available funds; strategies and targets (FACS 1999:4). This enabled the Commonwealth to be involved to high degree of detail, for example by agreeing dwelling targets for particular client groups.

The introduction of the new planning processes can not be seen as the Commonwealth dominating the States and Territories as the planning processes did not attract strong opposition from the States. State officers interviewed for this project commented that the 1996 CSHA was, overall, considerably less restrictive and more flexible than the 1989 Agreement. The extent to which these planning processes were effective in increasing Commonwealth control may also be questioned. This is examined in chapter 8.

### **Reforming the Provision of Housing Assistance**

At the time of its introduction the 1996 Agreement was overshadowed by debate on further proposed changes to Commonwealth funding for public housing. From 1995



the Council of Australian Governments had been discussing proposals for radical reforms which would have seen the Commonwealth cease providing funding to the States for public housing and instead provide rental subsidies for both public and private tenants on low incomes (COAG 1996:1-2). In part these proposals were directed at reform of Commonwealth-State arrangements. Senator Tambling, the Minister representing the Minister for Social Security, explained that the aim was “a clean, accountable allocation of Commonwealth and State housing responsibilities.” (Tambling 1996:18 ). There were however other reasons for proposing the reforms not related to Commonwealth-State relations. The provision of cash assistance (by the Commonwealth) rather than provision of public housing (through the States) was seen as providing greater equity in the amount of assistance received by public and private tenants and in giving a greater choice for tenants of dwelling type and location (DSS 1996).

The Commonwealth government announced that it was not continuing with the proposed reforms in 1997 and gave opposition by the States as the reason (Newman 1997:3742-43). The Victorian Parliament’s Federal State Relations Committee also saw this as the reason (FSRC 1999:45). Some commentators have seen the Commonwealth losing enthusiasm for the reforms as a result of concern about the cost to the Commonwealth (for example, Badcock, 1999:84). It seems likely however that left to itself the Commonwealth would have introduced radical change of some sort. Thus State and Territory opposition was at least part of the reason why the Commonwealth failed to achieve this objective.

## **Conclusions on the 1996 CSHA**

The Commonwealth did achieve two of its objectives for the 1996 CSHA: the simplification of the CSHA and the introduction of a system of performance monitoring. There was no opposition by the States to these changes. The Commonwealth failed to achieve a third objective, that of reforming the provision of housing assistance, at least partly as a result of State and Territory opposition.

The 1996 CSHA represents a major shift in the arena for Commonwealth attempts to control States provision of housing. Up to 1996 the main avenue used by the Commonwealth to influence State provision was to amend the CSHA to introduce new requirements, such as directing funds for a specific group or purpose or specifying rent levels to be charged. From 1996 the Commonwealth attempted to achieve control over provision through planning processes and performance measures. Thus the negotiation of the Agreement itself became a less important matter.

## **THE 1999 CSHA**

The 1996 Commonwealth State Housing Agreement expired on 30 June 1999 and was replaced by the 1999 CSHA. The main objective for the Commonwealth was to increase the flexibility of the States and Territories to suit provision to their particular needs (Newman 1999). This objective was achieved, however the Commonwealth did not dominate the States during the negotiations as the States were not required to undertake actions they would not otherwise have done.

The increased flexibility for the States and Territories was achieved by requiring bilateral agreements to be developed and signed by the Commonwealth and respective State or Territory Minister. The bi-lateral agreements were an extension of the Commonwealth-State plans required under the 1996 CSHA. They differed from those plans in that, although the agreement specified the content for the bi-lateral agreements, this content could be varied if agreed by the respective ministers. The bi-lateral agreements were subject to the principles and conditions set out in the CSHA, but these are expressed in general terms. For example the principles state:

- 1(1) the principles guiding the Commonwealth and States in the development of this Agreement are:
  - (a) the purpose of funding is to assist those whose needs for appropriate housing cannot be met by the private market. The duration of assistance provided should be based upon those needs;
  - (b) housing assistance arrangements should be sufficiently flexible to reflect the diversity of situations which currently exist in the States and to assist in micro-economic reform;
  - (c) funding arrangements should promote efficiency and cost-effective management, including longer term planning and alternative methods of housing provision;
  - (d) providers of assistance should meet high standards of public accountability and quality, and the costs of assistance should be transparent;
  - (e) housing assistance should be responsive to the needs of consumers, as identified in sub-clause 1(1)(a), and should:
    - (i) provide priority of assistance to those with the highest needs;
    - (ii) be designed to minimise work disincentives”
    - (iii) provide assistance on a non-discriminatory basis; and
    - (iv) give reasonable choice, and meet community standards on consumer rights and responsibilities including consumer participation; and
    - (f) the provision of housing assistance should have regard to:
      - (i) the economic, social and environmental objectives of government ; and
      - (ii) other agreements made between both levels of government (Newman 1999).

These principles can be interpreted so as to allow almost any provision upon which the ministers agree. For example, what are needs for appropriate housing that can not

be met by the private market? Are they merely when housing can not be afforded, or does this cover design or location of housing? Is long term security of tenure regarded as necessary for appropriate housing? If so, as this is not available in the private rental market in Australia, a very large range of people could be regarded as needing assistance. Clause 10(3) does give a definition of “Appropriate Housing”:

“Appropriate Housing” means housing which meets the different needs of different households. This includes housing assistance which is appropriate to household size, household type and to special and cultural needs (Newman 1999).

This does not restrict the ability to interpret the clause.

The other provisions of the Agreement equally do not restrict what Ministers may agree in a bi-lateral Agreement. Perhaps the most restrictive is clause 4 (21) (b) which states:

Subsidies for home purchasers should not exceed subsidies for recipients of rental housing under this Agreement (Newman 1999).

The flexibility of the arrangements was also increased by making the bi-lateral Agreements determine performance measures for a assessing performance, rather than the emphasis being on a common set of measures, as applied in 1996. The Agreement states:

3(1) The Commonwealth and the States agree Bilateral Agreements will be the main instrument for articulating housing assistance outcomes and objectives. Bilateral Agreements will contain an integrated outcomes measurement framework which

- (a) identifies objectives and outcomes, including efficiency, effectiveness and financial outcomes, for the State to achieve during the four years of this Agreement; and
- (b) details how the State will measure performance in achieving the objectives and outcomes (Newman 1999).

The Agreement does however provide that there shall be a core set of nationally consistent indicators and data for benchmarking purposes. This downplays, although does not completely remove, the emphasis on nationally consistent indicators that was a feature of the 1996 CSHA.

From the above it can be seen that the aim of increasing flexibility was achieved with the 1999 CSHA. The introduction of the 1999 CSHA can not be seen as the Commonwealth dominating the States. State officials interviewed for this project indicated that the States had prepared proposals for the 1999 CSHA that were not accepted by the Commonwealth and did not appear in the final agreement. These proposals related to the amount and length of the Commonwealth's financial commitment to the States and a request for the Commonwealth to index funds provided to the States. The States also desired the Commonwealth to make a long term commitment to the provision of public housing. However State officials stated that the 1999 CSHA did not contain any provisions that the States strongly opposed and did not require changes to the States provision of housing assistance to which they objected. Thus using the concept of domination outlined in chapter 3 the Commonwealth did not dominate the States in these negotiations.

The introduction of the 1999 Agreement was very low key compared with earlier agreements. Unlike all earlier Agreements the 1999 CSHA was not debated in the Commonwealth Parliament. The 1996 Housing Assistance Act enables new

Agreements to be introduced as “disallowable instruments” and this was used in 1999. Thus a parliamentary debate only occurs if a motion to disallow is initiated and this did not occur. This low key introduction emphasises that the negotiations on the Agreements themselves are now less important for the achieving of Commonwealth (and State and Territory) objectives for housing than the operation of the planning and other processes within the agreement. The operation of these processes is discussed in chapter 8.

## **CONCLUSIONS**

During the 1973 to 1999 period, using the concept of domination developed in chapter 3, the Commonwealth did not dominate the States and Territories in negotiations for the various CSHAs. With two of the Agreements, 1973 and 1981, the Commonwealth achieved very little in terms of its key objectives. For the others before 1996 the Commonwealth achieved some of its key objectives, but in no Agreement did it fully achieve all of its main objectives.

With the negotiations for the 1996 and 1999 CSHAs the Commonwealth did achieve its objectives, however this was not against State opposition. The 1996 CSHA represents a shift in the history of the CSHA as the negotiations for Agreements became less important for the achievement of Commonwealth and State objectives than the operation of the planning processes and performance measures contained within the Agreements. These are discussed in chapter 8.

When the Agreements after 1973 are compared with those prior to 1973 it is apparent that the Commonwealth was no more successful in achieving its objectives in the latter period than before 1973. This is despite the increased financial leverage over the States and Territories that applied after 1973. Indeed, as was noted in the last chapter, with the 1945 and 1956 Agreements the Commonwealth achieved its key objectives against some State opposition, although in both cases there were other objectives the Commonwealth failed to achieve. In no Agreement since then did the Commonwealth achieve all of its key objectives against State opposition. Thus it appears that the increased financial leverage after 1973 made little difference to the outcomes of negotiations for the CSHA.

The CSHA remained a compromise for all of the period after 1973. As with the earlier period it is apparent that the outcomes of the Agreements would not have been the same if either the Commonwealth or the States and Territories had had sole control. If the Commonwealth had sole control it is likely that radical changes that separated the provision of subsidies to individuals from the provision of housing would have occurred. Also a number of the details of the Agreements would have been different. In 1973 only rental housing would have been provided and this would have been tightly targeted to low income earners. The Commonwealth would have determined the division between rental housing and home purchase assistance (1981 and 1984). In 1984 rents would have been set on the basis of costs without other options. The details of the financial arrangements would have been different in 1989. If the States and Territories had had sole control it is likely that differences would have included less provision of: housing for Aboriginals (from 1979), crisis accommodation (from 1981) mortgage and rent relief; (from 1982) and community housing (from 1984). It

is also likely that the provision governing sales of dwellings would not have been changed in 1984.

In the previous chapter it was suggested that political factors, in particular the expectations the States held of public reactions, could explain why the Commonwealth was able to achieve objectives against State opposition in the 1945 to 1972 period. This was despite the Commonwealth having a relatively low level of financial leverage. In particular political factors were argued as the reason the Commonwealth was able to achieve the provision of public rental housing even in States opposed to it. More generally the same analysis of political factors can explain why the Commonwealth was apparently at least as successful in 1945 and 1956 than subsequently. As was noted in chapter 4, there was a large housing shortage in Australia in the post war period, and considerable public concern as a result. Thus Commonwealth actions directed at overcoming the housing shortage were likely to gain general support. By the early 1960s the housing shortage was officially considerably reduced (Spooner 1961:915). As a result general popular support for housing measures was less assured so objections based on the details of the arrangements more likely to be successful. In chapter 8 the ways in which political factors become involved in Commonwealth offers of funds to the States are explored further.

The Commonwealth State Housing agreement is an example of an area where the Commonwealth became involved in an area constitutionally given to the States in a way justifiable by concurrent principles. This contrasts with the situation for Disability Services where the Commonwealth became involved in an area



constitutionally that of States for reasons consistent with coordinate principles. These were that there were spillovers from areas of Commonwealth responsibility. Commonwealth involvement in disability services and how this affected the Commonwealth's ability to achieve its objectives is discussed in the next two chapters.

## **CHAPTER 6: COMMONWEALTH INVOLVEMENT IN DISABILITY SERVICES PRIOR TO 1991**

### **INTRODUCTION**

This chapter looks at the development of Commonwealth involvement in disability services up until 1990. Prior to 1991 there was no agreement or other joint arrangement between the Commonwealth and the States and Territories covering disability services. Both the Commonwealth and the States and Territories provided disability services separately from each other. This represents an uncoordinated area of joint responsibility. Two main issues are considered in this chapter. The first is the reasons for Commonwealth involvement in the area in the first place; the reasons for subsequent expansion of that involvement; and, why separate provision persisted until 1990. The second is the extent to which the Commonwealth was able to achieve its objectives through uncoordinated separate provision.

Disability services, like housing, is one of the residual powers left to the States by the Australian Constitution. However the Constitution does, as a result of a successful referendum in 1944, allow the Commonwealth to provide medical services, so medical aspects of disability services can be a Commonwealth function. Unlike housing, Commonwealth involvement in disability services commenced on coordinate principles. The process was one of the Commonwealth commencing involvement in areas seen as Commonwealth responsibility and gradually extending the involvement until the Commonwealth became involved across the whole field of disability

services. This raises the issue, noted in chapter 2, as to whether it is in fact possible to adhere to coordinate divisions of responsibility.

The extent to which the Commonwealth is able to achieve its objectives is crucial in considering any arrangement based on coordinate principles so this chapter examines the extent to which separate provision by the Commonwealth enabled or hindered the Commonwealth in achieving its objectives. No further evaluation of the results of the period of separate Commonwealth and State and Territory provision of disability services is attempted in this chapter. In Chapter 10 the results of this separate provision are considered against the advantages and disadvantages of joint arrangements developed in Chapter 2.

Although some discussions or consultations may take place between Commonwealth and State governments on separate programs, these are not necessary before such programs are introduced so no attempt has been made to examine the influence of discussion on the programs introduced.

As was discussed in chapter 1 the examination of disability services is confined to those Commonwealth programs whose successors are currently incorporated into Disability Services Program or subject to the Commonwealth Disability Services Agreement.

This chapter commences with a chronological account of the Commonwealth's involvement in disability services. This is divided into three sections

- (1) Commonwealth Disability Services Prior to 1955, during which the time Commonwealth's involvement was limited to ex-service personnel and persons receiving Commonwealth Social service pensions;
- (2) 1955-1973, when the Commonwealth's involvement expanded beyond those receiving Commonwealth social service pensions, but remained limited to employment related concerns and ex-service personnel; and,
- (3) 1974-1990, when the scope of Commonwealth provision expanded to cover almost the whole field of disability services.

The chapter then considers, across the whole period covered, the reasons behind the expansion of Commonwealth involvement and the persistence of separate provision until 1990. Whether the expansion of Commonwealth involvement was inevitable is then considered. Finally an assessment is made of the success of the Commonwealth in achieving its objectives during the period of separate provision. and a comparison made of this success with the success achieved by the Commonwealth through the joint Commonwealth State Housing Agreement.

## **ORIGINS OF COMMONWEALTH PROGRAMS OF ASSISTANCE FOR DISABILITY SERVICES AND COMMONWEALTH INVOLVEMENT UNTIL 1954**

The Commonwealth's first involvement in disability services was an exercise of a power given by the Constitution to the Commonwealth, namely the defence power. During the First World War the Commonwealth provided rehabilitation assistance for disabled veterans. From 1917 the Repatriation Department provided medical

treatment for incapacitated ex-service personnel whose disabilities were caused by, or aggravated by, war service. A vocational training scheme was also conducted by the Department from 1917 to 1926 (Rowe 1958:464). Thus coordinate reasons were behind the Commonwealth's initial involvement in disability services.

Following the Second World War the Commonwealth increased its involvement in disability services for former service personnel. As well as the provision of assistance under the Repatriation Act for those whose disabilities were caused by war service, assistance was provided for disabled ex-service personnel whose disabilities were not accepted as caused by war service. While this was as still an exercise of the defence power it also shows two reasons for Commonwealth involvement that were later to apply to non-defence related involvement by the Commonwealth in disability services. One is that the Commonwealth became involved as a result of a lack of State action in the area. The other is that the provision of disability services can help people into employment. This can be seen as a spillover reason in terms of the coordinate conception of federalism as discussed in chapter 2; if someone remains out of work as a result of a disability the Commonwealth is liable to pay social security for them. Thus it is in the Commonwealth's interest to assist them back into work.

Under what became known as the "interim scheme" the Department of Social Services provided convalescent care and vocational training for ex-servicemen not incapacitated as a result of active service (Rowe 1958:465;Tipping 1992:10). Legislative Authority for the scheme was given by the Re-establishment and Employment Act of 1945, which dealt with the re-establishment into civilian life of

returning service personnel. Rowe, who had been the head of the rehabilitation services for the Commonwealth, commented that the interim scheme was:

based on two considerations: statistics showed that less than half the men and women discharged from the armed forces as medically unfit were eligible for benefits under the Repatriation Act, and the shortages of civilian facilities for medical and convalescent treatment were such that many ex-service men and women remained unfit for employment after discharge (Rowe 1958:465).

This shows that the desire to return people to employment, and the perceived lack of State provided facilities were the reasons for the Commonwealth's extension of disability services to those not covered by the Repatriation Act.

The first involvement of the Commonwealth in services for the disabled other than ex-service personnel was explicitly in order to reduce the cost to the Commonwealth through the payment of pensions. This occurred in the late 1930s when Commonwealth officers administering the invalid pension scheme decided that it could be cheaper and better for the pensioner to retrain an applicant for the work force than to see them on a life-time pension. A practice of arranging training for suitable pensioners commenced (Tipping 1992:1). In 1941 Commonwealth funds became available to pay for the training and the Social Services Act was amended to authorise the continuation of a pension while training was being done (McMahon 1955:570). The amending Act also enabled pensioners to have their pension cancelled if they did not accept training. (Invalid and Old-Age pensions Act, No 48 of 1941) Eligibility was limited to Invalid pensioners.

Under these arrangements the Commonwealth provided funds to enable training to be undertaken, but did not itself directly provide services. The Commonwealth's power

to be involved was seen as a result of its payment of pensions and the scope of its involvement limited to pensioners. This view is evident in a report of the Australian Parliament's Joint Committee on Social Security which reported on Vocational Training for Invalids prior to the amendments to the Social Services Act discussed above. The Committee commented:

It is probable that the best results would be obtained if means could be found for contacting invalids at an earlier age than sixteen years (the earliest at which an invalid pension is paid). This however is outside the sphere of Commonwealth control but the problem is one which the Minister might well discuss with State authorities who have vocational training facilities at their disposal, and have opportunities for contacting the children which are not available to the Commonwealth (JCSS 1941:8).

In fact the training that was provided might have exceeded the powers given to the Commonwealth by the Constitution as the Constitution simply gives the Commonwealth power to pay specified pensions and benefits. However it was a clear spillover from the Commonwealth's power.

As well as indicating what was then seen as the area of Commonwealth control, the quote from the Joint Committee on Social Security shows that the difficulty of limiting Commonwealth involvement to those areas seen as direct Commonwealth responsibilities was recognised at the commencement of Commonwealth involvement. Areas which were State responsibilities, in this case training for children, could affect the Commonwealth in area seen as its responsibility, the training of invalid pensioners, as effective training of children could reduce the need for training of pensioners.

The Commonwealth commenced direct provision of disability services, for those other than ex-service personnel, as a result of a perceived lack of facilities provided by the States. This occurred in 1948 when the activities of the Commonwealth under “interim scheme” for ex-service personnel discussed above were extended to others by the Social Services Consolidation Act (No 2) (No 69 of 1948). This Act allowed the Commonwealth to provide medical, dental, psychiatric and hospital treatment for both in-patients and out-patients, physical training and exercise, physiotherapy, occupational therapy and vocational training. The Minister for Social Services explained in his Second Reading Speech that:

The chief difficulty confronting the efforts of private agencies in this field has been the lack of adequate and suitable facilities (McKenna 1948:2323).

Eligibility for assistance was limited to invalid pensioners and sickness beneficiaries who had a “physical or mental disability” which had existed for thirteen weeks and was likely to exist for another thirteen weeks. It was also necessary that the disability be a substantial handicap to “engaging in a suitable vocation” and that there were reasonable prospects of the applicant “engaging in a suitable vocation within two years” (Tipping 1992:45). This shows that the aim of the 1948 provisions was similar to that of the 1941 arrangements, to assist pensioners and beneficiaries back into the work force. In 1955 the Minister for Social Services explained to Parliament at some length the amount of savings in pensions and benefits that had been achieved by the Commonwealth’s rehabilitation activities and compared these with the cost of running rehabilitation. He did however also see other advantages in providing rehabilitation and assisting disabled people to obtain employment:



It is not only the effect on the national income which appeals most strongly to the right-minded citizens of Australia; it is the social effect on the individual and his family. It does not require any feat of the imagination to appreciate the tremendous spiritual value to men and women when doubts and fears give way to hope (McMahon 1955:570).

Some commentators, such as the Commission of Inquiry into Poverty and Kewely, have suggested that the originators of the Commonwealth involvement in rehabilitation intended that this be expanded beyond its limited employment related focus into a general service (Martin 1976:72; Kewely 1973:328). Others, such as Tipping, dispute this (Tipping 1992:143). However whatever may have been intended by policy makers in the 1945 to 1948 period, the Commonwealth did not expand beyond its limited role until 1973. Indeed it is clear that, at least after the change of government in 1949, there was no Commonwealth intention to expand its role (Le Sueur 1977:5).

The Commonwealth Rehabilitation Service was established in 1955 with responsibility for the Commonwealth's rehabilitation activities. This involved no change in the role of the Commonwealth (Social Services Act 1955, No 15 of 1955). Thus up until the 1955 the Commonwealth's role in disability services was strictly limited to defence and former defence personnel and to those on pensions who could be assisted back into the workforce so as to reduce the Commonwealth's payments of social security. However it had already become apparent that this strictly limited role could reduce the effectiveness of the Commonwealth's involvement as other activities, such as provision of services for children, were necessary if the Commonwealth was to fully achieve its objectives.

## **EXPANSION OF COMMONWEALTH PROGRAMS FOR DISABILITY SERVICES FROM 1955 TO 1973**

After 1955 the Commonwealth found it difficult to confine Commonwealth involvement in disability services to former service personnel and pensioners requiring assistance back into the work force. The first area of extension was provision of assistance to children too young to be in receipt of a pension. As noted above in 1941 the Parliamentary Joint Committee on Social Security thought it desirable that vocational training of invalids commence before the age of 16 (the minimum age for receipt of an invalid pension). In 1955 eligibility for Commonwealth rehabilitation was extended to people aged between 14 and sixteen years. The reason given for this extension was that commencing rehabilitation before the age of 16 was considered more effective, as the Minister for Social Services explained:

This earlier treatment will increase the prospects of ultimate cure (McMahon 1955:570).

A further expansion by the Commonwealth into disability services for children occurred in 1970 with the Handicapped Children (Assistance) Act (No 27 of 1970). This provided subsidies to community or local government organisations at the rate of \$2 (Commonwealth) to \$1 (organisation) for capital expenditure on facilities for training handicapped children. The reason for this expansion was the same as that of the extension of eligibility for the Commonwealth Rehabilitation service in 1955, assisting people before they were of pension age could make it easier to assist them

later. As the Commonwealth minister explained in the second reading speech for the measure:

Under present arrangements, child welfare, broadly speaking, is a function of the States rather than the Commonwealth.....The Commonwealth, however, bears a large share of the responsibility for looking after handicapped people later in life, including payment of pensions and assistance through the Commonwealth Rehabilitation service.....It is vital that help be given to these handicapped people early in life, because a child -even an infant- is easier to train than an adult (Wentworth 1970:652).

The restriction of the funding to centres providing training shows that the Commonwealth saw this provision as assisting in its role of encouraging the disabled back into the workforce. The extension of services to those not in receipt of a pension because they were too young shows the difficulty of confining extensions based on spillover justifications. The original extension of providing services to pensioners was justified as saving money on the payment of the pensions. Extending services to those below pension age may save money by avoiding them becoming pensioners at all.

The 1970 Act did not attempt to totally fund the activities subsidised. As well as requiring a one-third contribution towards the facilities provided, Commonwealth subsidies were only for capital purposes (building, equipment etc.) so other funds would be required for the running costs (salaries etc) for the facilities. The Commonwealth's intention was to assist and encourage the provision of assistance which assisted the Commonwealth's own programs, but not to take over provision or funding responsibility from the States. States were not eligible for funding under the legislation although the Commonwealth intended that they should be involved in assisting handicapped children. As the Minister for Social Services explained:

This Bill will help the States, because it will free them from the need to provide capital subsidies to voluntary bodies, or at least will greatly reduce the need for them to do so. In so far as this occurs, it will allow them to devote greater funds towards assisting handicapped children in other ways. It will of course still be possible for a qualified body which receives capital or maintenance subsidy from the State to receive the Commonwealth subsidy in addition (Wentworth 1970:653).

This shows that, for the Commonwealth to achieve its objectives complementary State action was required. That the Commonwealth saw the need to be involved indicates that it did not think that sufficient State action was occurring.

The expansions described so far all came about as a result of a perceived need for further activity to enable existing Commonwealth involvement to be more effective. Another reason for Commonwealth expansion was pressure to expand as the Commonwealth was providing services to one class of persons but not others who could equally use the service. Similarly, the Commonwealth might be providing one type of service, but not another to a class of persons who needed both. This situation is an example of the difficulty of acting coordinately when the reality of Australian politics is that expectations are not coordinate (Gerritsen 1997:127).

The first example of the Commonwealth expanding its involvement for these reasons occurred in 1955 when the Commonwealth Rehabilitation Service extended treatment for a fee to people not eligible for free treatment, ie people who were not pensioners and beneficiaries. The Minister for Social Services explained that:

Numerous private cases have been referred to the department in which the medical advisers of the persons concerned have recommended treatment in a rehabilitation centre. Because these particular people were excluded, by their means from receiving an invalid pension or sickness benefit, they could not be accepted for rehabilitation (McMahon 1955:571).

Tipping has suggested that these provisions were meant mainly for people who had lost eligibility for assistance during their rehabilitation program when they received a compensation settlement (Tipping 1992:77). The extension to paying clients is a clear illustration of the difficulties of attempting to limit Commonwealth assistance to those regarded as the Commonwealth's clients. Preventing clients from completing assistance when they lose eligibility, although required if a strict coordinate approach is followed, is clearly difficult to enforce. Similarly, if assistance is available to one group of people, and others are perceived as needing it, denying assistance may be difficult. The extension to paying clients also shows that alternative provision of rehabilitation services was not available.

A second example of this reason for Commonwealth expansion is involvement in sheltered workshops or sheltered employment. Strictly this area does not fit within the economic or spillover argument for Commonwealth involvement as people employed in a sheltered workshop or in other sheltered employment remain on Commonwealth pensions of benefits and thus the Commonwealth does not financially gain. However the Commonwealth saw sheltered employment as an essential adjunct to the assistance provided by the Commonwealth Rehabilitation Service. This can be seen from the second reading speech for the Bill which became the Sheltered Employment (Assistance) Act (No 22 of 1967), which provided Commonwealth assistance for sheltered workshops. In it the Minister for Social Services stated:

The goal of vocational rehabilitation is employment. Treatment and training therefore are limited to those who appear likely to be able to secure jobs in competition with those who are able bodied. Each year, however, several hundred people are provided with assistance by the Commonwealth Rehabilitation service but fail, through no fault of their own, to measure up to the exacting requirements of normal employment in commerce and industry. These, as well as other

handicapped people in the community want to work and play a role in our society. They are unable to enter ordinary employment but have some capacity for work and it is thought that they should not be condemned to a life of idleness. It was to meet the needs of these people that sheltered workshops were established through the initiative, enterprise and generosity of the many voluntary organisations which have pioneered this field (Sinclair 1967:1002).

Here the Commonwealth found itself with a group of people it had been able to assist in ways that fitted in with the spillover justification for involvement. It then became apparent that they needed assistance of a different kind that was outside the spillover justification. Having taken these people on in the first place, the Commonwealth felt obliged to assist them in other ways. This illustrates the difficulties of acting coordinately when society does not think that way.

The 1967 Act was not the first involvement by the Commonwealth in assisting sheltered workshops. In 1963 the Government had introduced the Disabled Persons Accommodation Act, (No 63 of 1963) which provided subsidies for the provision of accommodation for disabled persons employed in sheltered workshops. Subsidies for accommodation were provided as this was seen as necessary for the expansion of sheltered workshops, as can be seen from the second reading speech for the measure:

But sheltered workshops have always been plagued by the great problem of getting the disabled, scattered as they are throughout the States, to and from their places of employment. It is a difficulty which has been met, but only in one or two isolated instances, I regret to say, by the provision of rental accommodation where the disabled can live in communities made to the sheltered workshops. Unhappily, the voluntary organizations are limited in these activities by the resources made available to them by a generous public, and all honourable members will agree that they readily deserve the quality of encouragement which will enable them to extend their operations (Robertson 1963:1513-1514).

Thus the Commonwealth moved into the provision of accommodation for disabled people, not as a result of a desire to assist in accommodation generally, but because it

was seen as essential to the provision of the employment related services the Commonwealth wished to encourage. This is another example of expansion being required in order to support another activity. Accommodation for the disabled was, in general, seen as a matter for the States. Consequently the 1963 Act did not allow State governments to receive the subsidies provided under the Act. The Commonwealth position was made clear in the address in reply by the Minister for Social Services during the second reading debate on the 1963 Bill. The opposition had criticised the Bill for not making the States eligible for the subsidies. The Minister's response was:

When the honourable member for Grandlyr (Mr Daly) led for the opposition in this instance, he deplored the fact that there was no provision in the Bill for assisting the States to build hospitals, infirmaries, convalescent homes, hostels, and sheltered workshops for these people. Mr Speaker, there is nothing whatever to prevent any State in the Commonwealth from exhausting its resources in building houses, hospitals, infirmaries, convalescent homes, hostels and sheltered workshops anywhere within its territorial boundaries. The States can devote their resources to that purpose. Indeed, if they wanted to, they could impoverish themselves to that end. Here is a piece of legislation brought for the first time into any Parliament of the Commonwealth, and exception is taken to it because no provision is made to assist the States which get millions of pounds and multiplications of millions of pounds from the Commonwealth every year (Robertson 1963:1728).

The above account of Commonwealth initiatives in the field of disability services prior to 1973 shows that the Commonwealth kept its focus on assistance for ex-service personnel and assistance related to enabling pensioners and beneficiaries to re-enter the work force. However it proved impossible for the Commonwealth to strictly confine its involvement to these areas and Commonwealth assistance extended to children under pensioner age; sheltered workshops; assistance for accommodation for those undertaking employment programs; and paid rehabilitation services. The reasons for this expansion were that new activities were needed to support existing

activities and the difficulty of confining assistance within strict coordinate limits in the face of contrary public expectations.

### **COMMONWEALTH EXPANSION IN DISABILITY SERVICES BEYOND EMPLOYMENT RELATED SERVICES, 1974-1990.**

After 1973 the Commonwealth found it necessary to move beyond employment related assistance to provide other assistance as well. The reasons for further expansions remained similar to those previously, in particular, pressure to expand beyond strict coordinate boundaries in order to extend services to other people who needed similar services, or to provide additional services to people already receiving services.

The first extension beyond employment related services was in 1974 with the introduction of the Handicapped Persons Assistance Act (No 134 of 1974). This replaced the Sheltered Employment (Assistance) Act and the Handicapped Children's (Assistance) Act. The activities for which voluntary or local government agencies could receive funds were broadened, in particular "activity therapy" could now be provided (Handicapped Person's Assistance Act 1974, (3)(b). This was aimed at "those handicapped people who cannot meet the requirements of a sheltered workshop" (Hayden 1974:3442). This clearly moved the Commonwealth's assistance beyond an employment related basis as activity therapy was aimed at those unable to undertake any form of employment, open or sheltered. It does however represent an activity broadly similar to the previously available services, made available to people unable to use the earlier services.



The Handicapped Person's Assistance Act also enabled funds to be provided for holiday accommodation, recreational facilities and rehabilitational facilities, but only for persons undertaking training, activity therapy or sheltered employment (Handicapped Person's Assistance Act 1974 (7)). This extension also shows another shift away from an employment related focus for assistance to a broader approach. As the Commonwealth Minister explained in the second reading speech for the Bill:

It will encourage organisations to put greater emphasis on the social interests of the disabled.

It is not enough to provide these people with training, sheltered employment and accommodation. They also need encouragement to lead a more normal social life and to develop their capacity to accept, and be accepted, by the society in which they live (Hayden 1974:3442).

This provided additional assistance to those already receiving Commonwealth funded assistance. Again it illustrates the difficulties of holding to coordinate boundaries when expectations are not coordinate. The inclusion of funding ancillary services such as recreational activities enabled organisations to provide a range of services without requiring separate funding sources. However the Handicapped Person's Assistance Act did not represent a general Commonwealth take-over of disabilities services. The additional activities were only available to those receiving employment-related or similar assistance. Thus the Commonwealth was still confining assistance to "its" areas, although the definition of what were "its" areas had broadened.

A similar process is behind the next major development, which occurred in 1977. Eligibility for free assistance from the Commonwealth rehabilitation service was extended beyond those who were expected to be able to undertake open employment

after rehabilitation. The Commonwealth Minister stated, when introducing the changes, which were contained in the Social Services Amendment Act, 1977:

The Government has recognised the pressing need for rehabilitation assistance particularly of a social/vocational nature, to be made available to all persons who would benefit substantially from such assistance. We are proposing, therefore, that the remedial and training programs of the Commonwealth Rehabilitation Service should be made available, without cost, not only to those who have reasonable prospects of undertaking employment, whether full, part-time or sheltered, but also to all those who, in spite of substantial residual handicaps, have reasonable prospects, with rehabilitation assistance, of either resuming a former role as housewife/mother, or simply increasing their capacity to lead an independent or semi-independent life (Hunt 1977:2255).

As well as extending eligibility to those able to undertake home duties or able to live independently or semi-independently the 1977 amendments no longer essentially confined free assistance to pensioners and beneficiaries. A new category was added:

any other persons, being persons who have attained the age of 16 years but, being men have not attained the age of 65 years or being women, have not attained the age of 60 years, who would be likely to derive substantial benefit from that treatment and training (Social Services Amendment Act, No 159 of 1977, clause 19).

These further extensions in those eligible for Commonwealth rehabilitation is another example of the Commonwealth moving to provide services, originally justified on spillover grounds, to people for whom the spillover justification did not apply. The Commonwealth had been under pressure from a number of reports of inquiries to make such an expansion (for example, SSCHW 1971:41;Woodehouse 1974 :25).

The final expansion of Commonwealth involvement in disability services prior to the Commonwealth State Disability Agreement of 1991 was the Disability Services Act of 1986. This Act replaced the Handicapped Person's Assistance Act and incorporated

from the Social Services Act the rehabilitation provisions under which the Commonwealth Rehabilitation Service operated. This legislation followed the report of the Handicapped Programs Review, "New Directions," in 1985. The Act broadened the range of activities that Commonwealth could fund or provide to include almost all of disability services. Some commentators saw the Act as the Commonwealth assuming responsibility for the field of disability services (for example, Alston 1997:1; McMenamain 2000:25). However it will be argued that the reasons for the expansion still reflect the same process as previously, the expansion of the boundaries as the previous boundaries become untenable.

The broadening of the Commonwealth's role applied both in the provision of funds to other organisations and in direct services through the Commonwealth Rehabilitation Service. Organisations were able to receive funding for any of the following:

- (a) accommodation support services
- (b) advocacy services
- (c) competitive employment training and placement services
- (d) independent living training services
- (e) information services
- (f) print disability services
- (g) recreation services
- (h) respite care services
- (i) supported employment services (Disability Services Act 1986 9(2)).

There was also provision for other types of services to be approved. The restrictions that limited certain types of services, such as recreation, to people receiving other services no longer applied. Thus the Commonwealth was now able to fund a comprehensive range of disability services.

This broadening more reflected changes in ideas about types of services which should be offered than any desire to increase the Commonwealth's role as can be seen from Parliamentary statements on the changes. In a statement to the Senate the Minister for Community Services stressed that it would enable the development of new models of services including a range of employment services apart from sheltered employment schemes and a variety of new types of supported residential accommodation (Grimes 1986a:3830). The changes to rehabilitation services were explained in a similar manner:

In particular the Bill widens the scope of what may be provided to an eligible person from 'treatment and training' as it is currently described in the legislation to 'a rehabilitation program'. This is consistent with the changes which are taking place in the delivery of rehabilitation services from a predominantly institutional and medically orientated base to a regional base which concentrates on social and vocational programs (Grimes 1986b:1983).

Thus changes in treatment models meant that the previous limits on the type of treatments provided by the Commonwealth was no longer tenable. This, combined with the previously described pressures which made it difficult to confine services provided or funded by the Commonwealth to one class of persons when others had a need for the same type of services, resulted in the expanding into the whole field of disability services. That the 1986 Act broadened the Commonwealth's role for these reasons rather than a general desire to move into State areas is illustrated by the area of services for people with a psychiatric disability. The Act did include people with a psychiatric disability in the definition of people eligible to receive services, however this was included by the Senate against the Government's wishes. The Government explained its opposition to the inclusion of assistance for those with a "psychiatric disability":

The Commonwealth has never been closely involved in funding or directly providing services of habilitation or rehabilitation for people with a psychiatric illness.....Whether right or wrong this matter is traditionally a State government responsibility (Grimes 1986b:2589).

This shows that, despite broadening the scope of Commonwealth activity the Commonwealth government was still seeing disability services as divided between Commonwealth and State areas. The same process that was operating previously, expansion of Commonwealth involvement as new activities were needed to support existing activities and the difficulty of confining assistance within strict coordinate limits in the face of contrary public expectations, still applied for the 1986 changes.

### **REASONS FOR THE PERSISTENCE OF SEPARATE PROVISION UNTIL 1990**

That separate provision of disability services by the Commonwealth and State and Territory governments lasted until 1990 is surprising in the light of a large number of inquiries and reports from the early 1970s recommending major changes to arrangements for funding disability services. A major factor appears to be that a level of mutual distrust developed between the Commonwealth and State and Territory governments as a result of the separate provision of disability services.

The inquiries that recommended changes to the provision of disability services included:

- . The Senate Standing Committee on Health and Welfare: Inquiry into Mentally and Physically Handicapped Persons in Australia (SSCHW 1971).
- . National Committee of Inquiry into Compensation and Rehabilitation (Woodehouse 1974).
- . The Royal Commission on Australian Government Administration (RCAGA 1976).
- . The Commission of Inquiry into Poverty (Martin 1976).
- . The Handicapped Programs Review (HPR 1985).

The direction of the changes recommended by these inquiries differed widely. Three broad alternatives were identified: to coordinate all existing services by agreement on which level of government was responsible for which functions (the Senate Standing Committee); to make disability services a joint arrangement with the Commonwealth involved in policy and the States the administrators (RCAGA, HPR); or for Commonwealth to take over policy and planning with both the Commonwealth and the States delivering services (National Committee of Inquiry into Compensation and Rehabilitation, The Commission of Inquiry into Poverty).

Despite these reports all rejecting the then current arrangements and arguing that change was required, no changes along the lines of any of the reports was introduced prior to Commonwealth State Disability Agreement in 1991. In particular there was

no change to the Commonwealth providing medical rehabilitation services until 1986 despite this being recommended by most of the inquiries. One explanation, put forward in the report of the Royal Commission on Australian Government Administration, was that separate provision had given rise to vested interests in the continuation of this separate provision:

It also creates, both among clients and administrators, vested interests in the characteristics of individual programs, and in the authority, security and opportunity provided by the organisations which administer them (RCAGA 1976:326).

This view gets some support from Tipping who comments that:

there was a reluctance by the CRS (Commonwealth Rehabilitation Service) to 'let go' of the medical components in the CRS rehabilitation centres. This coloured much of the thinking in the CRS during the 1970s and early 1980s (Tipping 1992:204).

However distrust between the Commonwealth and State bureaucracies and governments in the area of disability services also appears to have been a major factor. The Commonwealth became involved in direct rehabilitation services as a result of the lack of State provision (Le Sueur 1977:5). That the Commonwealth, having moved into the field because of what it saw as inadequate State provision for those they saw as their clients, was unwilling to trust the States to deliver adequate services to them is not surprising. This attitude can be seen in a 1984 report by the Department of Social Security "Directions for the Commonwealth Rehabilitation Service in the 1980's":

for many years the CRS was the sole provider of comprehensive rehabilitation assistance....Although there have been many significant developments in medical

rehabilitation, contemporary developments have nevertheless continued to be somewhat piecemeal. This has been in large part due to an apparent lack of interest, an absence of any coherent on-going policy for medical rehabilitation development and also a deprivation of resources to promote and sustain such development within the State health systems. It appears that, with the possible exception of geriatric services and long-term care of psychiatric and severely retarded persons, governments in all States have generally not seen medical rehabilitation developments as warranting any particular priority within State health systems. Thus with such unevenness of development in the State systems, there is still a wide variety of demands upon CRS centres (DSS 1984:43).

Such an attitude on the part of the Commonwealth can also be seen in comments to Parliament on disability services made over a long period of time. In 1963, during the debate on the Disabled Persons Accommodation Act the then opposition wished to make Commonwealth funds available to the States and the Government rejected this, stating that the States had adequate funds available to them for this purpose, if they wished to do so (see above). In 1974 during the debate on the Handicapped Person's Assistance Bill similar points were made, despite the political complexion of the government having changed. The coalition, now in opposition, this time criticised the ALP government for excluding the States from eligibility for funding, commenting:

There can be no balance and integration when the activities of State Governments in this area are specifically excluded from Australian Government financial assistance.....I think it is indisputable fact that the States have both the historical and practical background in broad social welfare functions which is simply not going to be utilised. There are years of experience, know how and background available from the States (Chipp 1974:42174-75).

Government speakers opposed extending eligibility to the States, and in so doing displayed a mistrust of the States:

To be quite honest with the House, I would prefer the money to go straight to the organisation and not, as the Honourable Member for Hotham suggested, through the States. The States have not shown, in other areas, the type of cooperation we would need to work through them (Child 1974:4178).



Another example is from 1986, during debate on the Disability Services Bill. As noted above, the Commonwealth had wished to exclude “psychiatric disabilities” from the scope of the legislation. Senator Baume, a former coalition government Health Minister, although supporting the inclusion of “psychiatric disabilities” commented:

In terms of Commonwealth State funding details, the history of Commonwealth State relationships and the bad faith which has been displayed by some State governments and the way they have behaved, I understand what is going on. Honourable Senators will be aware that recently in New south Wales and Queensland, for example, there have been major and fairly rapid moves towards de-institutionalisation from psychiatric institutions which just happens to have the effect of transferring large amounts of expenditure from the State to the Commonwealth. There is not a history of good and fair dealing on the part of the States and I can understand that the Commonwealth must feel properly aggrieved by that circumstance (Baume 1986:2580).

Thus the introduction of separate provision by different levels of government may by itself perpetuate separate provision, not only because vested interests are created, but because a mistrust of the other level of government may occur, making any change to a different approach difficult. The difficulties are illustrated by the attempts at cooperative action that did occur in the 1970s in order to overcome some of the problems caused by separate provision in the medial rehabilitation area. A number of small scale joint projects were undertaken with some success including in Bathurst, Darwin and Newcastle. Two larger projects were attempted, with less success, in Sydney (Queen Elizabeth II centre at Camperdown) and Hobart (Douglas Parker Rehabilitation Centre). In both cases difficulties arose over matters including the funding arrangements and which clients were to be treated at the centres. Tipping’s account suggests that the Commonwealth thought to it had reached agreement on

these matters, but the States had other ideas (Tipping 1992:150-155). The difficulties over these joint arrangements appear then, to have been caused, at least in part by a pre-existing mutual suspicion between the parties, and probably furthered the mutual lack of trust.

While it is not being suggested that separate provision must inevitably cause distrust between different levels of government this does seem a likely outcome. This is particularly likely where, as was the case in disability services, the higher level of government became involved as a result of a perceived lack of action on the part of the other level. In the case of disability services distrust between governments did arise, and appears as a major factor in the continuation of separate provision until 1990.

## **REASONS FOR THE COMMONWEALTH'S EXPANSION IN DISABILITY SERVICES**

It has been suggested above that three reasons can be found for the expansion of Commonwealth involvement and the continuation of separate provision until 1990. First in order to support the original Commonwealth involvement, involvement in further areas was necessary. Second, pressure for the expansion of Commonwealth came from service providers, service users and other interested people who did not accept the coordinate justifications for strictly limiting the field of Commonwealth involvement. Third, the process of separate Commonwealth provision in order to support Commonwealth activities created distrust between the Commonwealth and the States, distrust that hindered rationalisation of services between the

Commonwealth and the States, thus making further Commonwealth involvement necessary.

However some commentators advance other types of reasons for the Commonwealth expanding in areas Constitutionally that of the States and Territories. These include: the desire of expansionist Commonwealth governments to extend federal power; bureaucratic empire building; and, a tendency for policies to create further policies, what Wildavsky terms “policy as its own cause” (Wildavsky 1980:62-84). It is necessary to consider whether these explanations could apply to the expansion of Commonwealth involvement in disability services.

That some Australian Commonwealth governments, especially the Whitlam government (1972-75) desired a general expansion of federal power is often stated, indeed it appears in most Australian politics text books (for example Summers 1997:93; Singleton, Aitkin, Jinks & Warhurst 2000:86-87). However this does not appear as a major factor in the expansion of disability services. The various expansions took place under both ALP and coalition governments. Assistance for children, sheltered workshops and accommodation services, were introduced by the coalition governments prior to 1972. The Whitlam ALP government introduced funding for therapy centres and ancillary services. Extension of free Commonwealth Rehabilitation service to those not expected to enter employment and to non-pensioners and beneficiaries took place under the Fraser (coalition) government. Further broadening of the range of services offered or funded was undertaken by the Hawke (ALP) Government.

Thus there was no dramatic change in the process of Commonwealth expansion associated with particular governments of a “centralist” persuasion, suggesting that such attitudes on the part of governments was not a major cause of Commonwealth expansion. The extensions by the Whitlam government were no more than that of the subsequent Fraser government. It is true that the Whitlam government had plans that would have greatly increased Commonwealth government involvement in disability services. They introduced the Australian Assistance Plan (AAP) which provided planning and coordination for a wide range of community activities including assistance for disabled persons (SWC 1976:8-15). This had the potential to greatly increase the scope of Commonwealth involvement. The National Compensation and Rehabilitation Scheme proposed by the Whitlam government, if enacted, would have extended the Commonwealth’s provision and control of rehabilitation services significantly (Woodehouse 1974). The AAP ceased after the Whitlam Government lost power in 1975 and the Compensation and Rehabilitation scheme failed to pass the Senate (Groenwegen 1979:61; Whitlam 1985:640-641). As a result any centralist intentions of the Whitlam government did not have a lasting affect on the Commonwealth-State arrangements for disability services.<sup>1</sup>

“Empire building”, or bureaucratic expansionism as a reason for extension of Commonwealth functions and services is advanced by writers such as Sproule-Jones (Sproule-Jones 1975:24). However, in the case of disability services, much of the pressure for expansion appears to have come from outside the bureaucracy and government. Many submissions to the National Committee of Inquiry into

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<sup>1</sup> Whitlam preferred the term “regionalist” for his government’s approach (Whitlam 1985: 712). However the initiatives discussed would have increased the Commonwealth’s influence vis a vis the States, although the AAP would also have increased the influence of regional bodies.

Compensation and Rehabilitation stressed that the Commonwealth should provide its services to all who could use them, not just the categories of people the Commonwealth preferred (for example Duncan 1973:1; NSWCPSS 1974:32; PHH 1973:3; AAMR 1973:2). Among the groups whom it was considered would benefit from these services but were not considered eligible by the Commonwealth were housewives, children and the aged (CRPQ 1973:2). That pressure from outside the bureaucracy preceded the Commonwealth expansions suggests that bureaucratic expansionism is not an adequate explanation for the expansion in disability services. That the organisations providing the pressure were in “policy networks” or “communities” with the federal department and thus supported their desire to expand is not an adequate explanation. Some of these organisations supported the Commonwealth handing medical rehabilitation to the States (for example RPH 1973:18; NBHB 1973:1). The Commonwealth bureaucracy resisted such a move (above). This suggests that there was not a unified policy community automatically supporting Commonwealth expansion.

Another possible explanation for the Commonwealth’s expansion is the processes described by Wildavsky as “policy as its own cause”, which sees policy changes being generated primarily as a result of the failures of previous policies. However for Wildavsky this occurred as a result of large scale actions in already congested fields (Wildavsky 1980:63-64). In the disability services field the programs so far described were small scale programs in a field hardly occupied at all. Indeed it was the lack of any other programs that was a major factor in a number of the expansions. That much of the pressure for expansion was external is also contrary to the processes described by Wildavsky, which are internally driven (Wildavsky 1980:68).

Thus we can not explain the Commonwealth's expansion in disability services by a political or bureaucratic desire to expand, or Wildavsky's notion of "policy as its own cause". The factors identified earlier (expansion to support earlier involvement, difficulties of keeping to coordinate roles in the face of a public not sharing coordinate expectations and the development of mutual distrust) appear to have been the major causes of Commonwealth expansion in disability services. Indeed the process seems have been almost inevitable once commenced. Given the interrelationship between different areas in disability services, one involvement is not likely to be fully effective unless supported by other measures, for example training can be ineffective without accommodation services so that people can access the training. Similarly if one group of the population has a need for services offered by the Commonwealth government only to another group, very strong political pressures will develop for the Commonwealth to extend the services, unless the population accepts the coordinate justification for limiting the Commonwealth provision. Housewives being able to benefit from rehabilitation services being offered to those expected to rejoin the workforce is an example. Unless it is generally accepted by citizens that the Commonwealth's role is strictly confined to employment related provision, pressure for expansion seems inevitable.

### **ABILITY OF THE COMMONWEALTH TO ACHIEVE ITS OBJECTIVES**

It might be expected that with separate Commonwealth State and Territory provision the Commonwealth would have no difficulty in achieving its objectives as it was not dependent on another level of government to carry out the program. However in fact

separate provision appears to have, to some extent at least, hindered the ability of the Commonwealth to achieve its objectives for disability services.

It has been argued above that one reason for Commonwealth expansion was that necessary supporting services were not being provided by the States to enable Commonwealth objectives to be fully achieved. This shows that, with separate provision, the Commonwealth was not able to influence the State governments sufficiently in order to achieve its objectives without a further expansion of its role. The Commonwealth did consider that the States should provide the services in the areas not seen by it as a Commonwealth responsibility, ie not employment related or for ex-service personnel (Le Sueur 1977:5). Indeed, as noted above in relation to the Handicapped Children (Assistance) Act 1970, the Commonwealth hoped their provision might encourage provision by State governments. However some commentators thought that Commonwealth provision had the opposite effect and discouraged State provision:

confusion over the appropriate responsibility for rehabilitation, Federal or State, intensified this neglect (Le Sueur 1977:77).

Similarly , Dr Burniston, Director, department of Rehabilitation at Prince Henry and Prince of Wales hospitals, Sydney, commented in 1970:

I have found that confusion has existed and, unfortunately, continues at State and Federal levels of government and among members of the medical profession, hospital boards and the public at large with regard to who is responsible for planning and providing rehabilitation services to the physically handicapped. State health and hospital services have generally tended in the past to regard the Commonwealth as responsible for providing rehabilitation services for the handicapped. I have frequently heard ill-advised hospital administrators and medical practitioners use the very existence of the Commonwealth rehabilitation

Service as an excuse for not developing rehabilitation services in hospitals (Burniston 1970:13).

Thus the Commonwealth was not able to influence the States to undertake the provision the Commonwealth wished to see, and separate provision of services may, in fact, have had the reverse effect.

The achievement of Commonwealth objectives was also hindered by a lack of coordination between Commonwealth services and those State services that did exist. Such a lack of coordination had been found by several inquiries, including, the inquiry by the Senate Standing Committee for Health and Welfare, the National Committee of Inquiry into Compensation and Rehabilitation, and the Commission of Inquiry into Poverty (SSCHW 1971; Woodehouse 1974; Martin 1976).

Two different aspects of lack of co-ordination of rehabilitation services were identified. First, information on particular patients was not necessarily passed between different organisations. For example, a person injured could be treated in a State hospital and then transfer to the Commonwealth rehabilitation service, without consultation between the organisations or records being passed over (King 1973:2; Le Sueur 1977:6). Second, there was little liaison between the Commonwealth Rehabilitation Service and community and other services that might be able to help CRS patients, referrals to such services were rare (Le Sueur 1977:76). However the lack of co-ordination was not just a matter of failure to pass on information or make referrals, but also encompassed differences of approach. Dr Alan King, who was Director (Medical Services) for the Department of Social Security in Western Australia described the situation as follows:



It is necessary to stress, from the medical angle, there is a vast complicated gap both in methodology and communication between Commonwealth and State. It is like two branches of a family that have gone their separate ways with a different philosophy, each respects the other, but each is only happy dealing with its own members (King 1973:2).

This shows that the lack of coordination was hindering the Commonwealth in its rehabilitation activities as, despite the difference in approaches, patients had to move from one to the other.

It would seem then that the separate provision for disability services did not fully enable the Commonwealth to achieve its objectives. Whether the Commonwealth was able to achieve its key objectives for becoming involved in the area more through separate provision than through the joint arrangement (the CSHA) that operated in the housing area may be doubted. The Commonwealth did achieve its original objective of the provision of public rental housing (1945), and the later objective of the provision of loans for home purchasers (1956) despite the opposition from at least some States (Chapter 4). However some other objectives were not, or only partially, achieved. In comparison, the key original rationale for disability services, that of saving the Commonwealth money on social security payments, appears to have been only partly achieved. That further Commonwealth involvement was required to support the original programs suggests that the initial objectives were not achieved to the Commonwealth's satisfaction. Also the processes that led to the expansion of the Commonwealth's role until it covered virtually the whole field of disability services were started by the initial involvement and, as argued above, this expansion appears to have been almost inevitable. The inability of the Commonwealth to contain its

involvement does not fit with achieving its original objective, that of saving the Commonwealth money in the social security area.

## **CONCLUSIONS**

This account of the history of Commonwealth involvement in disability services shows the problems associated with attempting involvement on coordinate lines. The Commonwealth commenced its involvement in an area constitutionally that of the States for spillover reasons. The Commonwealth was unable to limit its involvement strictly to this area as a result of three processes. First, in order to support its first intervention, further interventions became necessary if the first ones were to be effective. The necessity to provide accommodation services if people are to be able to benefit from training services was an example. Second, the existence of Commonwealth services for some people created pressure to extend these services to others who could also benefit from them. This pressure came from people who did not accept the coordinate justifications for strictly limiting the field of Commonwealth involvement. Third, the process of separate Commonwealth provision in order to support Commonwealth activities created a great deal of mistrust between the Commonwealth and the States, distrust that hindered rationalisation of services between the Commonwealth and the States, thus making further Commonwealth involvement necessary. The combined result of these three processes was that the Commonwealth expanded its activities to cover almost the entire field of disability services.

These process appear likely to occur in any area which is attempted to be divided on coordinate lines. When there are many interdependencies between the various components that one intervention will require further involvement seems almost inevitable. Similarly as long as service users, providers or other interested parties do not accept strict coordinate divisions as a reason for a government avoiding an area expansion will be difficult to avoid. Mutual distrust may not be inevitable but seems a likely outcome if, as with disability services, one level of government becomes involved as a result of what it sees as neglect by the other level.

The separate provision by the Commonwealth and the States for disability services does appear to have hindered the Commonwealth in achieving its objectives, both through lack of necessary complementary services (which led to further Commonwealth expansion) and lack of the coordination necessary for individual services. Despite this the Commonwealth was reluctant to alter the basis of provision of disability services, retaining separate provision until 1991, notwithstanding the contrary recommendations of many reports and inquiries. The distrust that had developed between the Commonwealth and the States appears to have been a major reason for this.

When an Agreement between the Commonwealth and the States was introduced in 1991 the history of separate development strongly influenced the nature of that agreement. This is discussed in the next chapter.

## **CHAPTER 7: NEGOTIATION AND DEVELOPMENT OF THE COMMONWEALTH STATE DISABILITY AGREEMENTS**

### **INTRODUCTION**

This chapter examines the introduction and negotiation of the Commonwealth State Disability Agreement (CSDA) 1991 and its successor, the Commonwealth State Disability Agreement 1998 (the current agreement). The Disability Agreements differ considerably from the Housing Agreements in that they essentially divide responsibilities between the Commonwealth and the States on coordinate lines with different types of services being allocated to different levels of government. The Housing Agreements divide responsibility on concurrent lines with both levels of government involved in the same areas. The reasons for the introduction of the CSDA were also quite different from that of the Commonwealth State Housing Agreement. Whereas the CSHA was the first large scale involvement of the Commonwealth in public rental housing (chapter 4), the CSDA came after considerable separate provision by the Commonwealth. This chapter discusses the reasons for the introduction of the CSDA, and how the background to the CSDA affected the nature of that Agreement. Chapter 10 discusses the results of the CSDA against the criteria developed in chapter 2.

This chapter also looks at the extent to which the Commonwealth was able to achieve its objectives in the negotiations for the CSDAs and whether the Commonwealth has dominated the States according to the concept of domination discussed in Chapter 3. As with chapters 4 and 5 the extent of the Commonwealth's influence through its

financial power receives particular attention. This provides a second example to that of housing for considering the question of whether the Commonwealth is able to dominate the States as a result of its financial power. As with chapters 4 and 5 this discussion is confined to the negotiation of the Agreements, the implementation of their provisions is considered in chapter 8.

This chapter is arranged chronologically, the introduction and negotiation of the 1991 CSDA is considered, followed by an examination of the introduction and negotiation of the 1998 Agreement.

### **THE 1991 CSDA**

The introduction of an agreement for disability services was not surprising given the large of reviews recommending to the Commonwealth government the coordination of the provision of disability services (chapter 6). However the moves for an agreement came not from the Commonwealth, but from the States. The Handicapped Programs Review of 1985 had recommended a joint program (chapter 6), but the resulting Commonwealth Disability Services legislation of 1986 did not implement such an approach. However the 1986 Act did, for the first time, allow the Commonwealth to fund the States for disability services. The initial intention was simply to allow States to be funded for some services where they were to most suitable providers and to allow for some joint projects where this suited both governments. The Commonwealth Minister explained it this way:

The Bill provides that both States and eligible organisations may qualify for the financial assistance for the provision of eligible services. The inclusion of the

States is a major change, it reflects the fact that most States are already involved to varying degrees in service provision, and the many potential opportunities for co-operative efforts in this field. The new legislation will permit the Commonwealth to provide funds to the States for services provided by them covered under the legislation, the intention is that such funding be provided on similar conditions to those relating to eligible organisations. The legislation will also permit the joint Commonwealth State funding of services and projects considered as being of joint interest (Grimes 1986b:1981).

That the States were to be treated the same as other organisations shows that there was no intention of handing over responsibility from the Commonwealth to the States or to introduce a joint program as recommended by the Handicapped Programs Review. The Commonwealth would control policy and planning of provision, with the States only involved in delivery on conditions decided by the Commonwealth, and when the Commonwealth decided that the States were the most appropriate organisation to deliver the services.

The move to an agreement came about after the Commonwealth in 1987-88 distributed a discussion paper which outlined the Commonwealth's plans under the 1986 Disability Services Act (DCSH 1988:32-33). The States responded to the Commonwealth's proposals by seeking to clarify responsibilities. In March 1989 the Council of Social Welfare Ministers (the Commonwealth and State and Territory ministers responsible for welfare) resolved that the Commonwealth, States and Territories reach formal agreement regarding respective roles and responsibilities (DCSH 1990 335:53).

The CSDA then came about as a result of State initiatives in order to coordinate the provision of disability services. The catalyst was the expansion of Commonwealth involvement in disability services that occurred with the Disability Services Act

The nature of the 1991 CSDA reflected the history of separate provision by Commonwealth and State governments. Two options were considered by a working party of Commonwealth and State officers established to consider options for coordinated disability services provision. These were: a functional split of responsibilities on the basis of service type for disability services; or a block grant model where the Commonwealth would transfer by way of a block grant total responsibility for the distribution of funds and the administration of all disability services to the States. The majority of States preferred the block grant option while the Commonwealth favoured the functional split model. They wished to see the Commonwealth have responsibility for employment services and the States have responsibility for accommodation and support services (Ernst and Young 1996b:10).

Given the Commonwealth position, the split responsibility model was developed. The proposals were considered by the Special Premier's Conference as well as by welfare ministers. The Special Premiers Conference was announced in July 1990 to examine Commonwealth-State relations. It met in October 1990 and July 1991. The proposal for the CSDA was accepted by both the welfare ministers and the Special Premier's Conference, and came into effect in July 1991 (Ernst and Young 1996a:11-12).

There are a number of possible reasons for the Commonwealth choice's to pursue the type of agreement that was introduced. The Government saw the division incorporated into the agreement as providing a clear division of responsibility and thus efficiency gains:

The advantage of that is clarity, in the sense that from the point of view of consumers it is clear who is responsible.....Certainly there are benefits in terms of administration and the duplication of administration. The approach is much simpler, and the efficiency gains can be translated into more and better services (Howe 1991:5).

This desire for a for a simple and clear cut division of responsibilities was prevalent in government circles at the time. The Special Premier's Conferences espoused similar views (Painter 1998(c):155). However the CSDA approach pre-dated the Special Premier's Conferences so it was not directly influenced by them.

Commonwealth government officials saw the split between employment and accommodation and support as broadly reflecting the existing roles: the Commonwealth was involved in employment services and States were the major provider of accommodation and support services. The Commonwealth also pointed to the link between employment services, the Commonwealth Employment Service (CES) and income security (Ernst and Young 1996a:10). This argument, although broadly accurate, ignores that the Commonwealth had been involved with accommodation and support for people with disabilities since the early 1960s. It is apparent that the Commonwealth was unwilling to transfer responsibility for delivery of employment services to the States, indeed its position on this issue has been described as "non-negotiable" (Ernst and Young 1996(a):11).

### **Framework of the 1991 CSDA**

The Commonwealth did not pass any specific legislation to enact the CSDA, instead the Disability Services Act remained in force and provided authority for the



Commonwealth's payments and activities under the Agreement. States were required to pass legislation complimentary to the Commonwealth's Disability Services Act.

The financial arrangements for the CSDA required identification of base levels of funding, i.e. the level of funding contributed by the Commonwealth and the States to the services included in the Agreement prior to the CSDA commencing. Both the Commonwealth and the States were required to maintain their funding levels. Growth funding was also to be made available by the Commonwealth and matched by the States. The Commonwealth was committed to achieving equal per capita distribution of Commonwealth funds made available for disability services in the States (1991 CSDA 7(3)-7(13)).

The range of services that could be provided or funded through the CSDA was the same as the services included in part 1 of the Disability Services Act, ie. the Commonwealth's funding of State or voluntary organisations. Not included in the CSDA was the Commonwealth Rehabilitation Service (CRS), which continued solely under Commonwealth control. This meant that the Commonwealth could provide what services it liked through the CRS, without reference to the CSDA's principles, coordination arrangements or funding commitments. Also not included in the CSDA were services under the Veteran's Entitlement Act (1986). Therapy services were included in the calculation of base funds, which meant that existing services could receive funding under the agreement but were not eligible for growth funds, so expansion would not be funded under the Agreement.

The 1991 CSDA set out statements of principles and objectives for the administration of disability services under the CSDA including the rights and needs of people with disabilities.

### **Assessment of the Negotiation of the 1991 CSDA**

Given that the CSDA was a State initiative, State aims are perhaps easier to identify than the Commonwealth's aims. From the account of the origins of the CSDA above it is clear that achieving coordination between Commonwealth and State provision was the main aim of the States. The Commonwealth also stated that this was an aim, however it was suggested above that maintaining Commonwealth control over employment related services was also a major aim of the Commonwealth for the negotiations.

The Agreement did attempt to ensure coordination between the Commonwealth, States and organisations providing services under the Agreement. "Ensuring coordinated service delivery" was one of the advantages claimed by the Commonwealth Government for the Agreement (Johns 1992:2670). In order to achieve coordination the CSDA required: joint Commonwealth and State consultation on broad program priorities and targets; development of a 3 year forward plans in each jurisdiction; and, the development of a combined State plan in each State approved by the Commonwealth and respective State ministers. The CSDA also stipulated that a joint advisory body was to be established in each State to advise Commonwealth and State ministers (1991 CSDA 6(1)-6(7), 12(3)). Thus in terms of the agreement coordination was achieved. As noted above, both the Commonwealth

and the States supported this objective. The extent to which the provision of the Agreement did in fact increase coordination is discussed below and in Chapter 8.

Clearly the Commonwealth achieved its objective of keeping control over employment related services. As a result it might appear that the Commonwealth gained the most in the negotiations with the States, achieving what was perhaps its key objective at the expense of the States. Indeed some commentators have thought that the Commonwealth had the better of the negotiations, for example Healy and Robbins claimed:

The result is not very satisfactory. South Australia has been left with what some administrators regard as 'unfunded liability' to provide the difficult part of disability services (accommodation and support) while the Commonwealth has taken for itself the 'lighter' end of the task as its employment responsibilities only involve the less serious cases of disability (Healy and Robbins 1996:282).

However the Commonwealth had not wanted an Agreement initially, and the States gained a degree of rationalisation, and policy control over non-employment related services. This led to the Commonwealth handing some services over to the States (Ernst and Young 1996a:30). In terms of the concept of domination developed in Chapter 3 the States achieved at least as much as the Commonwealth. The Commonwealth, by handing over funding and control of services to the States in non-accommodation areas acted in ways that it would not have done apart from the Agreement. Such actions had not been envisaged when the Disability Services act was introduced (above). The States did accept an agreement on the basis preferred by the Commonwealth, and also transferred responsibility for some services to the Commonwealth (Johns 1992:2670; Ernst and Young 1996a:30). Thus the first CSDA

was a compromise, with both sides gaining some objectives against the wishes of the other and inducing changes in actions.

This compromise occurred despite the Commonwealth having organisational resources and a degree of financial leverage. The Commonwealth's financial leverage can be seen from the outline of the CSDA above, it was offering growth funds to the States, which the States would lose if they did not reach agreement. As the States were committed to match these funds and maintain their previous level of financial commitment this leverage is not as high as that of the Commonwealth for the CSHA after 1973 when the States stood to lose all their funds if they did not accept the CSHA. It was probably higher than for the CSHA prior to 1973, when the States stood to lose subsidies, but not capital funds. The organisational resources of the Commonwealth came from them having their own direct programs which they could continue, thus the Commonwealth was not totally dependent on State cooperation to be involved in the area.

The States also had organisational resources available to them. They were able to exert some influence because the Commonwealth needed cooperation from the States if it was to achieve its aims and intentions. That an inability to influence States actions had adversely affected the Commonwealth in achieving its objectives with its disability programs was noted in the last chapter. The States responded to the Commonwealth's plans for disability services by suggesting rationalisation of disability services, if the Commonwealth had not accepted this in some form it could have expected difficulties in trying to achieve its aims. This emphasises the difficulties separate provision created for the Commonwealth in achieving its aims.

Thus with the 1991 CSDA the financial position of the Commonwealth seems less important for the result of the negotiations than the respective organisational resources held by both levels of government.

## **THE 1998 CSDA**

The first CSDA was due to terminate on 30 June 1997. However negotiations on a replacement CSDA became stalled, and the new agreements were not signed with the States until 1998. In the meantime the Commonwealth continued to fund the States through the Disability Services Act.

The introduction of the 1998 CSDA was preceded by an evaluation of the first CSDA. The report of this evaluation criticised the CSDA for a lack of coordination of disability services. The evaluation did conclude that one of the advantages of the Agreement was a capacity for joint governmental approaches to policy, planning and funding. However the report also commented that:

A number of new problems have emerged since the first Agreement. These include:

- . gaps between employment and accommodation service systems
- . a lack of development of service types such as non-employment services and advocacy
- . access inequalities across jurisdictions; and
- . less cooperation and strategic planning between governments, especially in ways to meet the growing demand for support (Yeatman 1996:executive summary x).

These problems were not, in fact, new. A lack of coordination or planning between Commonwealth and State authorities had been noted in official reports since the 1970s. The lack of linkages between accommodation and employment programs, and a lack of services for those unable to use employment programs, had resulted in Commonwealth programs expanding into these areas in the 1960s and 1970s (chapter 6).

The evaluation of the CSDA suggested that the CSDA had not only failed to improve the situation, but had actually lessened joint planning between Commonwealth and State governments (Wright Consultancy 1996:42; Ernst and Young 1996a:34). The implementation study for the CSDA evaluation stated that:

Joint State/Commonwealth planning mechanisms have been slow to develop in most States. Reliance has been placed on informal networks. The perception is that Commonwealth and State administrations have gone their separate ways following CSDA implementation and have concentrated their efforts on their respective service types with little incentive to formally collaborate with the other level of government (Ernst and Young 1996(a):29).

The perception that the CSDA had actually resulted in a greater isolation between Commonwealth and State governments, despite the stated intentions in the CSDA, seems strange as the Commonwealth had, before the CSDA, found it necessary to expand beyond its employment-related focus into areas such as accommodation and support. The Commonwealth was aware of the need for links between the areas. A possible explanation lies in the pressures on the Commonwealth. Without any formal agreement, should the Commonwealth find it necessary for an employment activity to be complemented by another activity, there was little real choice except for the Commonwealth to do it itself. Once an agreement was in place, the Commonwealth

could point to the area as a State responsibility, and point out that the Commonwealth was providing funds to the States for the purpose. Similarly where a service was available to some people but not others from the Commonwealth, pressure could be brought on the Commonwealth to extend the service. Once an agreement was in place the Commonwealth could argue that the other aspects were State responsibilities. An example is provided by the report of the Strategic Review of the Commonwealth Disability Services Program, “Working Solution” which recommended a narrow focus on employment and employment preparation services for Commonwealth services, with all other services provided through the States under the CSDA. The report did however advocate increased coordination between Commonwealth and State services (Baume and Kay 1995:9).

The evaluation of the CSDA identified three options for reform:

- (a) maintain the demarcation agreement as in the first CSDA but require the two levels of government to articulate the division of labour between them, that is turn this division into a cooperative relationship across separate areas of responsibility: or
- (b) change the nature of the Agreement so that the Commonwealth becomes with the States and Territories a joint funding agent with an appropriate management capacity which delegates the purchasing of services in all areas to the States/Territories, or
- (c) a jointly funded and owned “purchaser” agency as in the case of the Australian National Training Authority (Yeatman 1996:101).

The preference of the Evaluation was to immediately introduce option (a) and work towards option (b) in the longer term (Yeatman 1996:105).

The 1998 Agreement introduced implemented none of the options identified by the evaluation. The second CSDA provided for additional Commonwealth funds for

bilateral agreements between the Commonwealth and particular States. Apart from these funds however the second CSDA kept the basic division of responsibilities of the first agreement, i.e. the Commonwealth responsible for employment services and the States accommodation and support. The Commonwealth continued to provide funds to the States for accommodation and support but in addition provided funds for use as specified in the bi-lateral agreements. The purpose of the bilateral agreements was to:

- (a) to provide for agreement and action between the commonwealth and individual States on strategic disability issues within the broad national framework
- (b) provide a continuing procedure for negotiation and agreement between the Commonwealth and individual States on the transfer of responsibility for transfer of particular services from one level of government to another , and
- (c) bring into the scope of this Agreement those specialist disability services which are mutually agreed between the Commonwealth and individual States to be important to the national framework for disability services, but are not yet included in this Agreement (1998 CSDA, Recital B).

The second CSDA involved less substantial change than any of the three options identified by the Evaluation of the CSDA. Their least radical option would have required a coordinated and negotiated approach for all funding under the agreement, not just for an additional part, as occurred with the second CSDA. The changes that were introduced seem to have been the least possible to meet the criticisms of lack of coordination of services. This raises the question as to why more substantial changes were not introduced.



## Assessment Of The Negotiations For The 1998 CSDA

The Commonwealth stated that its aim for the second CSDA was to improve coordination and links between the areas which were the responsibility of the Commonwealth government and those the responsibility of the State governments: As the Department of Social Security stated:

While the first agreement did not preclude the development of an interface between the two levels of responsibility of governments, this happened on an ad hoc basis.

The joint Commonwealth/Western Australian Post Schools Options Program was one example of a collaborative approach across areas of responsibility.

An improved interface is needed, particularly if the important life transitions such as school to work, work to retirement and home based care to independent living are to be promoted effectively (DSS 1998:3-6).

The introduction of bilateral agreements was seen as achieving this. The Department of Social Security commented in 1998 that:

In terms of bilateral arrangements, the Commonwealth has already commenced discussions with individual State and Territory governments on new initiatives. Initiatives under consideration include: greater assistance for young people with disabilities making the transition from school to work, the inter relationship between day services and employment, and greater assistance for people with disabilities who are of aboriginal and Torres Straight Islander background.....

The bilateral capacity in the second agreement will enable the Commonwealth and individual States and Territories to bring services such as equipment schemes and therapy services, within the scope of the Commonwealth/State disability Agreement. Bringing services within the scope of the Agreement including on a bilateral basis, enables Commonwealth funds to be added to State funds and development of better links between roles and responsibilities of Governments (DSS 1998:3-6).

However because the change introduced was considerably less than that recommended by the evaluation of the CSDA, it seems likely that another objective of the Commonwealth was to keep Commonwealth control over employment related services. The strategic review of the Commonwealth Disability Services Program, noted above, illustrates this thinking.

The main objective for the States and Territories in the negotiations appears to have been to gain a higher level of funding from the Commonwealth than the Commonwealth was willing to offer. The Commonwealth had announced in the 1996-97 budget that it would reduce funds to the States by applying an “efficiency” dividend (Costello 1996:3275). This led to the delay in finalising the second CSDA as the States walked out of negotiations, until the Commonwealth increased its offer (Alcorn 1997:1; NSWADD 1997:57) The Commonwealth did increase its offer, giving the States an increase in funding for the second CSDA in the 1998-99 financial year. The following table shows Commonwealth funding to the States under the CSDA from 1993-94, the first year in which the CSDA was fully operational.

**Table 7.1 Commonwealth CSDA Funding to the States, Australia, 1993-94 to 2001-2002**

Year	\$ million
1993-94	256.8
1994-95	270.4
1995-96	296.0
1996-97	309.8
1997-98	316.9
1998-99	338.2
1999-2000	355.8
2000-2001	427.8
2001-2002	501.2

**Source:** Budget Paper No 3 Federal Financial Relations, and Budget Paper No 4 Commonwealth Financial relations with Other Levels of Government, various years.

Some commentators saw the Commonwealth's attempt to reduce funding as linked to having an agreement:

Take a function that the Commonwealth performed (eg disability services), persuade, seduce or threaten State governments to take responsibility for it, sign an agreement with them for a limited time period, and then, after the dust has settled, starve the program of funds (Alcorn 1997:1, see also McMenamain 2000).

Such a view seems unlikely as it overlooks that, compared with many other areas, CSDA fared well given the general nature of funding reductions being implemented by the Commonwealth government at the time. In fact the processes of negotiating an agreement appear to have led to more Commonwealth funds being made available than would have otherwise occurred

The 1998 CSDA was a compromise. The Commonwealth achieved its desired structure for the Agreement and retained control of employment related services. The States achieved a higher level of funding than the Commonwealth wished. Neither the Commonwealth or the States can thus be said to have dominated the negotiations for the 1998 CSDA. The States and Territories success in increasing funding shows that, if united, they can succeed in bringing political pressure to bear on the Commonwealth despite the Commonwealth's financial position.

## **CONCLUSIONS**

Both the 1991 and 1998 CSDAs clearly show the influence of the history of separate provision by the Commonwealth and States and Territories of disability services. This

history, and the mutual distrust that developed from it, led to an agreement on coordinate lines, with a separation of functions between the levels of government. This remained largely intact with the second CSDA, although some modifications to the strictly coordinate basis of the first CSDA occurred, with the bilateral agreements representing a concurrent element. These changes came about as a result of the same factors that caused the Commonwealth to expand its involvement in disability services prior to 1991. Thus a strictly coordinate approach to an Agreement proved untenable, just as it had for separate Commonwealth and State provision. The results of the CSDAs against the criteria for areas of joint responsibility developed in chapter 2 are discussed in chapter 10.

It also appears that both CSDAs were compromises, with neither the Commonwealth or the States and Territories dominating. In this way the history of the CSDA is similar to that of the CSHA. Also, as with the CSHA, financial factors do not seem to have determined the results of the negotiations for the Agreements. With the CSDAs the organisational resources held by the different levels of government, and political factors, seem to have been at least as important as financial ones.

## **CHAPTER 8: THE IMPLEMENTATION OF THE COMMONWEALTH STATE HOUSING AGREEMENT AND THE COMMONWEALTH STATE DISABILITY AGREEMENT**

### **INTRODUCTION**

In order to assess the influence each level of government had on the CSHA and the CSDA it is necessary to consider the implementation of the Agreements as well as their negotiation. If arrangements are not, or can not be, implemented, then a misleading conclusion as to which party gained the most during negotiations could be drawn. Sometimes requirements may be included although it is not intended to implement them. Also conditions may be accepted as it is judged that they can not, or will not, be enforced. Hence the conceding of them in negotiations may not reflect a “victory” by the other level of government, unless the conditions are, in fact, enforced. Thus if it had appeared that the Commonwealth had “dominated” the States in a particular negotiation, this could be negated by a lack of implementation of the arrangement.<sup>1</sup> Similarly a conclusion that both levels had influenced the result could be negated by a lack of implementation of the area gained by one level. This chapter uses the “tools” of government derived from Hood, i.e. financial, authoritative and informational/persuasive (chapter 3). Any specific purpose payment, considered as a whole, is an offer of funds for a purpose, and thus a financial tool. However within a joint arrangement authority and informational tools, as well as further specific

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<sup>1</sup> Although perhaps unlikely, it would be possible for a situation where the Commonwealth was judged not to have dominated the States during the negotiation phase to become domination as a result of (lack of ) implementation. Should the States have won a concession during negotiations which prevented the Commonwealth being considered to have dominated the States, but the concession was not implemented, then the final situation could be one of domination.

financial tools can operate. These further tools aim to achieve specific Commonwealth sub-objectives within the overall objectives of the arrangement. For example; the overall purpose of the CSHA is to provide assistance for housing, however from time to time the Commonwealth has desired that some of this assistance be directed to certain groups, such as pensioners, or used in particular ways, such as for community housing. In joint arrangements the different types of tool (financial, authority, information) are often combined. However they are conceptually distinct in that each tool can be used independently of the others, as well as in combination.

The focus in this chapter is whether the Commonwealth was able to achieve its objectives by successfully implementing the provisions agreed during the negotiations.

In examining the effectiveness of the different tools from the point of view of the Commonwealth the resources required for successful implementation are considered. The resources considered are: financial; authoritative; informational; and, organisational (see chapter 3). The resources needed do not necessarily line up with the corresponding tool, for example to be successfully implemented financial measures may require other resources apart from moneys. It will be argued in this chapter that the Commonwealth needs political and informational resources for any tool to be effective in achieving Commonwealth objectives, unless the States also desire those objectives. Moreover different tools inherently require different levels of resources if the Commonwealth is to use them effectively, and this is an important factor in the usefulness of the tools in achieving Commonwealth objectives.

The resources held by State governments are also important. The presence or absence of resources held at the State level may affect whether the Commonwealth has the resources to successfully implement an arrangement. In examining the effectiveness of the different tools it is also necessary to consider whether the tools used by the Commonwealth in joint arrangements actually caused changes in State's actions (see chapter 3).

This chapter commences with a consideration of each of the three types of tools operating independently of the other types, and then examines the tools operating in combination.

### **FINANCIAL TOOLS ACTING INDEPENDENTLY OF OTHER TOOLS**

Financial tools involve the use of funds to achieve an objective. They increase the capacity of the recipient to undertake the desired action where the recipient is unable or unwilling to devote resources to the purpose.

Financial tools operate independently where the payment of funds itself enables the objective to be achieved and other requirements not necessary. A feature of financial tools operating independently is that failure by a State to use the funds for the specified purpose results only in loss of those funds, and not other sanctions. Within a joint arrangement some funds may be specified for a particular sub-purpose within the overall arrangement. If failure to use the funds for the sub-purpose results in a State losing the specified funds, but not other funds, this is a financial tool. On the other

hand, should the State face losing all of its funds for not spending part of the funds on a specified sub-purpose, this is an authority tool. Here the Commonwealth is not simply relying on the offer of funds to achieve its sub-purpose, but is using its authority within the overall arrangement.

Any use of a financial tool will require that some information be provided by States to the Commonwealth in order to verify that the funds were used on the intended purpose. If this is the only informational requirement attached to the provision of the funds it is regarded as a financial tool operating independently. However if further informational requirements are attached, for example requirements that consultations be held on the details of expenditure of the funds, the arrangement will be regarded as a financial tool combined with informational tools.

Financial arrangements may be fixed in that a predetermined amount of funds is received provided the specified conditions are met. Alternatively arrangements can be varying, with the amount received depending on State actions. For some theorists fixed and varying arrangements are appropriate for different situations. This section considers where fixed and varying arrangements have been used and whether their results are consistent with the theoretical positions.

Tools may be general in that they apply equally to all States, or specific and have different application in different States. There are no examples of specific financial tools acting independently within either the CSHA or CSDA. Such tools are unlikely within agreements as all States would have to agree to the varying treatment of different States. Arrangements which allow for varying outcomes to be agreed within



an arrangement between each State and the Commonwealth individually do exist, but as these involve prior negotiation they include informational tools as well as financial ones. They are considered below in the section on tools operating in combination.

This section commences with a consideration of joint arrangements as a whole as a financial tool, and then considers specific financial tools operating within joint arrangements. Finally fixed and varying arrangements are examined.

### **Joint Arrangements as a Whole as Financial Tools**

Both the CSHA and the CSDA are on the surface financial tools as they offer funds tied to a specific purpose. The discussion below concentrates on the CSHA as that Agreement was introduced by the Commonwealth in order to obtain specific actions from the States. The CSDA originated with an approach from the States, not the Commonwealth (chapter 5). Thus the CSDA as a whole does not provide an example of the Commonwealth offering funds to the States in order to achieve a change in State actions.

States do not always accept an offer of funds from the Commonwealth. As Bish and others have pointed out, an offer of funds for a specific purpose or activity does not coerce the recipient government (Bish 1978:23-24). They can refuse the funds, and if the funds are only available for an activity they do not wish to see undertaken, they lose nothing by doing so. This suggests that financial resources alone are not sufficient for financial tools to be effective in enabling the Commonwealth to achieve objectives if the States do not share those objectives.

The history of the CSHA includes occasions where States did not accept Commonwealth funds (chapter 4). Two States (South Australia and Tasmania) did not take funds in every year between 1945 and 1956. That resources other than financial resources are necessary for financial tools to be effective was shown by Queensland's acceptance of CSHA funds in 1945. Queensland took the funds although opposed to its purpose, the provision of rental housing. It was suggested that expectation of likely public reaction was probably a major factor in Queensland's decision. Thus the offer of funds to the States succeeded here in achieving Commonwealth objectives as a result of the political resources held by the Commonwealth, in this case expectation of favourable public reaction to an initiative aimed at overcoming a major problem, the post-war housing shortage. The housing shortage was of major public concern during this period. The importance of political rather than financial resources is emphasised by the Commonwealth having relatively low financial leverage over the States in this period.

The ability of South Australia and Tasmania to operate outside the CSHA for a period raises the question of why the same political pressures that forced Queensland into the CSHA did not apply in their cases. In each case the State provided public rental housing outside the CSHA. Thus they were not vulnerable to criticism that they were ignoring a major need, as Queensland might have been if they rejected the CSHA. They did need to convince the public of their States that proceeding outside the CSHA was desirable. The Tasmanian Premier (Mr Cosgrove) explained the decision to leave the CSHA with these comments:

The Government has made no mistake in terminating the Agreement. The scheme with the Commonwealth, like all other plans involving dual control, was expensive to administer and the State would not be the loser (by leaving the CSHA) (Mercury, 1950).

In order to refuse the CSHA funding the States needed to have the expectation of public support for an alternative course of action. This also implies that they had the other resources necessary to implement an alternative program. These include financial and organisational resources. The financial resources were in part provided by the ability to use Loan council funds, at full interest rates, for housing. Both Tasmania and South Australia had the organisational resources necessary to mount an alternative program. Tasmania had been taking CSHA funds since 1945 and thus by 1950 had established administrative structures. South Australia had established the South Australian Housing Trust and commenced the provision of rental housing in 1936, well before the first CSHA (Mardsen 1986:20). In contrast Queensland, in 1945 did not have an established authority capable of providing rental housing. Thus for them to have developed an alternative program so as to be able to put it forward as preferable to the Commonwealth's would have been difficult.

Queensland's acceptance of funds under States Grants (Dwellings for Pensioners) Act of 1969 provides another example of the political pressures generated by a Commonwealth offer of funds for a purpose. This Act provided Commonwealth grants to the States for housing for single Aged Pensioners who were in receipt of Supplementary Assistance (an additional payment for pensioners who were renting). Although later these grants were included within the CSHA, when introduced they were outside the CSHA, and thus were a separate offer of funds for a purpose.

All States accepted the funds, including Queensland which had not been housing pensioners (Jones 1972:55). Queensland had made it clear that housing families with children would be given preference over housing other family types:

The demands on the Commission for housing families with children, and particularly from large families, is such that preference has currently to be given to the construction of dwellings suitable for such families, rather than to flats which provide less accommodation (QHC 1966:3).

It is not surprising that Queensland accepted the Commonwealth funds. Refusing the funds for pensioners would not have provided Queensland with any additional funds that could have been used in respect of families with children. However as well as providing for single pensioners with the Commonwealth pensioner funds Queensland commenced provision for couple pensioners using State resources (QHC 1971:5). These State funds could have been used in respect of families with children. The likely explanation for Queensland's action is that to house only single pensioners would have created pressure to house couples. The alternative course of action would have been to refuse the Commonwealth funds for single pensioners. However all other States were housing pensioners, often with an emphasis on pensioner couples (Jones 1972:55; Pugh 1976:49). For Queensland to refuse the Commonwealth funds would have highlighted the policy differences with other States. If financial pressure were the only factor there would have been no reason for Queensland to house couple pensioners as well as singles.

For States other than Queensland the States Grants (Dwellings for Pensioners) Act achieved Commonwealth objectives through its provision of financial resources. The other States had been housing pensioners and Victoria had asked the Commonwealth

for a special allocation of grant funds on the grounds that it was difficult to afford to house pensioners using funds on regular CSHA terms and conditions (chapter 4). For such States there was no conflict of objectives with the Commonwealth and the Act operated to increase their capacity to provide housing for pensioners rather than to convince them to do so.

So far the examples discussed have been where States have accepted a Commonwealth offer of funds as a result of expectations of reaction from interest groups, or if the issue was seen as a possible election issue, the electorate. However expectations of reaction can rebound on the Commonwealth should a State decide not to take funds offered. Pressure is then placed on the Commonwealth for forcing the States to use the funds on the particular activity when other activities are needed more. The Mortgage and Rent Relief Scheme (MRRS) provides an example. This program, introduced in 1982 outside the CSHA, but incorporated into the CSHA in 1984, provided funds on a \$1 for \$1 matching basis with the States for short-term assistance to low income home buyers or private renters experiencing extreme difficulty in meeting their mortgage or rent payments (DHC 1984:10). Queensland did not accept the funds available to them in the first year of the program. For the second and subsequent years they were allowed to spend some of their Mortgage and Rent Relief funds as capital for the purpose of purchasing properties for crisis accommodation, although this was outside the original purpose of the MRRS (DHC 1985:9). Similarly in New South Wales the Commonwealth allowed funds to be used for their Community Tenancy Scheme, which leased dwellings for management by community organisations as rental housing. Again this appears outside of the original intentions of the MRRS as the MRRS was stated to be for short term assistance while

NSW stated that the Community Tenancy Scheme was for medium to long term accommodation (YACS 1983:34; HCNSW 1984:10). Here the Commonwealth, faced with States unwilling to use the funds for the intended purposes, allowed funds to be used for other purposes rather than face the embarrassment of the funds not being accepted. This shows that if public opinion is not in favour of the State accepting the funds and using them for the intended purpose it is difficult for the Commonwealth to use financial tools to achieve its objectives.

To sum up, a Commonwealth offer of funds for a purpose can achieve Commonwealth objectives in two circumstances. First, if the States agree with the purpose of the funds and the Commonwealth funds increase the State's capacity to carry out the objective. Second, if the States do not agree with the purpose but the Commonwealth holds sufficient political resources in terms of expectation of favourable reactions<sup>2</sup> to the offer (and unfavourable reaction towards the States should they reject the offer) the proposals are likely to be implemented. However, even where expectations of favourable reaction to a Commonwealth offer exist, it is possible for the States to implement an alternative program to the Commonwealth's. To do so States need sufficient financial and organisational resources, as well as the political resource that favourable reactions were expected, to accept the alternative program.

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<sup>2</sup> The expectations may be of reactions from service users or providers, other interested groups or, if the issue is a possible election issue, the electorate.

## **Financial Tools Operating Within a Joint Arrangement**

These are similar to offers of funds for a purpose except that they operate within a larger joint arrangement. A specified amount of the overall funds within a joint arrangement is tied or earmarked for expenditure on a particular purpose or purposes. Generally the purposes for which the funds are specified will be included in the purposes for which States may spend their overall funds. Thus without the tying of funds the States could still undertake the activity within the joint program if they desired. Tying or earmarking of funds is one way that the Commonwealth seeks to achieve specific objectives within a joint program.

Tying or earmarking is often combined with the other tools, i.e. authority and informational. An example is where programs for expenditure of the specified funds have to be agreed and approved by both the Commonwealth and the State governments. However tying or earmarking operates independently of other tools if the specified funds are simply required to be spent on the stipulated purpose. Such measures have been used within the Commonwealth State Housing Agreement but not the Commonwealth State Disability Agreement. Only arrangements where, if the State refuses the earmarked funds they may still receive other funds under the arrangement are considered here (see above). Where a requirement that a proportion of funds are to be spent on a specified purpose is a condition of receiving any funds under a joint arrangement these are regarded as authority tools and are discussed under that heading.

## **Tied or Earmarked Funds in the Commonwealth State Housing Agreement**

Earmarking of specific amounts within the Commonwealth State Housing Agreement formally commenced with the 1981 CSHA. However a similar arrangement had applied, within the Act authorising the CSHA although technically outside the Agreement, from 1978 (chapter 5). This in turn followed on from the States Grants (Dwellings for Pensioners) Act that commenced in 1969 (see above). In 1981 funds were earmarked for rental housing for pensioners and Aboriginals. In 1984 additional earmarking occurred for the Local Government and Community Housing Program, the Crisis Accommodation Program and the Mortgage and Rent Relief Scheme (MRRS). Under the 1984 Agreement guidelines for the various specific purpose programs could be introduced, and this was done for some of the programs. As these guidelines contained additional requirements to spending the funds on the purpose the earmarking after 1984 is considered below under combined tools. However the earmarking under the 1978 and 1981 arrangements did not contain additional requirements and thus are financial tools operating independently.

The 1978 and 1981 earmarking did assist the Commonwealth to achieve its objectives in the case of Aboriginal housing. The funds were accepted by the States and with one possible exception were spent on the approved purpose. That possible exception was the Northern Territory. From 1983-84 the Territory provided dwellings in rural areas using Commonwealth funds (NTHC 1984:1). However prior to that date, and afterwards for housing in urban areas, the Northern Territory did not separately identify the dwellings provided for Aboriginals (DHC 1985:40). Thus whether the earmarked funds were fully utilised by the Northern Territory for the intended



purpose can not be verified. The funds for Aboriginal housing do appear to have altered States actions compared with what would have occurred otherwise. Relatively little provision was made through the CSHA prior to earmarking so this measure did increase provision for Aboriginals outside the Northern Territory (Kendig and Paris 1987:68). In the Territory increased provision occurred in rural areas from 1983-84.

That under the 1978 and 1981 arrangements the earmarking for pensioner housing increased States' provision is less clear. From 1978 the pensioner housing funds could be used for single and couple aged and invalid pensioners and sole parent pensioners. Prior to 1978 States had been housing significant numbers of single parent families and during the seventies the numbers of sole parents applying for and receiving public rental housing was increasing (Jones 1972:56; DURD 1975:215-216). Thus it is likely that the earmarking for pensioners, after 1978, did not require States to house any more pensioners than they would have without the program. However the funds provided specifically for aged pensioners from 1969 outside the CSHA did increase this provision in at least some States (chapter 4).

Earmarking or tying of funds within a joint arrangement can, as the grants for Aboriginals under the CSHA show, be an effective tool for the Commonwealth to achieve specific objectives. The resources required by the Commonwealth are the same as for as joint arrangements as a whole, either agreement by the State to the purpose or political resources such as expectations of unfavourable public reaction should a State reject the funds. Sufficient informational resources to ensure that the funds were spent on the intended purpose are also required.

## **Fixed and Varying Financial Arrangements**

Fixed financial arrangements are where a fixed amount of funds are provided by the Commonwealth to the States, whereas for varying arrangements the amounts the States receive vary depending on State actions. Varying arrangements may be divided into “open ended” where there is no upper limit on the amount of Commonwealth funds provided and “closed-ended” where there is an upper limit on Commonwealth funding (Break 1980:74). For Break fixed arrangements (block or categorical grants, block being under broad conditions and categorical narrow) were appropriate where federal involvement is justified for “merit goods deserving some element of government support...”, an argument for justification that Break sees as controversial (Break 1980:87). For Declan Costello closed ended varying arrangements or matching grants are desirable where a national government is aiming to increase provision of a public good. He saw matching as assisting in avoiding substitution, that is the State withdrawing funding it was providing, or would have otherwise provided, as a result of the national government funding (Costello 1993:108). For such arrangements the State provides an amount of funds for every dollar of national government funds. The matching ratio does not have to be \$1 for \$1 but can be any ratio seen as appropriate.

Break sees open ended varying arrangements as appropriate for meeting spillovers (Break 1980:80,102). Under such an arrangement the national government matches State expenditure on a particular activity. Again the matching ratio does not need to be \$1 for \$1.

## **Fixed and Varying Financial Arrangements in the Commonwealth State Housing Agreement**

The financial arrangements for the CSHA were essentially a variation on open-ended varying arrangements until 1970-71, fixed from 1971-72 to 1977-78 and closed-ended varying arrangements from 1978-79 onwards. The CSHA was not introduced for spillover reasons but to assist the States in meeting what was seen as a major national problem (chapter 4). The argument for federal involvement was the need to fund merit or public goods at a desired level.

Up until 1971 the States allocated what funds they wished for the CSHA from their Loan Council allocation. On these funds they received financial assistance in the form of concessions on interest rates and longer terms for repayment. The only limit on the amount they could allocate was the total of their Loan council allocation (chapter 4). This arrangement resulted in very different amount of funds being allocated to the CSHA, and different amounts of provision, in different States. Details are given in chapter 9. Similar arrangements also applied from 1982-83 until 1988-89, except that the funds States nominated from their Loan Council allocation and received under CSHA terms and conditions were additional to the Commonwealth allocations under the CSHA and not the States sole source of CSHA funds (DHC 1984:10). Again the proportion of funds nominated by the States varied (chapter 9). The varying amounts of provision under these arrangements do suggest that such open-ended varying arrangements were not appropriate for the Commonwealth aim of ensuring the provision of housing assistance. The variations in provision did not reflect variations in the need for housing assistance between the States (this is discussed in chapter 9)

and thus the Commonwealth was not fully effective in ensuring provision met the need.

Another element of open-ended varying financial arrangements applied in relation to dwellings constructed under the 1945 CSHA. The Commonwealth reimbursed a proportion of the losses States incurred on their rental operations. These losses occurred as a result of the States housing low income people whose rents did not cover the cost of providing their housing (chapter 4). Thus a direct relationship existed between the objective of the Commonwealth for this element (to enable low income people to afford housing) and the amount of funds provided. However in practice the rental loss arrangements proved ineffective with only a relatively small amount being claimed (ACIR 1984:table C3). The reason for this does not relate to the financial arrangements as such, but, as is discussed below under authority tools, the failure of States to charge the rents stipulated by the Commonwealth. Thus this tells us little about the effectiveness, from the point of view of the Commonwealth, of the open-ended varying financial arrangements in this instance. The reasons for the States not charging the stipulated rents are considered below.

Closed-ended varying arrangements were introduced into the CSHA in 1978-79 when the States were required to match Commonwealth funds. However it is not clear that the arrangements before 1989 did change States provision of funds as they provided more than required to receive the maximum amount of Commonwealth funds (chapter 5). This suggests that matching was not necessary to avoid substitution of funds, which, as noted above, is one of the reasons put forward for such arrangements.

## **Fixed and Varying Financial Arrangements in the Commonwealth State**

### **Disability Agreement**

The financial arrangements for the 1991 CSDA were a mixture of fixed and varying arrangements. Base funds were essentially fixed. Both the Commonwealth and the States were committed to providing at least the same level of funds as they provided for the services in the 1989/90 financial year, with a provision for indexation of some of those funds (1991 CSDA 2(1),7(3)). As the level of funds to be provided by each level of government was not linked, i.e. one level's funds did not reduce in proportion to the other level's failure to maintain the base level, these provisions are not matching requirements, such as suggested by Costello, applied to prevent State substitution of funds (Costello 1993:108). Instead they represent authority provisions, i.e. conditions to be met for the receipt of any funds. They are discussed further under authority tools below. There was provision in the 1991 CSDA for growth funds to be offered by one level of government and matched by the other. The matching ratios included an incentive for those States providing relatively higher levels of funding for disability services in that the higher the level of funding, the lower the required matching ratio. (1991 CSDA 7(6)-7(13)). However these provisions were not used (Ernst and Young 1996a:62). Although the Commonwealth first became involved in disability services for spillover reasons, the CSDA came about in order to rationalise provision between the Commonwealth and the States (chapter 7). Thus it may be seen as the Commonwealth providing funds in order for the States to provide certain services. As such fixed arrangements (as they were effectively) would be seen by writers such as Break as appropriate (Break 1980:80,102).

The 1998 CSDA amended the financial arrangements to some extent, although the basic framework remained. Each level agreed to make specified base level of funding available (1998CSDA 8(3)). Additional funds, with contributions by each level of government, were to be negotiated between the Commonwealth and the States (1998 CSDA 8(7)-8(9)). Thus the base level provisions remained as fixed, with authority rule provisions on maintaining the base level. The additional funding provisions, as they involve negotiations, represent combination tools and are discussed below.

### **Conclusions Relating to Financial Tools**

Financial tools have proved reasonably effective for the Commonwealth in achieving Commonwealth objectives where the Commonwealth has possessed political resources such as expectations of favourable public reaction to the purpose for which funds are provided. This applied to both the offer of funds for a purpose as a whole, and specific earmarking of a proportion of funds for a particular purpose within a joint arrangement. The other resource required by the Commonwealth is that of sufficient information to ensure that the funds were spent on the particular purpose. The Commonwealth has possessed this. Financial tools operating independently, such as earmarking for a particular activity, only give the Commonwealth a broad-brush influence over the States' activities. For example such a method may provide assistance for a group of people, for example pensioners, or a type of activity, such as crisis accommodation. However, unless combined with authority and or informational tools the States will have control over the details of provision, such as the location of assistance, types of housing provided etc.

The varying requirements used from time to time under the CSHA have not been particularly effective for achieving Commonwealth aims. Open-ended arrangements have resulted in variations that do not reflect the Commonwealth's aims for the assistance. Closed-ended varying arrangements do not appear to have been necessary to avoid substitution or to have significantly increased the funds provided by the States.

### **AUTHORITY TOOLS ACTING INDEPENDENTLY OF OTHER TOOLS**

Within joint arrangements authority tools are provisions that direct, in some way, how the States are to carry out the activities for which funds are being provided. Usually they are introduced to enable the Commonwealth to achieve a particular objective as they act to limit the discretion of the States. The joint arrangements considered in this study can not, as a whole, be considered authority tools as the Commonwealth has no Constitutional authority for them. The rules within joint arrangements are however akin to authority rules as they can give Commonwealth officers the authority to make or withhold payments to the States, to ask for specified information from the States or to give or deny permission for particular State actions. The Commonwealth can ask that the States obey the rules. If the States don't do so the main sanction available to the Commonwealth, in the absence of any specific sanction specified in the arrangement, is to withhold funds from the State, or cancel the arrangement. Where a State wishes to preserve the arrangement as a whole the Commonwealth may be able to ensure the State's adherence to the rules, even if the State objects to a particular rule. The Commonwealth is then exercising the authority given to it by the State's acceptance of the overall arrangement. However if a State finds the rules of an

arrangements too onerous the State may withdraw from the arrangement if it wishes. This shows that the Commonwealth's authority within a joint arrangement comes solely from the State's acceptance of the arrangement. Another issue for the Commonwealth in obtaining adherence to the rules of a joint arrangement is that withholding funds or cancelling the arrangement may prevent the achievement of the objective of the arrangement. Where the Commonwealth desires that objective this is not an attractive option. These factors can make it difficult for the Commonwealth to enforce the rules of a joint arrangement, and States do not always adhere to the rules of a joint arrangement.

This section examines the extent to which authority tools have proved to be effective to achieve Commonwealth objectives, and the resources required for them to be effective.

Authority tools, like financial tools, will usually involve some informational element, if only the collection of information in order to verify that the requirement was in fact applied. Arrangements where information is only used for verification purposes are regarded as authority tools operating independently. Arrangements where information is used to influence States actions prior to decisions on the details of provision being decided are combination tools.

Authority tools may be general in that they apply equally to all States or they may be particular in that their impact can vary between the States. An example of a particular tool is where specific approval is required from the Commonwealth government for a



specified form of action by the State, this is particular in that the Commonwealth could give a different response to different States.

### **General Authority Tools Acting Independently of Other Tools**

General Authority tools acting independently have been used extensively during the history of the Commonwealth State Housing Agreement, and to a lesser extent in the Commonwealth State Disability agreement. Within the CSHA examples of the uses of these tools include: specification of rents to be charged; restrictions and conditions on sales of dwellings; conditions for loans provided for home purchase; eligibility requirements; statements of principles for provision of assistance; and, requirements for direction of a proportion of funds to a specific purpose. Within the CSDA there have been requirements for States to retain existing levels of financial commitment.

#### **Specification of Rents to be Charged**

The 1945 Commonwealth State Housing Agreement, which applied until 1956, specified the rent formula to be used by the States in determining the rent to be charged for a CSHA financed dwelling. The 1945 CSHA also specified a formula for rebated rents to be charged where a tenant could not afford the rent determined by the rent formula. Rents were to be “economic” rents, that is rents that equalled the cost of providing and operating the dwelling. Costs to be covered by the rents were the capital and interest cost of the Commonwealth advances used to purchase the land and construct the dwelling, and operating costs, that is maintenance, rates and administration. However it is apparent that the formula was not always strictly applied

by the States. The inflation of the late 1940s and early 1950s placed pressure on rent levels. While the repayment of capital and interest remained the same, increases in rates, insurance, administration and maintenance were, under the economic rent formula, added to the rent levels. Thus the formula produced rental increases, although not at the rate of inflation as only some of the components changed.

According to Jones most States were reluctant to raise rents for political reasons, although Queensland was happy to charge the full economic rent (Jones 1972:119). The reluctance to raise rents is understandable in the light of the existence of rent control for much of the 1945 to 1956 period. Although Commonwealth rent controls, which pegged rents to 1939 levels, were handed over to the States in 1948, no increases in private rents were permitted in any State until 1950, and then change was introduced gradually (Albon 1980: 87-100). To increase rents for public housing, while the State's laws prevented a similar increase for private rental dwellings, would clearly be difficult.

The Commonwealth responded by not making the payments included in the 1945 CSHA for losses resulting from rental operations unless the State was charging the full rent as specified in the Agreement and applying the specified rental rebate formula (Jones 1972:156). This resulted in the small amount of these payments that was noted in chapter four. While this had the effect of a financial tool (a link between a State's action and the amount of funds received), it had not been specified in the agreement that the rental loss payments were linked to the rents charged. The decision to withhold these as the penalty for breaching the rent conditions was made by the Commonwealth at the time. That all States did not adhere to the conditions shows that

political resources are important, in this case the expectations of public opinion enabled States to disobey the conditions, even though it resulted in a financial penalty. Theoretically other courses of action would have been possible for the Commonwealth, such as denying States access to funds on CSHA terms and conditions unless they adhered to the rent conditions. This illustrates the difficulty mentioned above for the Commonwealth in attempting to gain adherence to the rules of joint arrangements as the main sanction available to the Commonwealth prevents the achievement of Commonwealth objectives. Under the circumstances it would have been politically very difficult for the Commonwealth to take this action; the funds were being made available to meet a major problem and the rent increases desired by the Commonwealth were unpopular.

The rental rebate provisions of the 1945 CSHA were also not complied with by all States. South Australia did not provide rental rebates after joining the CSHA in 1953 although providing rebates for tenants according to the formula set out in the 1945 CSHA was compulsory until 1956 (SAHT 1958:18). No action appears to have been taken by the Commonwealth on this issue. This may be because, by not applying rebates, South Australia was not in a position to claim rental loss payments, and no other action, beyond withholding the loss payments had been taken against other States in breach of rent conditions. Don Dunstan attributed South Australia's reluctance to initially join the CSHA to their unwillingness to provide rental rebates (Dunstan 1981:21). This suggests that initially South Australia had expected to have to provide rebates if they joined the CSHA.

Provisions relating to the rents to be charged by States for dwellings under the CSHA were removed in 1956. In 1978 they were reintroduced in a different form. The 1978 CSHA specified that:

The rates at which rents are payable by tenants of rental housing shall be determined by the State which when making any such determination shall have regard to a policy of generally relating rents to rates of rental on the open market (1978 CSHA 18(1)).

The actual rent setting arrangements varied greatly between the States as the following extracts from the report for 1980-81 on Housing Assistance Act (the last year of operation of the 1978 Agreement) show:

#### New South Wales

The rental policy of the Housing Commission is that the rents for its dwellings will move towards a level which is equivalent to 80 per cent of the market value of rentals for similar stock in the same area. Where dwellings remain tenanted rent increases are kept to maximum of \$5 per year until the rent ceiling is reached For new dwellings, or for re-tenanted dwellings, the full ceiling rent applies....

#### Victoria

In July 1978 the Housing Commission began implementing a policy of market-related rents for their dwellings. Rents could not increase by more than \$6 per week in any one year, while moving towards the market related level....

#### Queensland

The rents applied to Queensland Housing Commission dwellings were the higher of cost (economic rent) or minimum rent which is currently \$48:60 per week....

#### South Australia

Normal or vacancy rents, the rents paid by tenants not eligible for rent reductions. Are reviewed annually. The Trust relates rents for new dwellings and recommended increases in the vacancy rents for existing dwellings to open market rents for equivalent dwellings....

## Western Australia

The Commission revised the rent structure and implemented the revision in July 1980....

In reviewing the rental levels the Commission maintained the policy of standardised rentals across the State and based its determinations on valuations by a private valuer as to what levels of rental would be commanded if dwellings were placed on the open market in the metropolitan area....

## Tasmania

Except for a few older type dwellings the rentals are now based on market levels as determined by the Valuer-General (DHC 1982: 20-35).

From the above it can be seen that interpretations of market –related rents were very diverse. In particular some States applied standardised rents across different areas while others used varying rents for each dwelling. The treatment of existing tenants also varied, with South Australia not applying market-related rents to them, and New South Wales and Victoria limiting the amount of rent increases. This shows the difficulty from the Commonwealth’s perspective in gaining adherence to broadly worded provisions where different interpretations are possible. That the Commonwealth was unhappy with the rent setting outcomes is shown by a tightening the wording of the provision in the 1981 Agreement to specify market instead of market-related rents:

the State will in respect of the rent for its rental dwellings apply a policy directed to the progressive movement during the term of this agreement of the rent for each dwelling to charging market rents (1981 CSHA clause 33).

As the 1981 Agreement was terminated prior to its scheduled finishing date (1985-86) it is not possible to determine whether or in what manner this provision would have been met by all States.

The 1984 CSHA changed the rent-setting provisions to re-introduce a “cost-rent” formula. However the wording of the provision in fact allowed for States to introduce rent arrangements that did not reflect the aims of the Commonwealth in introducing the provision (chapter 5). Thus whether the implementation of the provision enabled the Commonwealth to achieve its objectives does not arise as the Commonwealth failed to achieve its objectives during the negotiations for the Agreement.

Overall specification as to rents to be charged under the CSHA were not implemented effectively from the Commonwealth’s point of view in order to achieve Commonwealth objectives. Two reasons can be identified for this, expectations of adverse public reaction on the part of the States to implementing the provisions where they resulted in rent rises, and broadly worded provisions being able to be interpreted by the States in very diverse ways.

### **Restrictions and Conditions on Sales of Dwellings**

The 1945 Commonwealth State Housing Agreement placed restrictions on the ability of the States to sell dwellings constructed under the Agreement. If dwellings were sold they had to be sold at the full value of construction and the proceeds repaid by the States to the Commonwealth. In 1955 the CSHA was amended to allow sales of dwellings on terms specified in the agreement, and in 1956 the restrictions on sales removed. It is apparent that these restrictions did significantly affect the number of dwellings sold by the States. The following graph shows the number of dwellings sold

by the States in the 1945-1996 period. An increase after the lifting of restrictions on sales in 1955 and 1956 is apparent.

**Figure 8.1 Number of CSHA Dwellings Sold, Australia, 1945-46 to 1995-96**



**Source:** Commonwealth of Australia Yearbooks for 1945-46 to 1977-78. Housing Assistance Act Annual Reports for 1978-79 to 1995-96.

a) Figures for 1973-74 are from unpublished Department of Housing and Construction tables and may not be consistent with other years.

The smaller, but noticeable increase after 1949-50 was due to Western Australia selling significant numbers of dwellings from 1949-50 onwards, and repaying the proceeds to the Commonwealth as required by the Agreement (Jones 1972:133). The States did adhere to the sales provisions of the 1945 CSHA Agreement, despite having a desire to sell rental dwellings on terms other than those allowed by the

Agreement (Jones 1972:118). By selling States did not have to meet running costs on dwellings, which were rising as a result of post war inflation (Jones 1972:119).

On the other hand Tasmania withdrew from the CSHA in 1950 primarily over the issue of selling of dwellings (chapter 4). Thus the States adhered to the sales conditions while were staying within the agreement, but the ability of States to refuse an offer of funds if political circumstances permitted them to do so meant that not all States fully implemented these provisions.

Restrictions on sales of dwellings were removed in 1956, but re-introduced, in a different form in 1973. While these new restrictions did not achieve the Commonwealth's intentions, this was a result of changes to the provisions during the negotiation process and not the result of a lack of implementation of the provisions (chapter 5). However the changes introduced in 1978 to the conditions governing the sale of dwellings did result in changes to some State's actions. While States were able to sell dwellings if they wished, sales had to be at market value. Figure 8.1 above shows a marked decline in sales after 1978-79. The decline commenced in 1977-78 when some States limited sales but continued after the new Agreement when other States reluctantly reduced sales as a result of the 1978 CSHA requirements (chapter 5).

Unlike the specification of rents, the restrictions on sales in the CSHA were adhered to and did assist the Commonwealth to achieve its objectives. One reason appears to be that the restrictions on sales were clear provisions and that information on the States' actions were available to the Commonwealth. Under the 1945 CSHA the



Commonwealth was to receive the proceeds of sales. This they would know, making whether States had complied relatively easy to judge. Similarly with the 1978 changes, as States were required to pay sales receipts to the rental housing account the Commonwealth was in a position to monitor States compliance.

Expectations by States of public reaction did not lead States to fail to comply with these provisions. While the States may have expected some favourable public support for defying the Commonwealth on this issue, (Tasmania clearly did when it left the agreement) this may not have been seen as being as strong as that relating to increasing rents for public housing when rent control prevented increases for private rental housing.

### **Conditions for Loans Provided for Home Purchase**

The 1978 CSHA specified the interest rates States could charge for Home Purchase Assistance loans. In 1984 the conditions were altered to specify repayment levels as well as interest rates and to require that:

there is recovered from home purchasers the amount by which interest calculated according to this clause exceeds interest actually paid (1984 CSHA clause 27(1)(d))

This meant that subsidies paid in the earlier years of the loans were to be recovered or recouped in later years. The Agreement allowed States to waive recoupment:

State ministers shall determine guidelines setting out circumstances in which recovery shall not be required. ...shall have regard to movements in housing prices and the income of home purchasers (1984 CSHA clause 27 (1)(d)(3)).

Recoupment was implemented unevenly with, for example the Northern Territory not applying recoupment (Flood and Yates 1989:34). That the Commonwealth was not satisfied with the operation of these provisions was shown by the provisions being amended twice, first in 1987 when decisions on waiving recoupment were required to be made by the States on a case by case basis and then in the 1989 CSHA when waiving recoupment was required to be undertaken only in cases of individual hardship (Blewett 1987:1219; 1989 CSHA clause 19(b)(ii). It is clear from the two amendments to the Agreement that the provisions regarding waiving of recoupment were interpreted by the States in a ways that did not please the Commonwealth. This illustrates the difficulties in implementing authority tools that are worded at all generally. It is also apparent that the Commonwealth did not attempt to rigorously enforce the provisions in all cases. Taking action such as withholding funds to the States may have been seen as difficult in relation to a provision which could have been expected to be unpopular with the borrowers.

### **Eligibility Requirements**

Eligibility requirements were introduced into the CSHA in 1973 for both rental housing and home purchase. It was also noted that in practice these restrictions were unlikely to have required significant changes to State actions (chapter 5). These restrictions were removed in 1978, however in 1984 a requirement was introduced into the statement of principles for the Agreement that:

housing assistance...will be available to all sections of the community irrespective of age, sex, marital status, race, religion, disability or life situation. However

priority in granting assistance shall be determined by the need for assistance (1984 CSHA: recital D)

Some commentators have argued that this provision was not adhered to by all States, in particular by Queensland which did not, during the 1984 CSHA house single young people in public housing (Fopp 1989:20; Parkin 1992:104). Although Queensland did not open up public housing to young people, they did provide some funds for assistance to young people through community organisations (DHC 1987:69; QHC 1985:5; QHC 1989:20). Thus the provision did result in a response by Queensland although it may not have been the one anticipated by the Commonwealth. This provides a further illustration of the difficulties the Commonwealth has in implementing broadly worded authority provisions which are capable of diverse interpretations by the States.

### **Statements of Principles for Provision of Assistance**

Statements of principles for provision of assistance were included in the CSHA from 1978 onwards. The eligibility requirement discussed above introduced in 1984 is one example. For a number of the statements of principle there were no specific requirements and no Commonwealth official reporting or monitoring was undertaken. Examples include:

Rental housing should reflect general community housing standards and should be accessible to community and other services. Poor location of dwellings, an inadequate range of choices of dwellings, and stigmatisation of the status of rental housing tenants should be avoided to the maximum extent possible.

The design, style and siting of public housing reflect the needs of disabled persons, Aboriginals, youth, the elderly, or other identified groups

The design, style and siting of (public) rental housing will, to the maximum extent possible support the energy conservation policies of governments” (1984 CSHA: recital D).

As no monitoring was undertaken the Commonwealth had no way of verifying adherence to these principles. Thus, although worded in terms of mandatory requirements, and therefore looking like authority measures, in practice they operated as informational or persuasive measures. They were statements of intention by the Commonwealth aiming to persuade the States as to how provision should be undertaken.

### **Requirements for Funds to be Directed to a Specific Purpose**

Requirements that a proportion of funds be spent on a specific purpose are authority tools where States face losing all of their funds (not just the proportion specified for the purpose) if they do not adhere to the condition. The first use of this tool in the CSHA was in 1956 when minimum levels of funds were specified for use on home purchase loans. This provision did result in the States allocating funds for this purpose which it seems unlikely that they would have done without the provision (chapter 4). The practice of specifying minimum amounts for use on home purchase and/or rental continued with varying provisions applying up until 1981, and again from 1989 to 1996. As Table 8.1 below shows, these provisions were adhered to by the States.

**Table 8.1. Proportion of CSHA Funds Directed to Home Purchase, by States, 1956-57 to 1995-96.**

YEAR	NSW %	VIC %	QLD %	SA %	WA %	TAS %	ACT(a) %	NT(a) %
REQUIREMENT: Minimum 20% of Commonwealth Advances to the Home Builders Account								
1956-57	20	20	20	20	20	20		
1957-58	20	20	20	20	20	20		
REQUIREMENT: Minimum 30% of Commonwealth Advances to the Home Builders Account								
1958-59	30	30	30	30	30	30		
1959-60	30	30	30	30	30	30		
1960-61	30	30	30	30	30	30		
1961-62	30	30	30	52	30	30		
1962-63	30	30	30	47	30	30		
1963-64	30	30	30	53	30	30		
1964-65	30	30	30	51	30	30		
1965-66	30	30	30	52	30	30		
1966-67	30	30	30	52	30	30		
1967-68	30	30	30	52	30	30		
1968-69	30	30	30	51	30	30		
1969-70	30	31	30	54	30	30		
1970-71	30	30	30	53	30	30		
1971-72	30	30	N.A.(b)	53	N.A.(b)	30		
1972-73	30	30	N.A.(b)	53	N.A.(b)	30		
REQUIREMENT: Minimum of 20% and maximum of 30% of Commonwealth advances to the Home Builders Account								
1973-74	25	26	20	50(c)	23	23		
1974-75	39(d)	37(d)	28	40(c)	45(d)	31(d)		
1975-76	20	30	29	40(c)	21	20		
1976-77	30	30	24	40(c)	35	20		
1977-78	30	30	24	40(c)	30	21		
REQUIREMENT: Minimum of 40% of Commonwealth advances for Home Purchase Assistance by the final year of the 1978 CSHA (1980-1981)								
1978-79	30	100	68	52	30	20		
1979-80	30	100	100	62	30	40		
1980-81	40	50	100	60	40	40		
REQUIREMENT: Maximum 15% of Commonwealth untied grants and State matching grants for Home Purchase Assistance								
1989-90	8	0	0	0	0	0	0	0
1990-91	7	0	0	0	15	0	0	0
1991-92	0	0	0	0	0	0	0	15
1992-93	11	3	0	0	0	0	0	14
1993-94	12	0	0	0	0	0	0	13
1994-95	0	0	0	0	15	0	0	0
1995-96	0	8	0	0	15	0	0	9

**Source:** Commonwealth of Australia Year Books for 1956-57 to 1977-78, Housing Assistance Act Annual reports for 1978-79 to 1995-96

- (a) The NT joined the CSHA in 1981-82 and the ACT in 1989-90
- (b) Published figures for 1971-72 and 1972-73 for Qld and WA include funds from Loan Council allocations that were outside the scope of the States Grants (Housing) Act 1971. Thus the relevant percentages are not available.
- (c) States that exceeded 30% in each of 1971-72 and 1972-73 were allowed to continue to do so. Only SA qualified for this concession.
- (d) A special additional allocation was made in 1974-75 that could be spent on home purchase. As a result some states exceeded 30%

The only exception was Western Australia in 1976-77 where they spent 35% instead of the specified maximum of 30% on the Home Builders Account. However this relates to the distribution of expenditure between financial years rather than being a real transgression of the provision as in the year before, 1975-76, only 21% was spent on the Home builders Account. Thus the provision was adhered to in if the two years are taken together. That quite frequently States allocated exactly the maximum or minimum amounts required shows that the provision did have some affect on State actions. The informational requirements for this tool are to ensure that the required funds were spent of the specific purpose, as noted above the Commonwealth would usually possess this.

### **Requirements for States to Retain Existing Level of Financial Commitment**

Such a provision has not been used in relation to the Commonwealth State Housing Agreement but has been part of the Commonwealth State Disability Agreement since its inception in 1991. The 1991 CSDA required that the Commonwealth and the States provide funds at least equal to base funds (1991 CSDA: clause 7(3)). Base funds were defined as follows:

“base funds” means recurrent and non-recurrent funds contributed by the Commonwealth and a State respectively for disability services in the 1989/90 financial year, with indexation from year to year on that component of the funds which was contributed to those disability services transferred from one level of government to the other (1991 CSDA: clause 2(1))

For such a provision to be effective from the Commonwealth’s viewpoint the Commonwealth must have sufficient informational resources necessary to know that

existing effort has, in fact, been maintained. In the case of the Commonwealth State Disability Agreement this is not clear. The Australian Law reform Commission stated that “The Commonwealth.....has no way of checking how much money the States and Territories themselves contribute” (ALRC 1995:91). On the other hand the Implementation Study for the Evaluation of the CSDA, using figures provided by the States, concluded that the States had met this condition and their figures showed that the States provided more than necessary to meet the requirement. However they noted that the figures used had not been audited, that the interpretation of the relevant provisions of the Agreement was not consistent, particularly in respect of the indexation and maintenance of base funding level requirements, and that the basis used for the calculations varied between the States (Ernst and Young 1996a:59-61). If their conclusions are accepted, that the States provided more than necessary suggests that the provision may not have changed States actions. It is likely that it will often be difficult for the Commonwealth to have information to verify States financial commitment as this requires a detailed knowledge of State finances and programs. The difficulty of the Commonwealth achieving objectives in the face of differing interpretations of provisions is also evident in this example.

The 1998 CSDA altered the maintenance of effort provisions to specify the amounts of base funding to be provided by the States in dollar terms for each year of the Agreement. (1998 CSDA: clause 8(3)). While this provision meets the question of differing interpretations of the requirement, it may still leave open the question as to whether the Commonwealth is able to verify the amount of States’ funding.

## **Conclusions Relating to General Authority Tools Acting Independently of Other Tools**

The results of this type of tool within the CSHA have been mixed from the viewpoint of the Commonwealth in attempting to influence States actions. Some tools, such as restrictions and conditions on sales and requirements that a proportion of funds be directed to specific purposes were relatively effective while others, for example stipulation of rents to be charged, rather less so. Factors determining the effectiveness of these tools include expectations of public reaction on the part the State should they not implement the provisions; the availability of information to the Commonwealth on whether States are adhering to the conditions; and, whether the provisions are clear and specific. Generally worded provisions have proved to be capable of varying interpretations thus making it difficult for the Commonwealth to achieve its objectives by the use of such provisions. The existence of such generally worded provisions may often reflect compromises during the negotiation process as it is likely to be easier to achieve agreement on generally worded provisions than on specific provisions.

Another factor that can limit the ability of the Commonwealth to use these tools to achieve its objectives is the limited range of sanctions available to the Commonwealth. The main sanctions are is to withhold funds from the States or to cancel the arrangement. The only example noted above of these being applied was the withholding of rental loss payments (but not other CSHA funds) under the 1945 CSHA. The withholding of funds can seem to be a drastic sanction compared with the States breaking of the detailed rules of an arrangement, and the denying of resources to the States does not achieve the Commonwealth objectives, which requires the States to receive the resources.



### **Specific Authority Tools Operating Independently of Other Tools**

These tools take the form of provisions that require specific Commonwealth approval if a State is to take certain specified actions. Thus, theoretically permission may be granted in the case of one State but refused in the case of another, although whether it would ever be practical for this to be done may be doubted as a result of the political controversy such action would provoke. The provisions considered in this section contain no requirement for consultation between the Commonwealth and the State or States prior to a request for permission being received. Some consultation and exchange of information is to be expected when a State requests the Commonwealth for permission to undertake the specified action, however these were not formally specified in the arrangements considered. Where consultation is formally required the tools are combination tools (see below). There are a few examples of specific authority tools acting independently having been included within the CSHA. They have not been used for the Commonwealth State Disability Agreement.

Under the 1945 CSHA the States were required to formally gain approval for the allocation of dwellings between metropolitan and country areas.

The 1956 Agreement required that States formally gain Commonwealth approval should they wish to use organisations other than housing societies as the lending body for loans for home purchase. This provision lasted, with minor variations until 1978. The Commonwealth wished to encourage the growth of building societies (Spooner 1956:1305-6). However some States used other agencies, for example South Australia

lent funds through the State Bank of South Australia and Tasmania through the Agricultural Bank (SBSA 1961:3; Agricultural Bank of Tasmania 1957:6).

From 1956 until 1971 Commonwealth approval was also required for the conditions of loans for home ownership. This provision had some influence on State actions as the Commonwealth required that the maximum length of loan be 31 years and that the interest rate be no more than 1½% above the rate at which the State received the funds (Association of Co-Operative Building Societies of NSW 1962:6; Agricultural Bank of Tasmania 1966:7). In other ways conditions varied between the States, for example prior to 1965 in NSW loans were for less than 80% of the valuation of the dwelling whereas Tasmania lent to 90% of valuation (Association of Co-Operative Building Societies of NSW 1965:6; Agricultural Bank of Tasmania 1959:5).

The 1956 CSHA also required States to receive Commonwealth permission to erect flats higher than three stories. Despite this provision considerable development of flats of more than three stories occurred, especially in Victoria from the early 1960s onwards (HCV 1963: 15).

Another example of this type of tool occurred under the 1989 CSHA, which allowed States to spend twenty percent, or twenty-five per cent with Commonwealth approval, of their Commonwealth untied funds on what was called the “general allowance”. Only New South Wales requested permission to use more than twenty per cent of funds for this purpose, and the request was granted (DHHCS 1992:28).

From the above it can be seen that requirements for Commonwealth approval to undertake specific actions had only a small effect on States actions. Requests were granted and, at least in the case of lending through organisations other than building societies, this meant that Commonwealth objectives were not met. When a State makes a request under such a provision it is difficult for the Commonwealth to refuse as the State will be able to make a case based on local conditions, and the Commonwealth is unlikely to have sufficient local knowledge to refuse. It is possible that having to request permission from the Commonwealth could dissuade a State from the course of action, however obtaining evidence of this is difficult as any such instances are unlikely to be on public record. Where requirements for approval are used by the Commonwealth to place maximum or minimum limits on State actions they are more likely to have an effect as the Commonwealth is not relying on a detailed knowledge of local conditions.

### **Conclusions for Authority Tools Acting Independently of Other Tools**

Overall these tools have had mixed results. General authority tools have shown they can be effective for the Commonwealth to achieve its objectives provided: they are worded clearly and specifically; have relatively simple information requirements for the Commonwealth to know whether they have been implemented; and, the political resources are favourable to the Commonwealth, for example there is not an expectation that enforcing them would be unpopular with the public. Specific authority tools do not appear to have been effective from the point of view of the Commonwealth as the Commonwealth often does not possess sufficient detailed information on the circumstances in each State.

## **INFORMATIONAL TOOLS ACTING INDEPENDENTLY OF OTHER TOOLS**

The use of information or persuasion by one level of government to influence another, is a relatively common occurrence. Often this will be informal, that is the information exchange is not specified in any joint arrangement between the different levels of government. Non-structured contact between governments such as the provision of unsolicited information is one type of informal information tool. Another is one government influencing third parties, for example non-government organisations, to lobby other governments. Also governments can attempt to influence public opinion to support a change in another level of government's activities. An example of an informal informational approach in relation to the Commonwealth State Housing Agreement can be seen by the publication by the Commonwealth from 1945 to 1952 of the "Australian Housing Bulletin" which had commenced in 1944 under the title "War-time Housing". The publications purpose was described as "providing data for use in the technical work arising from the Government sponsored Housing Programme" (DWH 1945). The Bulletin contained descriptions of types of housing provided under the CSHA in different States and articles on a wide range of subjects including: construction techniques; desirable standards for building construction; standards for estate development and allotment size; types of housing for aged persons; house design; landscaping and recreational areas for housing estates; provision of community facilities; and, housing in overseas countries. Clearly it was hoped that the States would take notice of the information published, although there was no requirement for them to do so.

Informal information tools can be used by one level of government to influence another whether or not there is a relevant joint arrangement operating. Sometimes use of informational or persuasion may be the only involvement by the level of government in an area. Thus they are not features of any particular type of joint arrangement or area of joint responsibility. As the purpose of this study is to examine the results of areas of joint responsibility and compare the results of different types of joint arrangements, further consideration of informal informational tools is not relevant, except to note that they can influence outcomes of any type of arrangement.

Formal informational requirements are where a requirement to regularly consult or exchange information is specified in a joint arrangement or otherwise agreed between governments. These may be linked to authority requirements or specific sums of money, but can operate independently. There are some examples of formal informational tools operating independently both the CSHA and the CSDA. These include requirements for provision of information not linked to specific authority or financial requirements and regular consultations agreed by governments.

### **Requirements for Provision of Information**

The 1945 CSHA contained a number of areas where Commonwealth approval was not required, but States were to notify the Commonwealth of their activities. These were details of the States proposed building programs, progress on the building programs and standards for:

- (a) allotments or sites
- (b) accommodation
- (c) construction
- (d) equipment; and
- (e) services (1945 CSHA clause 4 (1)).

This arrangement represented a compromise, these areas were among those for which the 1944 Commonwealth Housing Commission had recommended Commonwealth control, but for which States were not willing to grant control to the Commonwealth (chapter 4). These arrangements were dropped with the 1956 CSHA. There is no evidence that the requirements influenced State's actions. Given that these were included as a result of the failure of the Commonwealth to negotiate the inclusion of authority tools in the same areas it would be surprising if they had a marked effect on State actions. If the Commonwealth lacked the political resources to achieve authority measures during the negotiation process it is unlikely that requirements to notify would place sufficient pressure on States to change their actions.

Requirements to provide statistical information to the Commonwealth have existed under both the CSHA and the CSDA. In some cases the information has been required in order to verify compliance with financial or authority tools, however some information asked for has been beyond that required for such purposes, for example information requested on undeveloped land holdings under the 1978 CSHA (DHC 1980:61-62). Such information may be used in discussion with States to suggest courses of action, such as selling surplus land and (as would have been required by the 1978 CSHA) using the proceeds for housing purposes. Thus these requirements do not act by themselves, but act in conjunction with consultations.

## **Regular Consultations Between State and Commonwealth Governments**

Regular formal meetings between Commonwealth, State and Territory ministers and officials have occurred under both agreements. While these may often concentrate on policy issues and negotiation of new agreements they may also discuss implementation of the arrangements. It is difficult to assess the result of such discussion in assisting the Commonwealth to achieve its objectives through the implementation of joint arrangements. The records of such discussions are usually not publicly available and participants' judgements as to whether the discussions influenced actions may be at variance. Even when a change in State actions occurred, it is difficult to be certain that this was influenced by the discussions with the Commonwealth and would not have occurred in any case. However, despite the above comments, it is clear that such discussions can result in the Commonwealth influencing State and Territory actions in implementing a joint arrangement.

An example is that of discussions between the Commonwealth and the States and Territories on administrative measures in 1997 for targeting public housing assistance to those most in need of assistance. The Commonwealth announced that it was no longer pursuing radical change to housing arrangements under which the Commonwealth would no longer pay capital funds to the States for housing, but providing income assistance to tenants. Instead of these changes, discussions were taking place on the reform of public housing within the framework of the CSHA (Newman 1997). Shortly after this, both Queensland and Victoria announced a series of changes to eligibility for public housing, the nature of waiting lists and rents to be

charged (Housing 1997; Watson 1997). The Commonwealth Department of Family and Community Services explained that:

In June 1997, Commonwealth, State and Territory Housing Ministers discussed a number of strategies to improve the efficiency and effectiveness of the sector..... Following that meeting there have been significant shifts in policy in most States. A major focus has been the targeting of public housing to those most in need. This has involved a tightening of eligibility criteria in some States and the development of new waiting list procedures to ensure that those who are homeless or in greatest housing need have quicker access to public housing (FACS 1999:5).

While some States may have been willing to pursue such actions without Commonwealth pressure, some State level officers interviewed during research for this thesis agreed that the Commonwealth had influenced State thinking, one commenting that the Commonwealth had “educated” the State on such matters.

### **Conclusions on Informational Tools Acting Independently of Other Tools**

The example of the discussions between the Commonwealth and States on targeting assistance to those most in need shows that informational tools acting independently can be an effective tool for the Commonwealth to achieve its objectives. To be effective from the Commonwealth’s point of view, the Commonwealth will need to possess sufficient informational resources to persuade the States. However political resources will also affect the result. In the example mentioned above the period was, rightly or wrongly, one of concern about the level of government expenditure and of reducing payments to those seen as not really needing assistance so the Commonwealth could expect public support for efforts to target assistance to those regarded as “most in need”. Conversely the States could expect criticism for not targeting assistance to those in need. Such considerations could be expected to assist



the Commonwealth in its aim of influencing State actions. In the other examples described informational tools acting independently were not effective in achieving Commonwealth objectives. However in these cases the Commonwealth did not possess strong political resources as is shown by the Commonwealth having failed during negotiations to achieve authority measures covering the same issues.

## **TOOLS ACTING IN COMBINATION**

Financial, authority and informational tools are often used in combination in joint arrangements rather than independently. The main combinations that have been used are authority tools combined with informational tools and the combination of all three. As with tools operating independently tools acting in combination can be either general or specific. However, in the areas examined in this thesis the combination of all three tools has only been used specifically i.e. where the results can vary from State to State.

It could be expected that tools acting in combination would require a greater level of resources on the part of the Commonwealth to be effective in achieving Commonwealth objectives than tools operating independently. It will be argued that this has often been the case and as a result such tools have not always been effective from the point of view of the Commonwealth. However where sufficient resources are made available these tools can be effective in achieving Commonwealth objectives.

## **General Authority Tools Combined with Informational Tools**

With this type of tool all States and the Commonwealth agree on particular practices or principles. To reach such agreement will require a process of consultation and negotiation prior to decisions being made. This type of tool has been used on three occasions in the Commonwealth State Housing Agreement but not in the Commonwealth State Disability Agreement. The three uses within the CSHA, were agreement on principles for allocation of dwellings (1945), agreement on uniform rental rebate formula (1978 and 1981) and performance indicators (1996 and 1999).

### **Agreement on Principles for Allocation of Dwellings**

The 1945 CSHA required the Commonwealth and the States to agree on the principles for allocation of dwellings. The principles agreed between the Commonwealth and the States were:

- 1 Not less than 50% of dwellings to be allotted to ex-members of the Forces
- 2 Present habitation condemned by local authorities or otherwise regarded as insanitary or dangerous
- 3 Present housing overcrowded (including family unit inadequately housed in boarding houses)
- 4 Present habitation not affording reasonable access to place of employment and resulting in loss of efficiency to essential worker
- 5 Tenant prepared to move from dwelling which has accommodation in excess of needs
- 6 Suitable housing accommodation not available at rent within means of tenant.

Applications were to be graded into needs groups, taking into account particularly family size and income (Agricultural Bank of Tasmania 1948:7).

The general nature of these categories, except for the first, means that it is unlikely that States were constrained by these principles and in fact considerable variation in

allocation arrangements occurred. New South Wales and Victoria operated ballot systems for allocation to dwellings. In Queensland a points system was used for allocation. Points were allocated on the basis of the applicant's circumstances, with those on the highest points receiving priority, while lower points meant a longer wait for public housing (Jones 1972:25-26). In most other States special committees allocated applicants to available houses on individual assessment of priority of need (DWH 1949). Large families were given preference in some States, for example in Victoria families with five or more children were exempted from the ballot determining allocations, thus receiving preference over smaller families (HCV 1946). Preference was also given by some States to employees of certain industries. Western Australia, for example, at one stage made 25% of allocations to building trades persons, including newly arrived migrants (SHCWA 1950:7). Other States also gave preference to persons regarded as in key industries. New South Wales operated special "industrial ballots" where dwellings were allocated on the basis of a ballot confined to members of key industries (HCNSW 1951).

In relation to the first agreed allocation principle, that at least 50% of allocations be to ex-service personnel, it seems likely that this would have occurred without specific agreement. Allocations to ex-service personnel generally exceeded this level, for example in 1949 it was reported that Western Australia had allocated 63%, New South Wales 65% and Victoria nearly 70% of allocations to current or former service personnel (DWH 1949).

## **Uniform Rental Rebates**

The 1978 CSHA stipulated that:

the Commonwealth and the States will jointly seek ways of establishing a uniform way to the calculation of .... rental rebates (1978 CSHA: clause 18(2)).

In the 1981 Agreement this was amended to:

A uniform rental rebate policy shall be developed by the Commonwealth and the States and shall be applied by each State for the calculation of rental rebates (1981 CSHA: clause 34(2)).

In practice uniform rental rebates were not introduced and a similar provision was not included in the 1984 CSHA. The nearest that occurred was agreement to a set of principles in 1981-82. These principles were:

the use of gross income (including allowances for spouses income);

the exclusion from family income of family allowances, maternity allowances, educational allowances for dependants, domiciliary and handicapped child allowances and orphan allowances;

equal treatment of non-dependent children;

limitations on the amount of income to be paid in rent;

equal treatment of old and new tenants (QHC 1983:5).

Despite the above limited agreement significant differences in rental rebate policies still existed in 1983-84, the final year of operation of the 1981 CSHA. Differences included the proportion of income tenants were required to pay in rent and in the treatment of income of spouses and other family members. In New South Wales, a flat

twenty percent of income was charged to tenants, up to the maximum rent for the dwelling, except for pensioners without dependants who paid 18 percent of income. In all other States the percentage of income tenants paid in rent increased as income increased, although the rate of the increase varied in different States. Most States charged between 20 and 25 percent of income, although South Australia charged between 16.67 and 25 percent, while the Northern Territory charged from 20 to 28 per cent. Pensioners without dependants also were charged differing amounts in all States except Victoria. All States, except South Australia included all of a spouses income in the income for calculating rental rebates. South Australia included only part of a spouses income for low income earners. Treatment of other income earners (apart from main income earner and spouse) also varied considerably. Western Australia and Tasmania included part of other income earners to the income on which rental rebates were calculated. Victoria increased the rent to be paid by ten per cent of the additional income earners income up to a maximum additional rent payment of ten per cent of the State Minimum Wage, while the other States charged an additional flat amount (varying between States) as rent in respect of each additional income earner (DHC 1985:30-31).

The failure to achieve uniform rental rebates illustrates the difficulties in achieving agreement between all States and the Commonwealth on detailed policy issues.

### **Performance Indicators**

A third use of general authority tools combined with informational tools occurred in the 1996 Commonwealth State Housing Agreement. This required that the States and

the Commonwealth agree on a series of performance measures. The following measures were agreed:

- (1) Level of provision
- (2) Targeting assistance to those in need
- (3) Affordability of the assistance provided
- (4) The standard of rental housing provided
- (5) Match of dwelling and household size
- (6) Timeliness of assistance
- (7) Consumer satisfaction
- (8) Efficient use of housing assets
- (9) Value of housing assets (FACS 1999:21-28).

These measures were part of the intention with the 1996 CSHA for the Commonwealth to reduce its involvement in administration of programs under the Agreement but to increase its monitoring of State provision (chapter 5).

Whether the operation of the performance indicators has enabled the Commonwealth to effectively monitor the State's performance and ensure that its objectives have been met is open to doubt. The Australian National Audit office undertook an examination of the administration of the Commonwealth Housing Agreement in 1999. They concluded that:

This performance based framework was not in place under previous CSHA's and was, in itself a significant improvement on prior agreements..... However, there were problems with the quality and reliability of performance and financial information provided by the States which limited the usefulness of that information for measuring and/or assessing performance against required results. Consequently this information requires considerable improvement before it can contribute more meaningfully to analysis as to whether CSHA program objectives have been met efficiently and effectively (ANAO 1999:13-14).]

Whether more effective data collection can solve the problems identified by the Audit Office, or whether there are major difficulties in using performance measures in an

inter-governmental context, needs to be considered. Some information on the operation of the 1996 CSHA is available in the Annual Reports of the Department of Social Security (1996-97) and the Department of Family and Community Services (1997-98 and 1998-99). More detailed information is currently available only in respect of the first two years of the operation of the Agreement, 1996-97 and 1997-98. This is published in the 1996-97 and 1997-98 Annual Reports on the Housing Assistance Act, 1996. There are some difficulties in assessing the success of the performance indicator approach from this information. The Department of Family and Community services noted that information for the 1996 CSHA is not strictly comparable with data from previous years.(FACS 2000:2) Thus whether the 1996 Agreement resulted in changes in State and Territory activities is hard to assess from the information. The Department noted that the indicators are undergoing development and that most are being reassessed.(FACS 2000:2). Despite these qualifications there is sufficient information to make a preliminary judgement as to the success of the approach embodied in the 1996 Agreement.

A number of problems with the use of performance indicators in the 1996 CSHA are apparent. Some of these relate to difficulties inherent in using performance indicators in any arrangements, while others reflect the additional difficulties posed by the federal context.

Criticisms of the use of performance indicators in any context include that performance indicators may only measure one aspect of a program with multiple objectives and may concentrate only on those aspects for which measurable data is easily available (Smith 1995:283-284; Leeuw 1996:10). These difficulties are

apparent in the performance information for the 1996 CSHA. An examination shows that many of the indicators are narrow and reflect only part of the aspect the indicator is trying to measure. For example *Performance Indicator 2: Targeting assistance to those most in need*, has two measures: the percentage of public tenants who would have to spend more than 25% of their income if they were to rent in the private market rent, and the proportion of all such households in the State which are public tenants. As the Commonwealth Department of Family and Community Services has acknowledged these do not address non-affordability aspects of need such as discrimination (FACS 1999). The Australian National Audit Office made the same criticism of this indicator. (ANAO 1999: 42). Similarly, *Performance Indicator 4: the standard of public rental housing provided* is measured by an indicator based on the proportion of backlog maintenance required to bring stock up to its capital value and a tenant survey of stock condition.(FACS 2000:16) The first measure looks only at the maintenance condition of the stock, and not other aspects of the standard of the stock. That the second measure has a subjective element in that it reflects different local concerns was also noted by the Department (FACS 1999:24).

However the use of performance measures in general is judged, particular difficulties arise when they are applied in an intergovernmental context. A major difficulty is that of comparability of information across different jurisdictions. This is acknowledged by the Department of Family and Community Services who comment:

Data comparability and compatibility issues should be kept in mind when interpreting the results (of the performance measures).....In particular, in 1997-98, data could not be uniformly reported for all jurisdictions. Various State and Territory data definitions limit the level of comparability..... Although progress is being made in improving the level of uniformity, it is limited by the capacity of the existing data collection and management systems (FACS 2000b:2).



The Department also commented that:

Extensive reviews have been made of the 1996 CSHA performance indicators, and most are now being reassessed in the context of the 1999 CSHA. The improvements being developed will assist States to comply with data provision and ensure that the data are consistent, comparable and valid (FACS 2000b:2).

This reflects the recommendations noted above of the ANAO report that improvement was needed to the data and indicators. However as the State and Territory governments are independent organisations with their own way of doing things the extent to which it is possible for the Commonwealth government to insist on a common approach which will enable comparable information to be collected may be doubted. Certainly the uniformity of State administrative systems that would be necessary to achieve this would involve the Commonwealth in details of administration and as such is contrary to the intention with the 1996 CSHA, noted previously, that the Commonwealth withdraw from detailed administration. This can be seen from an examination of a number of the performance indicators in the 1996 CSHA.

First, *Performance Indicator 6: Timeliness of assistance*, measures the time taken by housing authorities to allocate housing assistance to a household, based on the length of time a household has been on the waiting list. When presenting the information on this indicator in the 1997-98 Housing Assistance Act Annual Report, the Department of Family and Community Services commented:

Variations in waiting lists between States also reflect different eligibility criteria and the frequency with which authorities confirm that the applicants are current (that is they are still eligible and seeking public housing).

For similar reasons, it is not appropriate to use this indicator as a measure of how well States are meeting need. It does not take account of whether allocations have been made on a priority basis to those households with the greatest need or to households which have managed to wait the appropriate period. A more useful indicator is being developed (FACS 2000b:19; see also FACS 2000a)

The ANAO report also criticised this indicator (ANAO 1999:41). This example shows how differences in the administration can affect the use of performance indicators.

Similarly, in relation to *Performance Indicator 8 Efficient use of housing assets*, the Department of Family and Community Services commented:

Comparisons between States should be made with care because current accounting policies and practices differ between jurisdictions. For example some States use different methods for calculating depreciation and doubtful debts, tenancy manager revenue and operating costs from property manager revenue (FACS 2000(b): 21-22)).

Again it is apparent that attempting to obtain uniform data here would involve uniformity in the details of State administrative practices.

Another aspect of the difficulty of relying on performance indicators in an intergovernmental context is that knowledge of local conditions may be needed to interpret results in a given State or Territory. For the Commonwealth to acquire sufficient local knowledge is likely to require a duplication of effort to that of the States and Territories. Even if this is within the resources of the Commonwealth it is also contrary to the intention of 1996 CSHA for the Commonwealth to withdraw from detailed administration. An example is provided by a further extract from the

comments provided by the Department of Family and Community Services in relation to CSHA *Performance Indicator 6: Timeliness of assistance*:

A waiting lists provide a rough but poor measure of demand for public housing assistance in relation to the size of the stock. A long waiting time may reflect an applicant's willingness to wait for a public housing dwelling in a particular location (FACS 2000b:19).

In the light of this comment, to interpret a State or Territory's results, detailed information would have to be known about locations with longer waiting periods and judgements made as to whether long waiting times reflected choice or need on the part of the applicants.

Another example is in relation to *Performance Indicator 2 Targeting Assistance to those most in need*. The Department in the 1996-97 HAA report commented that:

Variations between States are due to different policies regarding eligibility and the state of the private market. For example, higher vacancy rates may result in lower rents in the private sector, and therefore lower housing need, while the level of public housing stock may determine the tightness of eligibility criteria and targeting (FACS 1999:22).

Similar, although more abbreviated, comments were made in the 1997-98 HAA report and the 1999-2000 FACS Annual Report (FACS 2000b:14-15; FACS 2000a:89). This example also suggests that a State or Territory's performance in relation to this indicator can not be assessed without a detailed knowledge of conditions in the State or Territory's private housing market.

The 1998 Commonwealth State Disability Agreement also required agreement between the Commonwealth and the States on a range of performance measures

(1998 CSDA: clause 7(a)-7(b)). Performance information is published by the Steering Committee for the Review of Commonwealth/State Service Provision (SCRCSSP 2001). Similar issues exist with performance indicators for the CSDA as for the CSHA. In particular problems of obtaining uniform data without imposing uniform administrative practices on the States, and interpreting the results of data without detailed knowledge of each jurisdiction, appear to be present. The SCRCSSP commented that “Different delivery contexts locations and types of clients may affect the effectiveness and efficiency of disability services” (SCRCSSP 2001:610). This emphasises the need to have detailed information about the circumstances in each jurisdiction. One example is provided by the fact that much of the data used for assessing performance is obtained by a “snapshot” survey of users of services taken on one day of the year. In an earlier report the SCRCSSP commented:

Snapshot data, (like any static data) should be interpreted with caution for two reasons. First, the count of service recipients occurs on one day of the year and the extent to which that day is representative may differ among jurisdictions or over time. Second it counts the quantity of clients receiving services on that day and should not be interpreted as a proxy for the number of clients receiving services over the year. The relationship between the number of clients receiving on one day and the number over the year will be affected by the average period or frequency with which clients receive services (SCRCSSP 2000:1028).

Thus in order to compare this data between jurisdictions detailed knowledge of the patterns of service use (not obtainable from the data collection) and judgements as to how “typical” the clients are on that day, are required. Work is being undertaken to collect information on users of CSDA services on an on-going rather than a snapshot basis. This will require considerable resources from both Commonwealth and State governments. The new approach is being jointly developed by both levels of

government and the Australian Institute of Health and Welfare (SCRCSSP 2001:627-628).

Quality data on services was also collected by a snapshot survey which asked questions of clients on satisfaction with services (SCRCSSP 2000,1036). This survey was not repeated for 2001 (SCRCSSP 2001:613). Again, in order to compare jurisdictions, judgements about how “typical” clients were on that day would need to be made.

Examples of problems of obtaining comparable data are provided by the performance measures for “efficiency” in the SCRCSSP report. The report commented that:

Significant effort has been made to improve the method for calculating efficiency indicators in this Report and document where there are differences. Some concerns remain over the comparability of the results, however, because jurisdictions use somewhat different measures of data collection...Expenditure estimates for NSW, Victoria Queensland and WA are generally comparable because the estimates are based on accrual accounting and include all major items in a consistent way. The expenditure data from the remaining jurisdictions are not strictly comparable and tend to underestimate the full accrued cost (SCRCSSP 2001:619).

In relation to administrative efficiency the report commented that:

The proportion of total expenditure on administration is not yet comparable across jurisdictions because different methods are used to apportion administration costs. Administration cost data are useful, however, for indicating trends *within* jurisdictions over time (SCRCSSP 2001:623).

The above comments illustrate the difficulties of comparing data between States, and the States and the Commonwealth unless uniform administrative procedures are followed. As noted above ensuring such administrative uniformity will require

considerable resources on the part of the Commonwealth and /or all States and territories. Similar conclusions, that performance measures raise problems of data comparability and require considerable resources, have also been noted for the United States (Radin 2000:149,153).

Housing and disability Commonwealth and State officials interviewed during the research for this thesis all saw performance indicators being useful for general policy development purposes at both the State and Commonwealth levels. However, in relation to the 1998 CSDA and the 1999 CSHA performance indicators were seen as distinct from the bi-lateral planning processes under those agreements and not used for obtaining adherence to the conditions of the Agreements (see below). This suggests that performance indicators are not themselves an effective tool for implementing Commonwealth aims, although they may assist in obtaining the informational resources to make other tools effective.

### **Conclusions Relating to General Authority Tools Combined with Informational Tools**

This type of tool has not proved particularly effective in enabling the Commonwealth to achieve its objectives in joint arrangements. Reaching agreement between all States, Territories and the Commonwealth can be difficult, as the attempts to introduce uniform rental rebates under the CSHA showed. Where agreement is reached it is likely to result in general provisions that do not greatly affect State provision, as was shown by the requirement for agreement on principles for allocation of dwelling in the 1945 CSHA. Where agreement has been reached with a reasonable

degree of specificity, as has occurred in the case of performance indicators, it is apparent that the Commonwealth requires a high level of informational resources in order for the indicators to be uniformly interpreted and to ensure States adherence to the provisions. To date under the CSHA and CSDA the Commonwealth has not possessed sufficient resources for this tool to be effective from the Commonwealth's point of view in achieving its objectives.

### **Specific Authority Tools Combined with Informational Tools**

In this type of tool individual agreements are reached between the Commonwealth and a particular State or Territory on the provision to be undertaken by a State or Territory within a joint arrangement. The arrangements include requirements for discussion and negotiation as well as for approval by the Commonwealth. Within the CSHA and the CSDA they taken the form of agreed plans for expenditure of the funds provided under the agreement. In the arrangements considered under this heading the planning process applied to all the funds covered by the Agreement. Such arrangements have applied under the CSHA since 1989 and also applied under the 1991 CSDA. Where planning arrangements apply only to a specified part of the funds, and are a condition for receipt of those specified funds, they are considered as a combination of financial, authority and informational tools.

### **Planning Arrangements in the CSHA**

New planning arrangements aimed at increasing the level of Commonwealth control over the States were introduced for the 1989 CSHA. In the subsequent CSHAs further

emphasis had been placed on agreement between the Commonwealth and individual States and Territories rather than common agreement between the Commonwealth and all States and Territories (chapter 5).

Any approach by the Commonwealth to achieve its objectives through plans or agreements negotiated individually with States and Territories is likely to require a high level of informational resources on the part of the Commonwealth. The Commonwealth will need sufficient knowledge of local needs, current provision and circumstances to ensure that the priorities, targets, outcomes and indicators agreed will in fact achieve Commonwealth objectives. Some commentators and official reports have questioned whether the Commonwealth has been able to achieve its objectives through the CSHA planning processes. For example Andrew Parkin, commenting on the Commonwealth State plans under the 1989 CSHA, remarked that “the published plans reflect much of the character of each particular State government” (Parkin 1992:104). The 1999 report by the Commonwealth Auditor General into the 1996 CSHA was critical of the operation of the strategic planning process in that agreement. The report commented:

However FaCS advised that State strategies included in bilateral strategic plans were often not well justified. FaCS had no clear basis for assessing State strategies and the effectiveness of State targeting in these cases. For example it was difficult for FaCS to maintain an objective evaluation of whether upgrade tasks undertaken by SHAs (State housing authorities) were determined on a priority basis or whether such expenditure was in fact the most appropriate use of funding to meet housing needs.

Assessing the effectiveness of State strategies requires a detailed understanding of the operations of individual SHAs. As a minimum, this will require an appreciation of the interrelationships between the various measures of performance and funding priorities of individual SHAs. For example prevailing market conditions of the particular jurisdiction can have a significant impact on desired results and their achievement (ANAO 1999:79).



To meet the level of knowledge suggested by the Audit report would require the Commonwealth to have detailed information on the market conditions in each State and Territory and also detailed information on the actual provisions, policies and administrative procedures of the State and Territory governments. For example to assess whether upgrading activity was justified would require detailed knowledge of the existing condition of the dwellings and the circumstances of those living in them compared with the circumstances of others who could be in need of housing assistance. For the Commonwealth to acquire such information would obviously require a high level of resources which could be seen as duplication of State effort.

Commonwealth and State officers interviewed in the research for this thesis saw the bi-lateral agreements under the 1999 CSHA as differing from the planning approaches under the 1989 and 1996 CSAs. Under the 1999 Agreement the Commonwealth was seen as concentrating on achieving a few objectives, such as improving links with support services. The Commonwealth was described as “tweaking” and “fine tuning” the States proposals to achieve Commonwealth priorities and concerns. However otherwise the Commonwealth let the States deliver the programs as they wished. The bi-lateral plans contain only a small number of numerical targets, these are for stocks of dwellings listed under different categories. Otherwise the plans require general priorities, and requirements for expenditure of sums of money on specified purposes without numerical targets, as is shown in this extract from the Victorian 1999-2000 – 2002-2003 Bi-lateral agreement:

*Outcome 4.2 Physical improvements to housing stock:*

Victoria will:

- improve housing stock through expenditure of some \$630 million on upgrade works;
- promote energy efficiency and environmental management through demonstration projects, and
- improve fire safety by installing sprinklers and hose reels and by conducting fire risk management assessment audits.

While detailed requirements for fire safety are included, there are no numerical targets and no details for the general upgrade works required. Examples of CSHA bi-lateral agreements are at Appendix D

From the above it is clear that the bi-lateral plans under the 1999 CSHA are not being implemented in a way which would achieve the detailed level of Commonwealth influence implied in the 1989 and 1996 CSAs or desired by the ANAO report. In the Victorian example This suggests that achieving such a level of detailed influence has proved too difficult for the Commonwealth.

### **Planning Arrangements for the 1991 CSDA**

Requirements for plans agreed between the Commonwealth and individual States and Territories have been included in the CSDA since its inception in 1991 (chapter 7). The 1991 CSDA was formally evaluated in 1996. Reports produced for the evaluation of the CSDA suggested that the CSDA had not only not improved the coordination situation, but had actually lessened joint planning between Commonwealth and State governments (chapter 7).

The Implementation study produced for the CSDA evaluation also noted that, despite the requirements of the CSDA, implementation of the formal mechanisms for planning were patchy:

The development of a State Strategic plan for disability Services was a requirement of each State government entering into the CSDA . The New South Wales plan is a comprehensive example. Such plans have not been developed in all States. Combined Commonwealth/State forward plans for each jurisdiction were also specified in the CSDA. To date, no jurisdiction has developed a combined government plan (Ernst and Young 1996(a):42).

It is apparent that the planning arrangements contained in the 1991 CSDA did not work to assist the Commonwealth or the States and Territories in achieving their objectives. From the Commonwealth point of view, its activities in the employment area were hindered by a lack of linkages between employment and State provided accommodation services (Yeatman 1996:executive summary x). It is however hard to judge whether the Commonwealth had sufficient informational resources to achieve its objectives through the planning arrangements as it appears from the above judgements by the CSDA evaluation that no strong effort was made by the Commonwealth to implement these arrangements. When the first CSDA was replaced by the 1998 CSDA the specific planning arrangements were not included, instead the ability for “bi-lateral” agreements between the Commonwealth and an individual State or Territory was introduced. These is no requirement for such an agreement, they are optional if agreed to by the Commonwealth minister and the respective State or Territory minister. As these have generally been introduced in conjunction with a specific additional allocation of funds, these are considered below under specific authority tools combined with financial and informational tools.

## **Conclusions Relating to Specific Authority Tools Combined with Informational Tools**

This type of tool does not, at least to date, appear to have been effective from the Commonwealth's point of view in enabling it to achieve its objectives. Two reasons can be identified for this, a lack of serious effort in making the tools work and a lack of sufficient informational resources on the part of the Commonwealth. Whether it would ever be practicable for the Commonwealth to obtain sufficient informational resources must be open to doubt.

### **Specific Authority Tools Combined with Financial and Informational Tools**

These tools differ from the planning arrangements discussed above in that the approval processes are linked to the specific provision of funds within the joint arrangement and thus affect some, but not all, of the funds provided by the Commonwealth. Such arrangements have been used within the CSHA since 1984 and the CSDA since 1998.

### **Specific Authority Tools Combined with Financial and Informational Tools within the CSHA**

The 1984 CSHA included five "specific purpose programs" within the overall arrangement. Two of these, the Local Government and Community Housing Program (LGCHP, later the Community Housing Program or CHP) and the Crisis Accommodation Program (CAP), required joint Commonwealth and State approval of

plans and or programs and advisory committees with both Commonwealth and State representation (chapter 5).

The Commonwealth had detailed objectives for both of these programs. The aims for the LGCHP when introduced included to encourage:

- alternative forms of public housing and management
- involvement of local government and community groups in the provision of low cost rental housing
- greater tenant participation in the management of their dwellings, and
- attraction of new sources of funding to public housing provision (Purdon 1989:1).

The Crisis Accommodation Program aimed to provide dwellings for supported accommodation services approved under SAAP (a program outside the CSHA providing recurrent funding for the operation of crisis accommodation and similar services) and for short-term accommodation without support services (Chestermann 1988:10).

Both programs had reasonable, but not total, success in achieving their aims. An evaluation of the LGCHP commented, in relation to the involvement of local government and community groups in the provision of low cost rental housing:

LGCHP has involved Local Government, community groups and the co-operative sector in the direct provision of housing for low income groups . However their involvement has tended to be on an individual, ad hoc, basis. Efforts to involve peak organisations in the development of strategies and priorities for involving groups has not generally been very successful (Purdon 1989:34).

In relation to the attraction of additional resources the evaluation concluded that:

LGCHP has attracted a considerable amount of additional resources to the program most of which would not otherwise have been available for the provision of low cost rental housing (Purdon 1989:79).

In relation to tenant participation it was noted that:

the concept of tenant management established through the co-operative housing sector is becoming more widely accepted in public housing than before LGCHP was introduced (Purdon 1989:86).

CAP was successful in providing dwellings for SAAP approved services, the 1988 review of SAAP commenting:

the existence of CAP funds has enabled State Housing Authorities to improve dramatically the quality of SAAP accommodation (Chestermann 1988:23).

The specific program was seen as necessary if the desired linking with SAAP was to be achieved, the 1993 evaluation of SAAP commenting:

The Steering Committee (for the SAAP evaluation) shares the concerns expressed during consultations that merger of CAP within the CHP or its absorption into the general CSHA programs would be likely to have a detrimental effect upon SAAP since the interests of its users would be submerged by those of the other, much larger, programs (Lindsay 1993: 121).

CAP was less successful in providing unsupported short term accommodation, the 1993 evaluation commenting that “a small proportion of CAP funds is used for emergency unsupported accommodation” (Lindsay 1993:8,28).

The administration of both programs involved joint Commonwealth and State approval of priorities for areas for types, location and target groups for projects. For

LGCHP individual projects were approved by the State minister, although the Commonwealth minister was able to veto a project. Priorities for projects, and individual projects, were recommended by State Advisory Committees (SAC) which contained representatives of the Commonwealth and State governments as well as local government and community groups (Purdon 1989:11). For CAP, which was administered together with SAAP, Joint Officer Groups with both Commonwealth and State officers made funding recommendations with both Commonwealth and State ministers approved funding (Chestermann 1988, 153). These administrative arrangements have been commonly criticised for being inefficient and causing, sometimes costly, delays in approval for projects (Industry Commission 1993 vol 1:131, vol 2:278; Purdon 1989:131; Functional Review of Housing 1991: 25,62, Chestermann 1988:154).

However it seems unlikely that without administrative processes similar to those used that all the objectives of the programs would have been achieved to the extent that they were. For example Commonwealth involvement in advisory committees was seen as vital for the achievement of tenant participation under the LGCHP. The housing organisation, National Shelter, in a report for the 1989 evaluation of the LGCHP based on interviews with participants commented:

The work of Commonwealth representatives on SACSs has an important bearing on how tenant participation develops in the Program. Other SAC members have not always been aware of the need to pay attention to the tenant participation aim. Commonwealth representatives have the opportunity therefore to take a strong role in ensuring that projects recommended for funding meet the tenant participation requirements, and that all SAC members understand the Guidelines (Shelter 1989:35).

The report also observed that:

Some SHA personnel made the point that their governments did not want specific Purpose Programs in the CSHA. The impact of a lack of political commitment to the Program is obviously likely to affect the degree to which the SHA supports it and its more innovative aspects, such as tenant participation (Shelter 1989:37).

Thus it is unlikely that, if the Commonwealth had simply earmarked funds for community housing without the administrative structures and approval processes that the tenant participation objective would have been achieved.

The administrative processes for both programs have now been altered. In 1992 the LGCHP was replaced by the Community Housing Program (CHP). Under the 1996 CSHA provision was included that the “identified programs” (previously known as Specific purpose programs), which included the Community housing program could be “untied” (the funding allocated to this program added into the States general CSHA funding) by agreement between the Commonwealth and the States. In late 1996 the Community housing program was “untied” in all States and Territories, with targets and strategies for community housing agreed through the Commonwealth-State planning process and included in the States strategic plans (FACS 1999:16).

CAP is administered together with SAAP. In 1999 a Memorandum of Understanding (MOU) governing SAAP and CAP was signed by the Commonwealth and all States and Territories. Under the MOU the Commonwealth and the States are to participate in a national SAAP Coordination and Development Committee memorandum responsible for the strategic national direction of the program. Bi-lateral agreements are to be signed between the Commonwealth and individual States and Territories which are to establish State or Territory priorities. Within the context of these bi-



lateral agreements, State level only approval is required for funding decisions (MOU 1999: 9-10).

### **Specific Authority Tools Combined with Financial and Informational Tools within the CSDA**

The use of this type of tool in the CSDA is rather different from that of the CSHA. The 1998 CSDA includes provision for bi-lateral agreements between the Commonwealth and individual States or Territories (chapter 7). These bi-lateral agreements differ from those in the 1999 CSHA in that under the CSDA bi-lateral agreements are not compulsory, and do not have to cover all provision under the Agreement. Additional funds may be, and have been, provided in respect of these bi-lateral agreements. Thus the CSDA bi-lateral agreements are examples of specific authority tools combined with financial and informational tools.

The bilateral agreement arrangements under the CSDA have been effective in assisting the Commonwealth to achieve its objectives. In 1998 all States took additional funds to be used on agreed priorities. In August 1999 the Commonwealth announced that it would provide an additional \$150 million through the agreement to address unmet need provided States were also willing to commit additional funds. By June 2000 six of the eight States and Territories had agreed to do so through the bi-lateral negotiation process and officials interviewed confirmed that all States and Territories had agreed by December 2000 (FACS 2000a). Thus the Commonwealth succeeded in having States and Territories provide additional funding.

Commonwealth and State level officers described the Commonwealth's approach

during the bi-lateral negotiations as focussed on policy not process and on the identification of a few key priorities for assistance. In the first round of bi-lateral agreements, in 1998, priorities varied between the States, officials commented that they were mainly initially suggested by the States. However in the round of negotiations on bi-lateral agreements held in 2000 the Commonwealth raised provision for older carers as a priority. Both Commonwealth and State officials interviewed saw the priorities genuinely jointly agreed by both the Commonwealth and the State. It would seem that the Commonwealth was able to achieve specific objectives through the bi-lateral agreement provisions of the CSDA.

The resource requirements on the Commonwealth for the CSDA bi-lateral Agreements are not high. By concentrating on a few priorities, extensive detailed knowledge of individual State conditions, such as that necessary for plans covering all expenditure, is not required. Nor does verification of State actions require a high level of resources. While the bi-lateral agreements show some variation generally the only requirement on the State is spend a specified amount of funds on the agreed purpose.. Thus the information resources required by the Commonwealth are similar to those for financial tools operating independently, which, as discussed above, can be successful in achieving Commonwealth objectives. Examples of bi-lateral agreements are at Appendix E.

For the Commonwealth to achieve its objectives through this type of arrangement it will also require political resources. The bi-lateral plans have operate similarly to the financial tools discussed earlier in that the Commonwealth has offered funds to the States for a specific purpose. The main difference is that with the CSDA bi-lateral

agreements the purposes are agreed with the States and Territories individually and can vary between different States and Territories, whereas the earmarking of funds was primarily determined by the Commonwealth and applied uniformly. As with the CSHA earmarking, under the CSDA bi-lateral arrangements the States do not need to accept the specified funds to receive their other CSDA funds. Thus if the States oppose the purpose of the funds there is no reason for them to accept, unless they fear the political consequences of rejecting the funds.

### **Conclusions Relating to Specific Authority Tools Combined with Informational and Financial Tools**

This type of tool does appear to have been effective from the Commonwealth's point of view in enabling it to achieve at least some of its objectives. However the community housing and crisis accommodation specific purpose programs under the CSHA required considerable informational and administrative resources on the part of the Commonwealth. As well they were criticised for inefficiency and causing delays. On the other hand it is unlikely that the Commonwealth could have achieved its objectives which involved changing the approach of the States and Territories to provision without detailed involvement in the administration of the programs. It may be questioned whether the Commonwealth would have had sufficient resources to apply that sort of approach successfully to the whole CSHA rather than selected small parts of it.

The bi-lateral agreements under the CSDA represent a very different approach. The Commonwealth concentrated on relatively simple objectives, such as the obtaining of

additional funds and the provision of services for particular groups, such as older carers. Generally the States were only required to spend the agreed amount of funds on the specified purposes. Thus a much lower level of informational resources is required by the Commonwealth than for other uses of tools in combination.

## **CONCLUSIONS**

This chapter has examined the effectiveness of the various types of tools from the point of view of the Commonwealth in influencing State or Territory actions in order to achieve Commonwealth objectives. Financial tools operating independently and, to lesser extent, general authority tools acting independently have been reasonably effective for the Commonwealth. The key factors appear to have been: the presence of political resources held by the Commonwealth; whether it was reasonably simple to verify that States had conformed with the requirements of the tools; and, for authority tools, that the requirements were clear and specific so that different interpretations were not likely. Financial tools acting independently had a relatively low requirement for informational resources, however some, but not all authority tools required a higher level of these resources.

Thus favourable political resources and a relatively low requirement for informational resources have been important for the success of these tools in achieving Commonwealth objectives. Financial tools, unless Commonwealth and State governments share objectives, depend more on political than financial resources in order to achieve Commonwealth objectives. However even when the Commonwealth possesses favourable political resources, financial tools such as an offer of funds for a

purpose, may be rejected by the States if they possess sufficient financial, organisational and political resources to implement an alternative program.

The importance of political resources can be seen by the fact that informational resources, acting independently, can be effective in achieving Commonwealth objectives where sufficient political as well as informational resources are held by the Commonwealth.

Specific authority tools acting independently and both general and specific authority tools combined with informational tools have not been particularly effective in achieving Commonwealth aims. These tools all require relatively high levels of informational resources and this appears to be the main reason for their relative lack of success from a Commonwealth viewpoint.

Although tools requiring high levels of informational resources are not normally effective in achieving Commonwealth aims, specific authority tools combined with financial and informational tools are an exception. In the case of the CAP and CHP programs within the CSHA, high levels of informational and organisational resources were required and provided by the Commonwealth. These programs only covered a small proportion of total CSHA expenditure and whether such a commitment of resources could be provided for broader is doubtful. In the case of the other example, the bi-lateral agreements under the CSDA, the Commonwealth did not require a high level of informational or organisational resources as they concentrated on achieving a small number of aims and did not attempt a detailed influence of State or Territory actions.

There are limits on the amount of influence the Commonwealth can exert over State and Territory actions when implementing joint arrangements. Tools that proved relatively successful in this regard were used to achieve relatively non-detailed aims generally applying only to a limited part of the State or Territories activities. Financial tools, such as earmarking for a purpose, by their nature do not provide any detailed influence or control to the Commonwealth. Where general authority tools achieved Commonwealth aims they were applied to a few limited areas of State activity. The types of tools that do aim to give detailed and wide ranging influence to the Commonwealth, such as specific authority tools combined with informational tools, appear to be less likely to be successful as a result of the high level of informational resources required.

## **CHAPTER 9: THE RESULTS OF FEDERALISM: UNIFORMITY OF PROVISION**

### **INTRODUCTION**

The degree of uniformity in provision between the States is important for any consideration of the results of areas of joint responsibility. For some commentators a degree of national uniformity is a desirable outcome of joint arrangements while for others it is a disadvantage as it does not allow for varying local circumstances (chapter 2). As these aspects are two of the criteria being used for assessing the results of the areas of joint responsibility being considered in this study, it is necessary to consider the question of uniformity of provision before proceeding with that assessment, which is in chapter 10.

In general it will be argued that Commonwealth involvement in areas of joint responsibility has increased the uniformity of provision compared with State only provision, but that the results have been well short of complete uniformity.

This chapter is arranged by examining uniformity of provision in three areas, the amount of funds and services provided, the target groups for assistance and the types and nature of assistance provided. As well as considering the extent to which uniformity of provision occurred in each area, an attempt will be made to compare the results of the different types of joint arrangements covered by the case studies. The types considered are uncoordinated overlapping responsibilities (disability services prior to 1991), arrangements dividing responsibilities using “coordinate” principles (disability services after 1991 through the Commonwealth/State Disability Agreement, especially the 1991 CSDA), and arrangements based on “concurrent” principles (the Commonwealth State Housing Agreement).

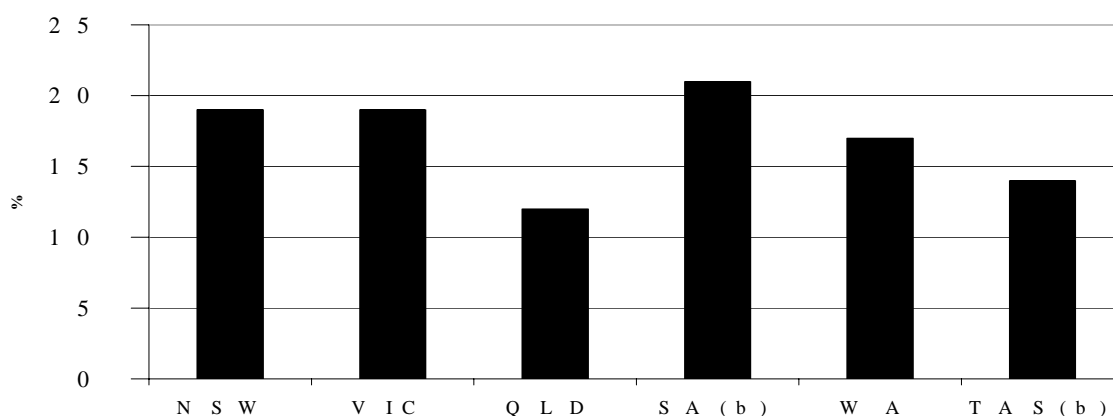
## PROVISION OF FUNDS AND SERVICES

### The Commonwealth State Housing Agreement

The extent of uniformity of Commonwealth funds to the States under the CSHA has varied with the financial arrangements that have applied. While these arrangements now result in a high degree of uniformity in the amount of Commonwealth funds received by each State, this has not resulted in the same uniformity of the number of rental dwellings provided through the CSHA.

Until 1973 the States themselves chose what proportion of their Loan Council allocation they provided for housing under the CSHA (chapter 4). As figure 9.1 below shows this resulted in very different amounts being allocated for the CSHA.

**Figure 9.1 Percentage of Loan Council Funds Allocated to the CSHA, by State, 1945-46 to 1971-72(a)**



**Source:** Budget papers; Payments to or for the States, 1945-6 to 1972-73

(a) Years 1971-72 and 1972-73 are percentage allocated for housing purposes

(b) Includes only the years in which the State participated in the CSHA or the 1971 Act



From 1973 the Commonwealth allocated the funds to the States. The initial allocation was reflected the amount of funds the States had chosen to allocate to housing under the arrangements applying prior to 1973 (Hudson 1978: 1706). The 1978 Agreement retained these arrangements except that the grants provided under Part 3 Housing Assistance Act 1973 were distributed on the basis of the pensioner population in each State for the grants earmarked for pensioners and on the basis of the Aboriginal population for the grants earmarked for Aboriginals.

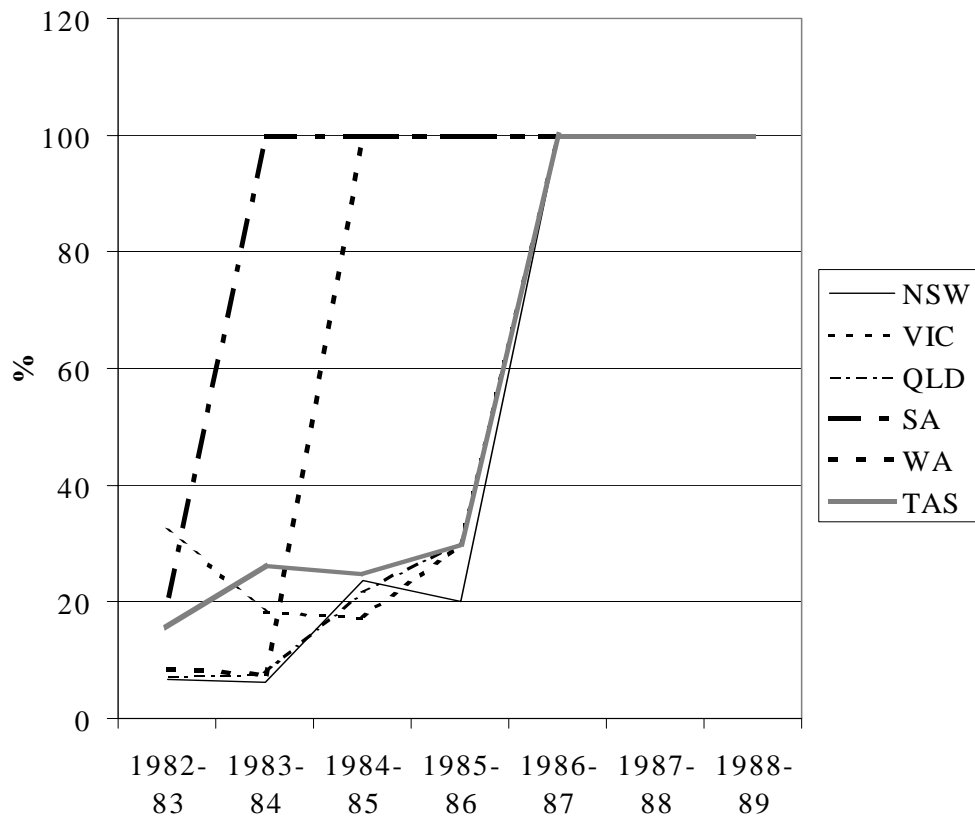
The 1981 CSHA introduced the principle of moving the distribution of funds to per capita shares (DHC 1983:8). The specific pensioner and aboriginal funds remained distributed on the basis of the respective shares of the target groups populations, except that aboriginal funding from 1983-84 was distributed, in part, on a basis of relative need for assistance as determined by the Australian Aboriginal Affairs Council (DHC 1985:38). The reason for the change was that:

The Commonwealth considers that the distribution of housing funds on an equal per capita basis would be a fairer allocation of funds between the States and would be more in keeping with relative housing needs (McVeigh 1981:2440 ).

However an element of the States choosing the amount of funds they wished to use for housing was re-introduced from 1982-83 until 1988-89 with the ability for States to nominate funds from their Loan Council allocation and receive them under CSHA terms and conditions (chapter 8). Unlike in period prior to 1973 the nomination arrangements applied only in respect of funds additional to the main CSHA allocation, and not to all the funds. Figure 9.2 shows the take up of the nominated funds. The proportions nominated varied considerably up until 1985-86, however from 1986-87 onwards all States nominated the maximum amount. From 1986-87 the

amounts available for nomination declined, as a result of restrictions applying in 1986-87 and a decline in the size of the Loan Council borrowing program from 1987-88. Whether all States would have nominated the maximum amount if this had stayed at the levels of earlier years is a matter for conjecture.

**Figure 9.2 Proportion of Available Funds Nominated for Housing through the CSHA, by State, 1982-83 to 1988-89(a)**



**Source:** Budget Paper no 9 Payments to or for the States and no 4, Commonwealth financial Relations with Other Levels of Government, various years and Housing Assistance act Annual Reports, various years.

(a) the Territories have been excluded as they were not able to nominate funds for housing in every year for which the arrangements applied.

Table 9.1 below shows the maximum amounts available for nomination for the six States combined:

**Table 9.1: Maximum Amount of Loan Council Funds Available for Nomination for Housing through the CSHA, 6 States Combined, 1982-83 to 1988-89.**

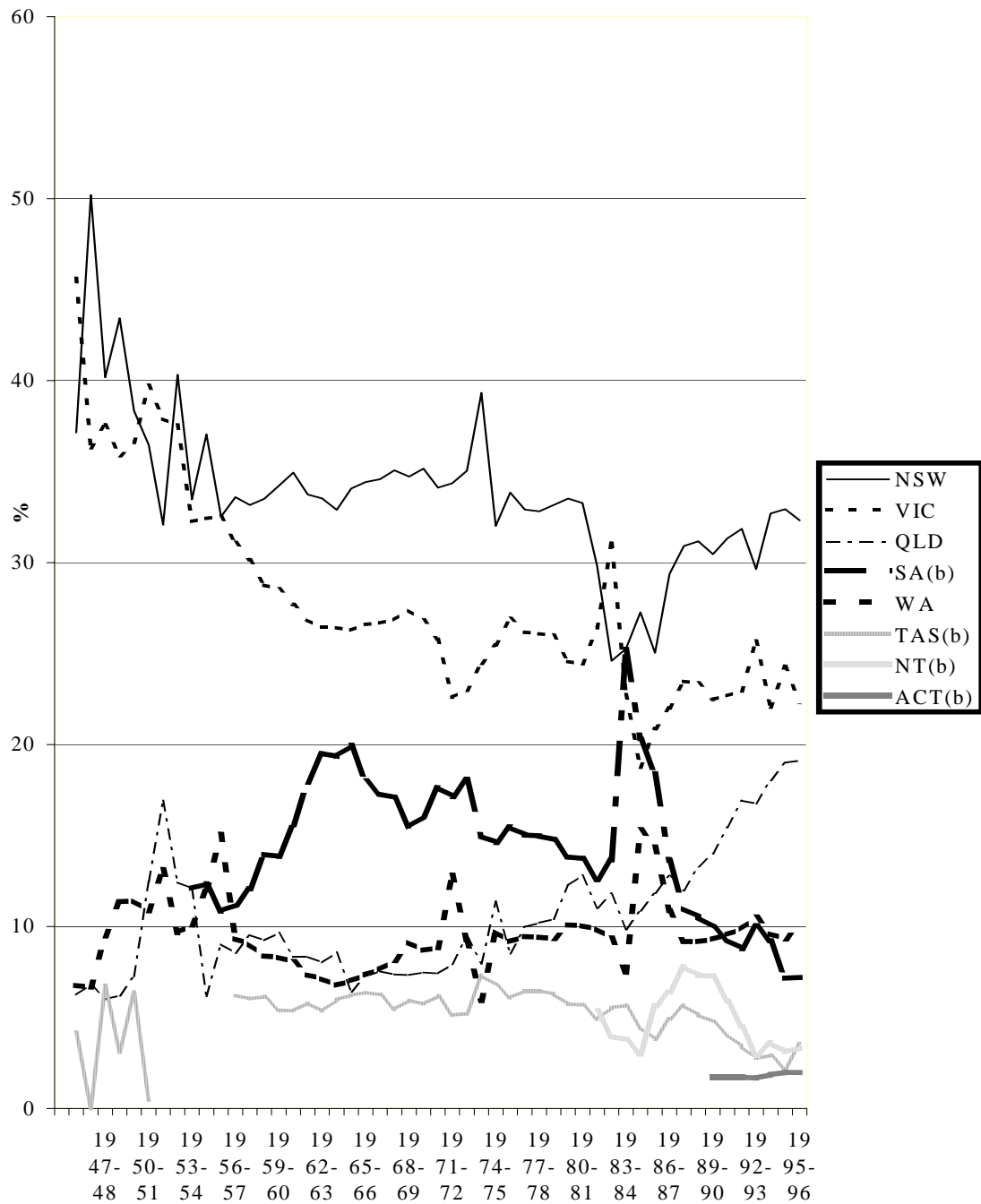
	\$m
1982-83	915.3
1983-84	979.3
1984-85	1134.6
1985-86	1073.7
1986-87	533.8
1987-88	357.2
1988-89	237.7

**Source:** Budget Papers No 9 Payments to or for the States, and no 4, Commonwealth Financial Relations with Other Levels of Government, various years.

Figure 9.3 below shows each State's percentage share of Commonwealth funds under the CSHA from 1945. The changes in Commonwealth distribution from the mid-1980s onwards can be seen, particularly in the increase in Queensland's share and the decline in South Australia's share. Thus the Commonwealth's assumption of allocation of funds to the States resulted in a more even distribution of funds than occurred when States had discretion as to the amount of funds they would allocate to the CSHA.

The amount of funds available to the States is one factor in the level of provision of rental dwellings under the CSHA. Other factors include the amount spent on rental housing as against other activities and policies on the sale of dwellings. These are discussed below.

**Figure 9.3 States and Territories Shares of CSHA Funding 1945-46 to 1995-96(a)**



**Source:** Commonwealth of Australia Yearbooks 1945-46 to 1977-78. Housing Assistance Act Annual Reports 1978-79 to 1995-96

(a) Years 1971-72 and 1972-73 are total Loan Council funds allocated to housing

(b) These States and Territories did not participate in the CSHA in all years.

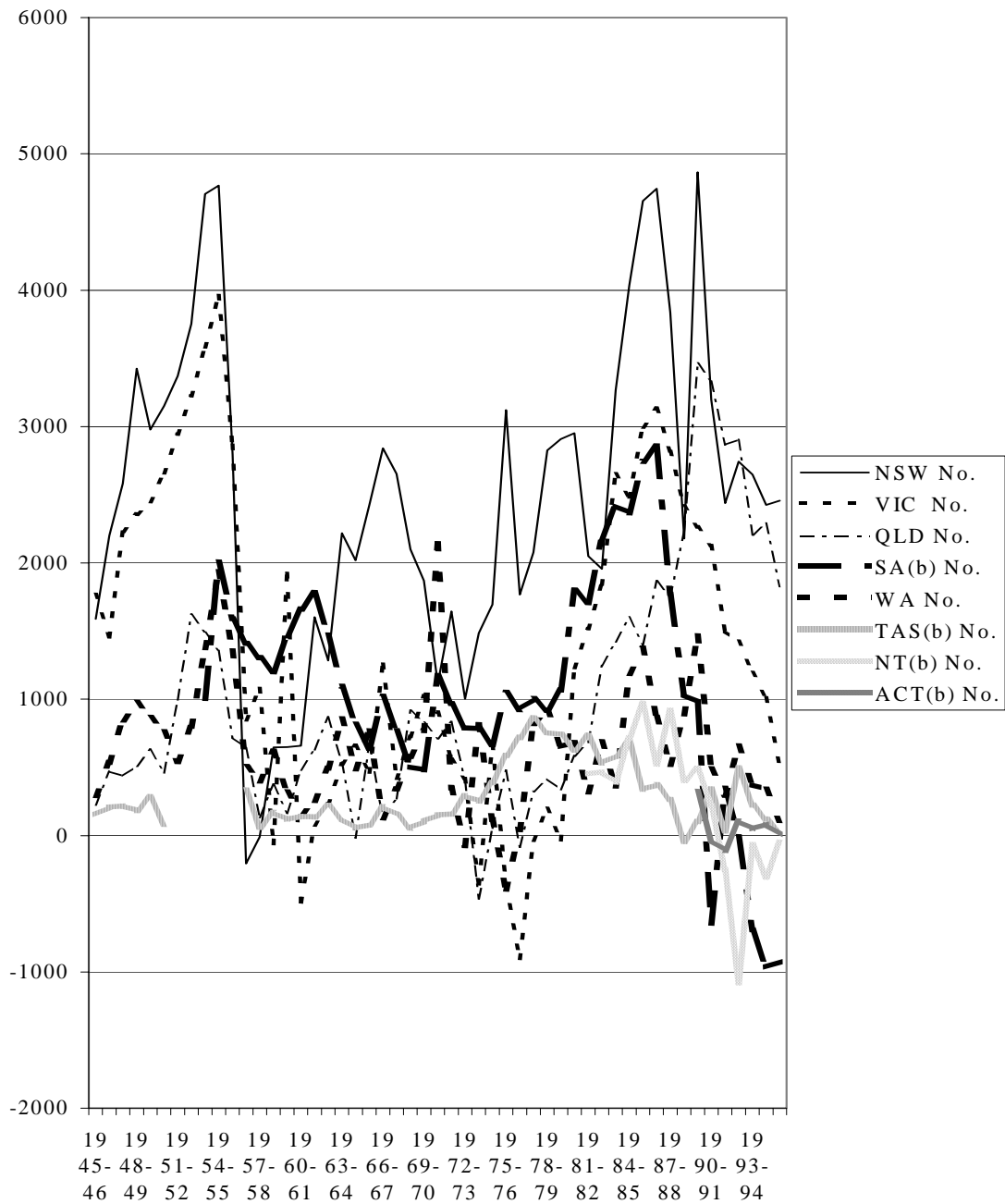
Figure 9.4 below shows the net rental additions for each State from 1945. If funds had been proportional and policies uniform roughly parallel lines in order (from top to bottom) of the States populations would have been expected. The expected order would have been NSW, Victoria, Queensland, South Australia (up to 1982-83) Western Australia and Tasmania.<sup>1</sup> As can be seen this did not occur. In the period up to 1955-56 the pattern is close to the expected pattern except that Western Australia is above Queensland for most years, and South Australia also overtakes Queensland. This reflects the relative allocation of funds by those States. After 1956-57 a much more varied pattern occurs. In part at least this reflects the changes to conditions for sales of dwellings introduced in 1956-57. This is discussed further below. Some of the expected order returns from about 1989-90. This reflects, at least in part, the changes in funding arrangements discussed above. However considerable variation remains, for example Victoria's rate of stock addition declines markedly during this period. This has been attributed to expenditure on improvements and renovations to old stock (H&RD 1995:22).

The above brief account shows that while Commonwealth actions have had an influence on the level of States provision of rental dwellings, the Commonwealth has by no means exercised tight control over the States in this respect.

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<sup>1</sup> In 1983-84 Western Australia's population overtook South Australia's. The Territories have not been discussed as they only joined the CSHA in 1981-82 (NT) and 1989-90 (ACT).

**Figure 9.4. Additions to Rental Stock through the CSHA, by State, 1945-46 to 1995-96(a)**



**Source:** Commonwealth of Australia Yearbooks 1945-46 to 1977-78. Housing Assistance Act Annual reports 1978-79 to 1995-96

- (a) Figures for 1945-46 to 1977-78 are completions minus sales. Figures from 1978-79 on are net rental additions as measured by inventory change. Some discrepancies between pre and post 1978-79 figures could exist.
- (b) These States and Territories did not participate in the CSHA in all years.
- (c) Figures for 1973-74 are from unpublished Department of Housing tables and may not be consistent with other years.

## **Commonwealth Only Programs for Disability Services**

It might be expected that Commonwealth only programs would show a uniformity of funding levels and amount of provision, either on a per capita basis or on some other measure of need. However in the area of disability services this has not always been the case. The major Commonwealth only program for disability services, in terms of the level of funding was and is the Commonwealth Rehabilitation Service. The distribution of funding for, and services under, the Commonwealth Rehabilitation services does not appear to have always been evenly distributed between the States when compared with population, or correspond to relative needs. For example, until 1977 Victoria received a greater amount of funding than NSW despite its smaller share of the population.<sup>2</sup>

The other programs of Commonwealth only assistance were delivered through non government organisations.<sup>3</sup> This funding also has been uneven between the States when compared with population shares and needs estimates. A study by the Social Welfare Research Centre, University of NSW, of the Handicapped Persons Assistance Program compared expenditure under the program for 1985-86 with the number of severely handicapped people. This study also found discrepancies between the States as the following table shows:

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<sup>2</sup> Figures on the distribution of CRS funds are published in Department of Social Security Annual reports for the relevant years.

<sup>3</sup> In this context Commonwealth only refers to programs not involving State or Territory governments.

**Table 9.2. Commonwealth Expenditure under the Handicapped Person's Assistance Act, Per Capita Severely Disadvantaged Population by State, 1984-85.**

State	NSW	Vic	Qld	SA	WA	TAS	NT
\$ per head	201	182	192	298	257	207	129

Source: (Hardwick, James and Brown. 1987:29).

This report attributed the inequity in distribution to the Commonwealth program being submission based as this takes the initiative for service provision out of the hands of government. They commented that:

This inequity would suggest that factors other than “need” are also important in the allocation of funds, in particular organisation size, political connections and as we suggest later in the case of South Australia, Commonwealth and State Government coordination (Hardwick, James and Brown 1987:29).

It might be expected that where the Commonwealth chooses to involve other organisations variations would occur as the Commonwealth has chosen to share decision making. However inequities in funding distribution were not confined to submission based programs to organisations but also occurred with direct Commonwealth services, such as the Commonwealth Rehabilitation Service. This makes it is clear that choosing to involve other organisations through a submission based model is not the sole cause of funding inequities. There is no necessity for a Commonwealth only program to achieve funding equity unless the Commonwealth consciously wished to achieve this aim and that this does not always occur. Where the Commonwealth does wish to achieve equality it could do so, even if other organisations are involved through a submission based process, by pre-determining the amount of funds (or number of services) to be allocated to each State and Territory



## **State Only Programs for Disability Services**

With State only programs, a considerable lack of uniformity between States might be expected. While comprehensive and comparable information on State government provision for disability services prior to the introduction of the CSDA is difficult to obtain, available information does suggest that services varied greatly from State to State (RCAGA 1975:183).

Rowe, in his account of provision up to the mid 1950s, noted that the decision to provide rehabilitation services attached to hospitals was primarily decided by the boards of individual hospitals, and thus there was little co-ordinated provision. He stated that comprehensive services only existed in three States (Rowe 1958:463-464).

In 1971, the Senate Standing Committee on Health and Welfare reported that a survey of hospitals carried out by the department of Social Services and made available to the Committee had found that 22.5% (47 out of 209) had rehabilitation units attached and that the incidence of such units varied from 1 in every 1.5 large hospitals in Tasmania to 1 in every 8.8 hospitals in Queensland (SSCHW 1971:34).

The National Committee of Inquiry Into Compensation and Rehabilitation in Australia described the then (1974) current provision by both Commonwealth and State governments as inadequate, stating:

Facilities are fragmented. They are unevenly spread. They are inadequate. Frequently they are inefficient (Woodehouse 1974:17).

The Health and Welfare Taskforce of the Royal Commission on Australian Government Administration found considerable differences in expenditure between the States on programs for care of the handicapped for the years 1970/71 to 1973/74, although they did warn that the figures were not strictly comparable (RCAGA 1975:225).

Also in the mid 1970's the Commission of Inquiry into Poverty, in its third main report published in 1976 commented:

separate medical rehabilitation units were attached to some of the major State Government hospitals. Their growth has been uneven. The more sophisticated of these facilities, community orientated and including home care services, have depended on the initiative of individual medical personnel or hospital boards rather than on any formulated State policies. There is no specific legislation in the various States dealing with rehabilitation and no State government has initiated a comprehensive and co-ordinated program (Martin 1976:72).

Nor does the situation appear to have become more even between the States by the mid 1980s. The Social Welfare Policy Research Centre study examined State expenditure in three States, New South Wales, Victoria and South Australia. They found considerable variations, in the total expenditure per severely disabled person between the States as the following table shows.

**Table 9.3 State Expenditure on Services to People with Intellectual, Psychiatric and Physical Disabilities, Per Severely Handicapped Person by State, 1984-85**

State	NSW	SA	Vic
\$ per head	1109	1485	1945

**Source:** (Hardwick, James and Brown 1987:119)

As well as being uneven, total State effort for disability services was well below the Commonwealth effort during this period. This is despite an increase in State provision in some areas, such as that of medical rehabilitation, which was noted earlier. The Handicapped Programs review estimated that reported that Commonwealth expenditure was seven times that of the combined States expenditure at \$5,600 million compared to \$800 million. This estimate included income maintenance (pension and benefit) expenditure by the Commonwealth, but even if this amount (\$3,700 million) is removed the result is still well in excess of State expenditure at \$1,900 million compared to \$800 million (HPR 1985:111).

### **Commonwealth State Disability Agreement**

The Commonwealth allocates funds to the States and Territories under the CSDA. Given the history of the CSHA this could be expected to result in a more even distribution of funds than occurred when the States were responsible for funding decisions. While with the CSDA the Commonwealth has aimed for a more equal distribution (on a per capita basis) of Commonwealth funds, the achievement of this has been severely limited by the history of the CSDA (Ernst and Young 1996a:14). The CSDA gave the Commonwealth responsibility for employment related services and the States and Territories for accommodation and support services (chapter 7). In both cases the existing services were brought into the agreement so the uneven funding between States and Territories that had existed prior to the CSDA continued.

Table 9.4 below shows the distribution of Commonwealth funding to the States and Territories under the CSDA.

**Table 9.4. Commonwealth CSDA Funding to States and Territories,  
Percentage Shares by State and Territory, 1993-94 to 2001-2002  
Share of Commonwealth CSDA  
Funding**

	<b>NSW</b>	<b>VIC</b>	<b>QLD</b>	<b>WA</b>	<b>SA</b>	<b>TAS</b>	<b>ACT</b>	<b>NT</b>
	%	%	%	%	%	%	%	%
1993-94	34.1	22.0	18.1	5.9	13.7	3.9	0.9	1.3
1994-95	33.8	22.0	18.0	6.7	13.3	3.9	1.3	1.0
1995-96	33.3	23.8	17.5	6.5	12.8	3.8	1.3	1.0
1996-97	32.8	21.3	17.6	6.8	12.5	3.8	1.2	0.9
1997-98	32.9	21.6	19.6	6.9	12.7	3.9	1.0	1.2
1998-99	32.9	21.8	19.6	7.1	12.5	3.9	1.3	1.0
1999-00	32.9	21.8	19.6	7.3	12.4	3.8	1.3	1.0
2000-01	33.0	22.2	19.4	8.8	11.8	3.6	1.3	1.0
2001-02	33.1	22.5	19.2	7.9	11.3	3.5	1.4	1.0

**Population Shares 30 June 1999**

	33.8	24.8	18.5	9.8	7.9	2.5	1.6	1.0
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**Source:** Budget Paper No 3 Federal Financial Relations, various years  
Australian Bureau of Statistics, Australian Demographic Statistics ( 3101.0)

That funding shares do not line up exactly with the State's population shares, in particular for SA, WA and Tasmania, can be seen. A slight move towards the funding shares for these States being closer to their population shares can also be detected, but overall the move is not large.

## **Conclusions**

Perhaps not surprisingly, where States and Territories alone have been responsible for the provision of funding and services considerable variation in the levels of funding and services occurred. However major discrepancies also occurred with Commonwealth only provided or funded services. More recently with some programs, for example the Commonwealth Rehabilitation Service, a more even distribution has occurred. The methods of delivery and the method for selection of projects caused the variations between funding for States and Territories. The trend towards a more even distribution was, at least in part, the result of a conscious effort on the part of the Commonwealth to distribute funds according to needs.

The most even distribution of funds has occurred when the Commonwealth has provided funds to the States and Territories under a joint arrangement. This has come about as the processes of involving all States and Territories in discussions on the arrangements leads to pressure on the Commonwealth to distribute funds on an even basis. The history of separate provision has made this much less marked in relation to the CSDA than the CSHA. One result in relation to the CSHA was for the distribution of funds to be on the basis of per capita shares of the population and not the need for

assistance. This came about as the States and Territories were unable to agree on the basis for calculating the need for assistance.

## **TARGET GROUPS FOR ASSISTANCE**

### **Commonwealth State Housing Agreement**

Commonwealth involvement in the CSHA has, from time to time, attempted to influence the target groups for assistance under the CSHA. Although it has achieved some influence, significant variations to the target groups assisted have occurred, and to some extent remain.

In some periods some States have excluded groups that could be considered in need from assistance under the CSHA. For example Queensland did not allocate rental dwellings to age pensioners prior to the introduction by the Commonwealth of the States Grants (Dwellings for Pensioners Act) in 1969 (chapter 8). Another example of groups being excluded is that of single non-pensioners. Before 1980-81 only South Australia and Tasmania provided rental housing for single non-pensioners (DHC 1980:19-30). Victoria provided some rental assistance to single non-pensioners from 1980-81 and New South Wales made single non-pensioners eligible for rental housing in 1983 (HCNSW 1984:8). The other States did not extend eligibility to single non-pensioners for rental housing until the 1984 CSHA when housing assistance was required to be provided to all sections of the community in need of assistance. However some commentators have suggested that this requirement was not in fact always met, especially by Queensland in relation to single young people (chapter 8).

There was in fact some movement from Queensland towards more rental assistance for single young people, even if it is arguable as to whether the Queensland's actions adhered to the conditions of the CSHA.

Other actions of the Commonwealth were also aimed at achieving a more uniform approach to which target groups were assisted. These included the earmarking of funds for Aboriginals and the provision of funds for crisis accommodation, which targets people who are homeless. Both of these were discussed in Chapter 8.

The above shows that Commonwealth actions did to some extent result in a more uniform approach to which target groups were assisted through the CSHA. As was noted in Chapter 8, the lack of provision by States for the above groups prior to the Commonwealth initiatives makes it unlikely that, without the Commonwealth initiative, the provision would have occurred. In some cases, for example the provision of pensioner housing by Queensland in 1969, opposition to such provision had been expressed prior to the Commonwealth initiative.

As well as differences in the groups eligible for assistance differences have occurred within the CSHA as to the priority given to assistance. Eligibility requirements have varied considerably between States at times during the history of the CSHA. For example, some states (Queensland, South Australia and the Northern Territory) did not always have maximum limits on the income for applicants for rental housing (DHHCS 1992:133-136). In the case of Queensland their allocation procedures would have limited the number of higher income people in public housing, but this was not the case for South Australia or the Northern Territory. Queensland, until 1997,

allocated people to public housing on the basis a points system (FACS 2000b:94). Points were allocated on the basis of the applicant's circumstances, with those on the highest points receiving priority, while lower points meant a longer wait for public housing (Jones 1972:25-26). This places a much greater emphasis on need than a wait turn procedure, where allocations are made on the basis of the date of application. Apart from the operation of a ballot system in the early years of the CSHA in New South Wales and Victoria, all States except Queensland allocated on the basis of wait turn systems until the last few years. States often also had a system of "priority allocation" for those in special need. These differences did result in significant variations in the socio-economic status of public housing tenants in the late 1960s (chapter 4). Some differences between States have persisted, at least until 1997-98. Differences existed in the proportion of public tenants who would have to pay more than 25% of their income in rent in the private market. The differences were attributed by the Department of Family and Community services to factors within the control of the States, such as variations in eligibility policies and to exogenous factors, such as variations in the level of provision in the private market (FACS 2000a:14).

The Commonwealth, since 1956, has made a number of attempts to direct assistance, particularly rental assistance, to those on lower incomes. This was the stated aim of the Commonwealth in 1956 although no mechanism was included in the CSHA to implement this desire (chapter 4). The 1973 Agreement included eligibility limits for both home purchase and rental assistance which were removed in 1978 and replaced by rent setting arrangements that had the avowed aim of concentrating assistance to those in need of it (chapter 5). However the rent setting conditions were not adhered to (chapter 8). More recently, the Commonwealth discussed targeting of housing with



the States during 1997 and does seem to have achieved some alterations to State practices. New South Wales, Victoria, South Australia and Tasmania have introduced allocation procedures based on placing applicants into categories based on their relative need for assistance (chapter 8). This system gives priority to those judged in greater need of assistance, not necessarily simply on the basis of low income. Factors also considered include homelessness, suitability of current housing and characteristics of the applicant such as disability and age. However detailed differences exist between the systems adopted in different States, and not all States have adopted such a system (FACS 2000a:94). Thus this Commonwealth action has increased the uniformity of allocation procedures between the States but not resulted in an entirely uniform approach.

In summary the Commonwealth through the CSHA has attempted to increase the uniformity of assistance in terms of the groups assisted and to target assistance to low income earners. It has had some success in this, although the targeting of assistance to low income earners was not always achieved. Despite these policies of the Commonwealth a fair degree of variation between States in the targeting of assistance has often existed, and some differences continue.

### **Commonwealth Only Programs For Disability Services**

Commonwealth only programs could be expected to aim at the same target group throughout Australia and this has in fact been the case. The Commonwealth's involvement in disability services started as a result of specific areas seen as the "Commonwealth's interests", ex-service personnel and for employment related

services in order to reduce the call on Commonwealth pensions. As a result the Commonwealth programs targeted specific groups only and made no attempt to reach all groups who could benefit from the assistance offered (chapter 6). It was argued in chapter 6 that the political pressure produced by this was one factor in the expansion of the Commonwealth's activities in disability services beyond their original narrow role. That the approach of the Commonwealth in its own programs has remained that of essentially concentrating on areas regarded as the Commonwealth's can be seen from the Commonwealth government's concern not to include psychiatric disability within the scope of the 1986 Disability Services Act (chapter 7). It can also be seen from the current situation for the Commonwealth Rehabilitation Service where clause 22 of the Disability Services Act 1986 Act makes it clear that free treatment is available primarily only for Social Security Pensioners and Beneficiaries although it is possible for discretion to be exercised to extend free treatment to others.

### **State Only Programs for Disability Services**

The priorities given to different groups of people with disabilities were uneven between the States during the period prior to 1991. The SWRC study noted earlier examined expenditure on different groups of people with a disability. While comparable data was not available for people with physical disabilities, comparisons can be made between people with intellectual disability and people with psychiatric disabilities. These show that while Victoria spent the most per person with a disability of the three States examined in both categories, NSW spent more per head than SA for people with intellectual disabilities, but South Australia spent more per head than NSW for people with psychiatric disabilities.

**Table 9.5 State Expenditure(a) for People with Intellectual and Psychiatric Disabilities, Per Severely Handicapped Person by State and Type of Disability, 1984-85**

State	NSW	SA	Vic
\$ per head-intellectual disabilities	4076	3796	5048
\$ per head-psychiatric disabilities	2702	4273	4988

Source: (Hardwick, James & Brown. 1987:107,113).

### **The Commonwealth State Disability Agreements**

The history of this agreement has resulted in discrepancies between the States in target groups that existed prior to 1991 largely continuing under the CSDA. The first Agreement divided responsibility between the States and the Commonwealth so that the Commonwealth had responsibility for employment related services and the States accommodation and support services with existing services in these areas being incorporated into the Agreement. Thus existing discrepancies remained. In practice no Commonwealth influence over target groups was exercised under the first CSDA. Although Commonwealth State planning mechanisms were included in that Agreement in fact these did not operate (chapter 8). The first CSDA did not then bring about any change to the targeting of different groups by either the Commonwealth or the States and Territories. With the second CSDA the possibility of the Commonwealth and the States implementing bi-lateral agreements was introduced. In 2000 the Commonwealth provided additional funds through bi-lateral agreements specifically for “unmet” needs. These included ageing carers (chapter 7). Thus with the second CSDA we see the Commonwealth acting to ensure coverage by the States and Territories of a group who had not been receiving assistance it was considered that they deserved.

## **Conclusions**

Separate State and Territory programs, and joint arrangements where targeting assistance was left to the State or Territory, have resulted in some variations as to which groups of people receive assistance and to the extent to which assistance is limited to those regarded as strictly in need. Commonwealth only programs, although not varying between different States and Territories, have tended to concentrate on certain groups only and ignore other groups that could be considered as equally in need of the assistance offered. Under joint arrangements where the Commonwealth has been involved in targeting of assistance, a concern for ensuring some uniformity between different States and Territories in terms of which groups are assisted is apparent.

## **TYPES AND DETAILS OF ASSISTANCE**

### **Commonwealth State Housing Agreement**

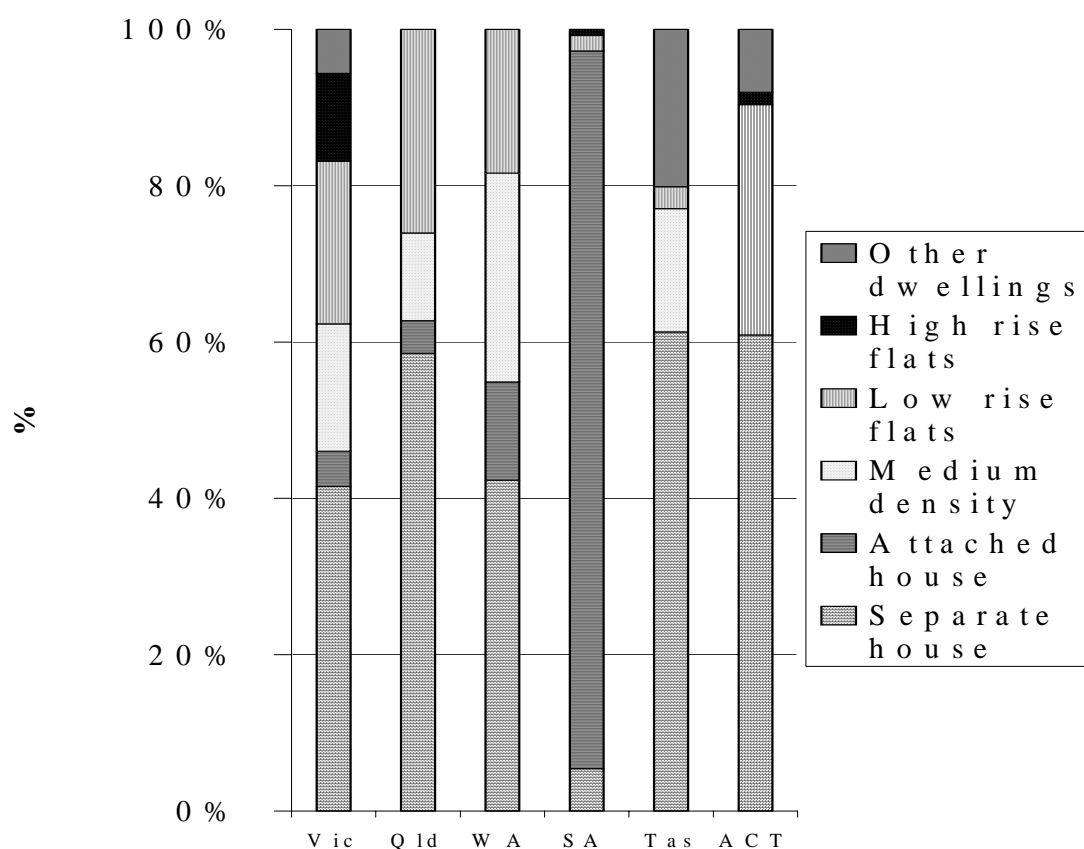
Throughout the history of the CSHA there has been considerable variation in the provision of assistance by the States and Territories. This variation has included in the types of dwellings provided, the balance between different methods of assistance offered, policies for sales of dwellings, details of assistance for home ownership and the rents charged for dwellings. In some of these areas the Commonwealth has made some attempt to influence State provision, but considerable differences have remained.

## **Types of Dwellings**

In relation to the types of dwellings provided some significant variations occurred in the early years of the CSHSA. For example Victoria in the immediate post war years concentrated on detached dwellings in large estates while South Australia provided semi-detached dwellings or duplexes (HCV 1963:9; SAHT 1947:5). Victoria undertook slum clearance, the replacing of old areas of sub-standard housing with new public housing, from 1956. In slum reclamation areas three and four story walk blocks of flats were provided and from 1960 high rise apartment blocks were constructed (HCV 1963:7-9). New South Wales placed some emphasis on medium density developments up until 1958, but from 1958 placed a greater emphasis on detached houses (HCNSW 1958:9).

From the early 1970s there was a general trend towards the provision of medium density dwellings and away from large estates (HCV 1972:5; SHCWA 1972:6). However variations between the States continued and the composition of the stock between the States still varies greatly. The following figure shows the proportion at 30 June 1996 that different types of dwellings represented of the total stock of public housing rental dwellings for those States and Territories for which comparable information was available.

**Figure 9.5 CSHA Rental Stock by Dwelling Types and State, 30 June 1996**

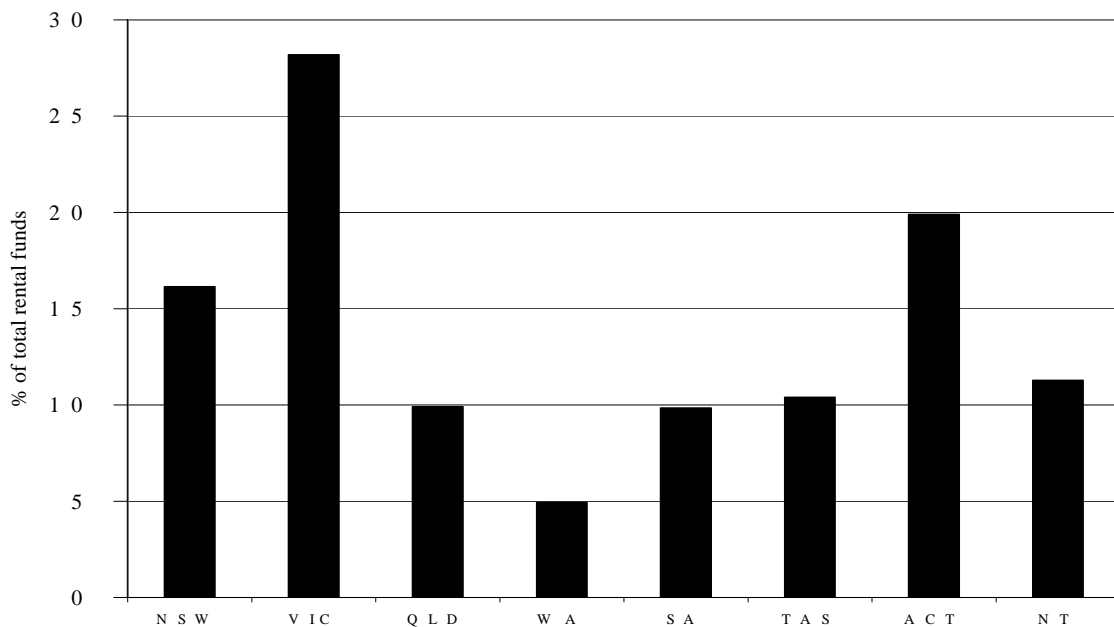


Source: (DSS 1997:96)

As well as differences in the physical type of dwellings provided differences have occurred in how dwellings are provided. That the Commonwealth earmarked funds for community housing (dwellings provided through community organisations) was discussed in chapter 8. As well as using the earmarked funds community housing can and has been provided by States using other CSHA funds. The result has been that the proportion of public rental housing that is in the form of community housing varies from 9% in Queensland to less than 1% in both the ACT and the Northern Territory (FACS 2000b:33).

Another example of considerable variation between the States in provision has been the emphasis placed on improvements and upgrading of existing public rental dwellings and urban renewal activities in relation to public housing. In 1995-96 the highest proportion of expenditure on these activities was in Victoria (twenty-eight per cent) and the lowest in Western Australia (five per cent). Figure 9.6 below shows the proportion spent on these improvements/upgrading and urban renewal in 1995-96.

**Figure 9.6 Proportion of Rental Housing Funds Spent on Improvements/upgrading and Urban Renewal, by State, 1995-96**



**Source:** (DSS, 2000 table A2.02:54)

The above examples show that significant variations in the types of dwellings provided have occurred throughout the history of the CSHA.

## **The Balance Between Different Methods of Assistance**

The two main types of assistance within the CSHA have been the provision of dwellings and the provision of loans for purchasing homes. At various times since the commencement of home purchase loans in 1956, maximum or minimum limits were imposed on the amount of Commonwealth funds that could be used for this purpose. (chapter 8). Up until 1973 there was a fair degree of uniformity with most States allocating only the required minimum for Home Builder's Account Loans. In later years considerable variations occurred, although States adhered to the stipulated limits. Table 8.1 (chapter 8) shows proportions allocated by the States to home purchase. Other aspects of the financial arrangements also affected the balance between home purchase and rental, for example the earmarking of funds from 1978 onwards for rental assistance for specific groups. This reduced the amount of funds available to the States to allocate to home purchase if they wished. Figure 9.7 below shows the proportion of funds allocated for rental housing from 1978-9 to 1995-6.<sup>1</sup>

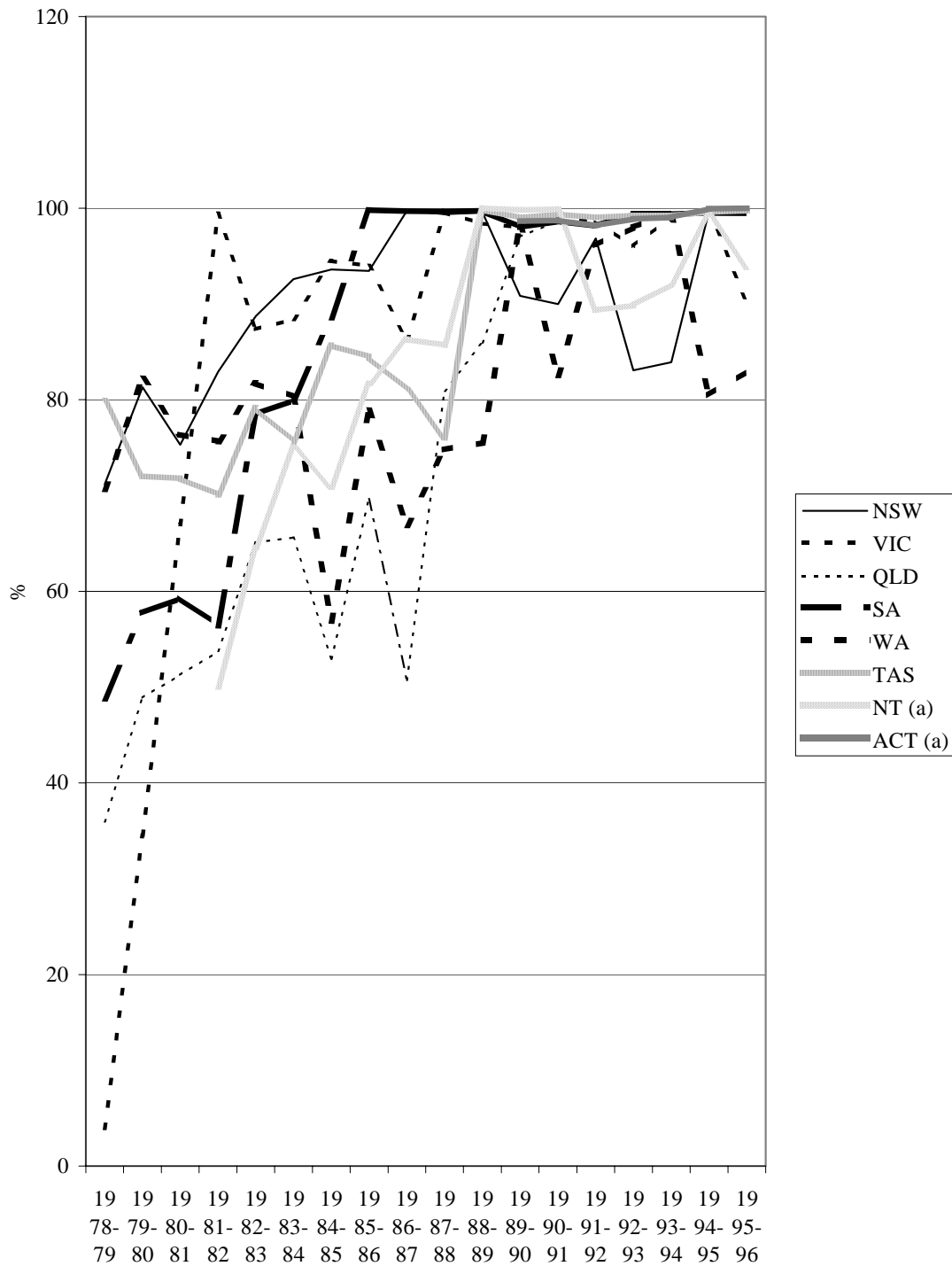
The figure shows that significant variations between the States have occurred. There has been a general increase in the proportion allocated to rental housing, especially since 1989-90, however considerable variation has still occurred since then. The increase for rental housing does correspond with the placing of restrictions in the 1989 CSHA on the proportion of funds that could be used for home purchase (chapter 8). That some States allocated the maximum or minimum amounts allowed does indicate that restrictions in the CSHA did have some influence on the proportion of

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<sup>1</sup> Figures for years prior to 1978-79 are not available. Funds were divided between the Home Builders Account and the housing authorities. However the funds allocated to the housing authorities were used both for rental housing and the construction of dwellings for sale on concessional terms.



**Figure 9.7 Proportion of CSHA Funds Allocated for Rental Housing, by State, 1978-79 to 1995-96.**



Source: Housing Assistance Acts Annual Reports

(a) The NT joined the CSHA in 1981-82 and the ACT in 1989-90

funds spent on rental housing, although by no means producing uniform provision.

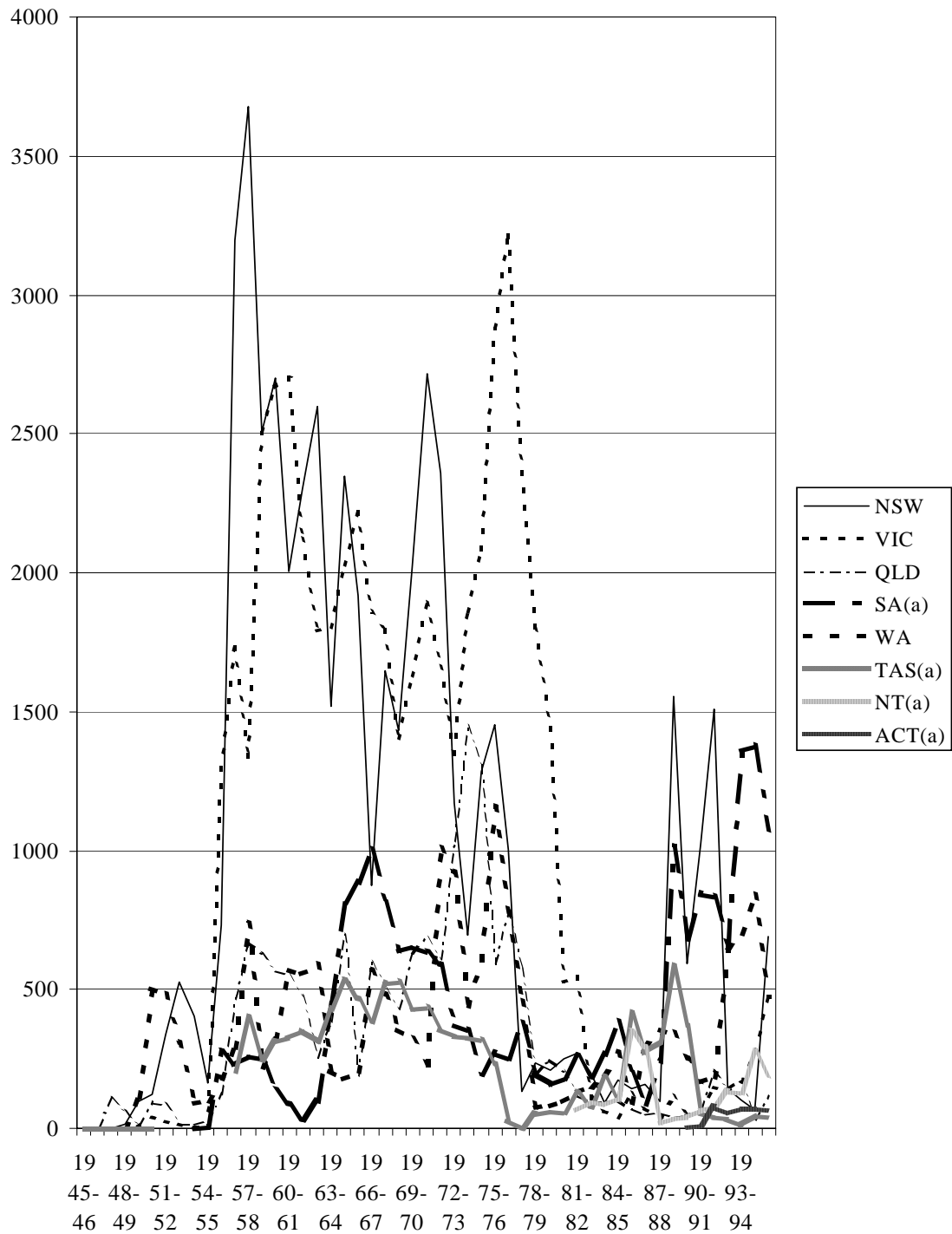
### **Policies for Sale of Dwellings**

The Commonwealth acted to restrict the number of dwellings sold by the States and Territories at various times during the history of the CSHA. The conditions placed on sale of dwellings did inhibit sales during the 1945-1955 period (chapter 4) and after 1978-79 (chapter 5), while the limits applying from 1973 to 1978 on the number of dwellings that could be sold did not (chapter 5). Despite the success of the Commonwealth actions in influencing the overall directions of State and Territory sales policies significant variations occurred between the States and Territories, including during the periods that Commonwealth restrictions or conditions applied. Figure 9.8 below shows, for each State and Territory the number of dwellings sold. If policies had been similar in different States parallel lines in the order of the size of the States would be expected. The criss-crossing of the lines shows that this was not the case, although the greater uniformity that occurred as a result of the restrictions applying before 1956 and the changed conditions for sales introduced in 1978-79 is evident.

### **Policies for Home Ownership Assistance**

Some variation existed in the terms and conditions for loans for home purchase existed in the 1956 to 71 period, although requirements that these be agreed with the Commonwealth minister did influence State's provision (chapter 8). From 1978,

**Figure 9.8 Number of CSHA Dwellings Sold, by State, 1945-46 to 1995-96**



**Source:** Commonwealth of Australia Yearbooks for 1945-46 to 1977-78, Housing Assistance Act Annual Reports for 1978-79 to 1995-96

(a) These States and Territories did not participate in the CSHA in all years.

(b) Figures for 1973-74 are from unpublished Department of Housing table and may not be consistent with other years.

conditions were set by the Agreement, but part of these requirements, the recoupment of subsidies required from 1984, was not in fact fully adhered to by the States (Chapter 8). In more recent years considerable variation has developed in the types of home ownership assistance offered by the different States and Territories. For example currently new loans for purchasers are not offered in NSW, Victoria or Queensland. South Australia, Tasmania and the Northern Territory do not offer mortgage relief while only Western Australia, South Australia and the Northern Territory offer interest rate assistance. Victoria is the only State or Territory to provide renovation loans to elderly or disabled home owners (FACS 2000b:82 table d5).

From this brief account it can be seen that variation in the provision of home ownership assistance has existed throughout the history of the CSHA. Commonwealth government attempts to influence the details of provision have had some influence, especially prior to 1971, but a high level of uniformity has not occurred.

### **Rents Charged by States and Territories**

Despite the various formulas specifying the rents to be charged contained in the 1978 to 1989 CSAs in practice there was considerable variation in the rents charged by the States. However the Commonwealth did have some success in influencing the rents charged by the States through discussions with the States in 1997 (chapter 8). Since 1997 Victoria, Queensland, Western Australia and the Australian Capital Territory have made rents equal 25% of income for new tenants. However the other States rent scales differ. Also differences exist between the States in other aspects of

rent setting, including to the treatment of income earned by income earners other than the main tenant, and the proportion of family allowance included in income for rent setting purposes (FACS 2000(b):95-98). Thus the level of rents charged for public tenants is another example of where Commonwealth involvement has resulted in provision between the States more uniform than it would have been otherwise, but well short of total uniformity.

## **Conclusions**

Overall it is clear that considerable variations have occurred in the nature of the assistance provided by the different States and Territories throughout the life of the CSHA. Although the Commonwealth has from time to time attempted to direct the States on aspects of the type of assistance provided, the areas where more uniform provision was achieved are relatively limited compared with the areas where significant variations exist. More uniform provision occurred in respect of sales conditions for dwellings and with all States and Territories providing at least some community housing, mortgage and rent relief and crisis accommodation. A slightly greater uniformity has occurred in recent years in rents charged, although significant differences remain. Similarly a greater uniformity in the proportion of funds spent on rental housing has occurred, although differences remain. Major variations occur in the types of dwellings provided and in the types of home purchase assistance offered.

### **Commonwealth Only Programs for Disability Services**

It might be expected that Commonwealth only programs would provide the same type of assistance wherever that assistance was offered and this does appear to have been the case. Commonwealth programs have tended to be for specific purposes and specific groups of people. Thus the nature of the provision was relatively similar to all States and Territories, even if the amount of assistance varied. An example is the Commonwealth Rehabilitation Service where the main type of provision was through large rehabilitation centres. In the 1950s and 1960s the policy was to consolidate rehabilitation facilities into one centre in the capital city of each State (Tipping 1992:84-85). This concentration on big centres meant that there was limited provision outside the capital cities until the early 1970s when some regional services were established (Tipping 1992:118-121). From this it can be seen that the Commonwealth provision in the earlier years favoured the metropolitan areas, and suggests an approach of a standard model, not necessarily taking account of local differences.

### **State Only Programs for Disability Services**

The States also varied in how they undertook disability services. This is shown by the 1987 Social Welfare Research Centre report which examined disability service provision by NSW, Victoria and South Australia. Their analysis looked at expenditure on institutional services, by community services and through non-government organisations. The relative priorities for these different methods of delivery varied. Table 9.6 below summarises their findings.

**Table 9.6 State Expenditure on services \$ per severely handicapped person by State 1984-85**

	NSW	SA	Vic
Institutional Services	1038	1210	1503
Community Services	58	136	155
Grants to NGOs	13	139	287

Source: (Hardwick, James and Brown. 1987:119)

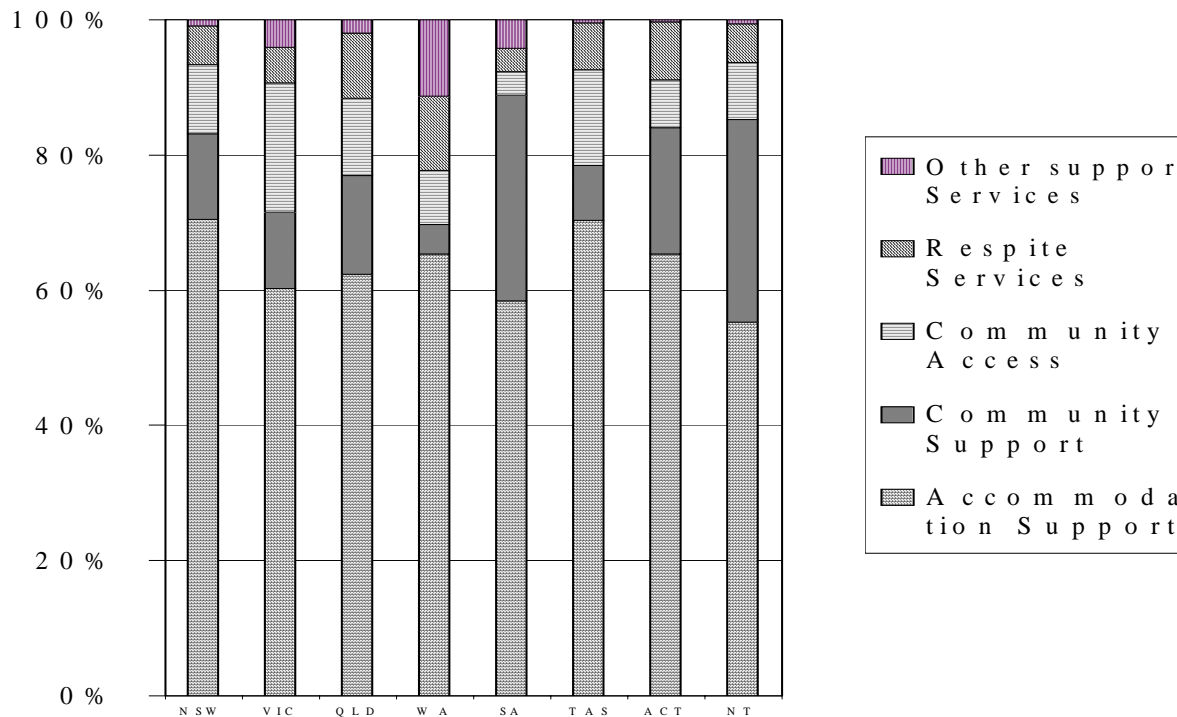
### **The Commonwealth State Disability Agreement**

The uniformity of types of provision for the CSDA follows a similar pattern to that of funding and target groups. The incorporation of existing provision meant that the previous lack of uniformity was continued under the CSDA. This is illustrated by figure 9.9 below which shows the percentage of funding received by different types of services in 1999-2000 for the States and Territories.

Accommodation Support was the dominant type of service in all States, however considerable variation occurred in the emphasis given to the other types of services, especially community access and community support services.

The bi-lateral agreements in the 1998 CSDA do give the Commonwealth some potential influence over the types of provision by the States which could increase uniformity. To some extent this has occurred. In seven of the eight bi-lateral agreements concluded in 1998 (one for each State and Territory) funds were provided for services assisting with transition into work from school or other services. This shows that the arrangements can result in some types of provision being made available each State and Territory.

**Figure 9.9. State and Territory Government Expenditure Under the CSDA By Type of Service and State, 1999-2000**



Source: (SCRCSSP, 2001 Table 13.A.7)

### **Conclusions Relating to Types of Assistance**

As was the case with funding and target groups, State only programs show variations between the States and Territories in the type of assistance provided. Commonwealth only programs show less variation in types of assistance. Joint arrangements have shown large variations between the States and Territories, despite some attempts by the Commonwealth to influence State provision. Where the Commonwealth has attempted to influence types of assistance it has been using types of assistance to try to target assistance towards those in need or attempting to broaden the range of assistance available.



## CONCLUSIONS ON UNIFORMITY OF PROVISION

Perhaps not surprisingly, State only programs show a considerable variation between the States and Territories in terms of all the aspects considered; funding and amount of provision, targeting of assistance and the types and nature of assistance provided. This also applies to joint arrangements where the Commonwealth makes no attempt to influence these areas.

More surprisingly Commonwealth only programs have also, at least in certain periods, shown considerable variation between the States and Territories in the funding and amount of assistance provided, although they have shown less variation in other areas. Joint arrangements, where the Commonwealth has been involved in the area show considerable uniformity in the provision of funds between the States and Territories although this has tended to be on a uniform per capita basis rather than a needs basis. The politics of joint arrangements, with all States and Territories involved in discussing the arrangements, is likely to produce pressure for uniformity of funding. Such pressure is less evident for both State and Commonwealth only programs. Such pressures may also make agreement on a needs basis difficult, resulting in per capita shares as the basis for distribution of funds.

Joint arrangements where the Commonwealth becomes involved also show a greater uniformity in terms of groups targeted than State only programs. The Commonwealth only programs show a uniformity in target groups, however the Commonwealth appears to have been more concerned to ensure that all target groups that could benefit receive assistance in joint programs than in its own programs. Some

Commonwealth only programs, such as social security programs, are aimed to reach all those in need but Commonwealth programs need not do this. That with joint programs the Commonwealth has acted to extend coverage may come from the role of the Commonwealth in overseeing the arrangements rather than being a direct provider. The overseeing role encourages casting an eye over the totality of provision and thus identifying discrepancies between different States and Territories.

Unlike the Commonwealth only programs both State only programs and joint arrangements show considerable variations between the States and Territories in the types of assistance offered. With joint programs the Commonwealth has sometimes attempted to influence the types of assistance provided, but overall significant variations exist between the States and Territories for the programs considered.

## **CHAPTER 10: THE RESULTS OF FEDERALISM: ASSESSMENT AGAINST CRITERIA**

### **INTRODUCTION**

This chapter examines the results of areas of joint responsibility in housing and disability services against the criteria for assessing areas of joint responsibility and joint arrangements developed in chapter 2. Those criteria are:

1. The arrangements should facilitate Commonwealth government policies necessary to mitigate “spillover effects” and to provide the desired level of national uniformity.
2. States should be able to reflect local priorities and circumstances.
3. The responsiveness of governments to citizens should be increased.
4. The ability for States to innovate and for States to learn from each other and the Commonwealth should be encouraged.
5. Duplication of administration, inefficiencies, and delays caused by joint processes should be minimised.
6. Opportunities for “collusion” between different levels of government should be minimised

This chapter will consider the extent to which each criterion was met and compare the results of the different types of joint arrangements covered by the case studies, i.e.: uncoordinated separate provision by both State and Commonwealth governments; an agreement on coordinate lines; and, an agreement on concurrent lines. Consideration

will also be given to the results of more detailed differences in arrangements within these broad divisions.

**CRITERION 1: THE ARRANGEMENTS SHOULD REFLECT COMMONWEALTH GOVERNMENT CONCERNS, AT LEAST TO THE EXTENT NECESSARY TO MITIGATE SPILLOVER EFFECTS AND TO PROVIDE THE DESIRED LEVEL OF NATIONAL UNIFORMITY.**

In this section, spillover effects and a degree of uniformity are treated separately as arrangements may achieve either one or both of these objectives.

**Spillover Effects**

**Commonwealth State Housing Agreement**

Commonwealth involvement in housing did not commence as a result of a desire to mitigate spillover effects (chapter 4). However spillover effects can be seen in relation to the CSHA as the amount of public housing provided, and to whom it was targeted, can affect the amount of social security payments the Commonwealth needs to make.

Direct spillovers between social security and the Commonwealth State Housing Agreement occur from 1981-82 when new public housing tenants became ineligible for Supplementary Assistance (Howard 1981:54). Supplementary Assistance, now called Rent Assistance, is an additional social security payment available to some recipients who are paying rent. It had been introduced in 1958, but as it had been

available to all renters, whether in public or private rent, the amount and targeting of public housing would not have affected the Commonwealth's liability for Supplementary Assistance (Robertson 1958:1244). Once public housing tenants were ineligible, the provision of public housing can affect the Commonwealth's liability to pay supplementary assistance. The extent of any impact from public housing on Commonwealth expenditure on rent assistance can not be determined. From the early 1980s the Commonwealth had progressively increased rent assistance and expanded the range of people eligible for it (Prosser and Leper 1993:7). Thus the changes to rent assistance mask any influence of public housing provision on rent assistance expenditure.

As well as the direct spillover effect arising from supplementary assistance, the provision of public housing can have an indirect effect on social security expenditure. Increasing the material well being of low income people through provision of cheaper housing may reduce the pressure on the Commonwealth to increase social security payments.

Although direct evidence of the result of spillovers from public housing to social security can not be obtained the Commonwealth did introduce a number of measures through the CSHA that could be expected to reduce Commonwealth social security costs. From 1969 the Commonwealth obtained housing from all States for age pensioners (chapter 8). This was a direct spillover effect after 1982 as the Commonwealth was not liable to pay supplementary assistance to public tenants. Before 1982 it had an indirect effect as improving the situation of age pensioners could be expected to reduce pressure for a pension increase.

As well as the specific actions in relation to pensioners, the Commonwealth had at various times during the history of the CSHA attempted to direct assistance towards lower income earners in general. If successful this would have reduced the demands on the Commonwealth for social security through both the direct and indirect spillover effects discussed above. In practice the Commonwealth had mixed success. In the negotiations for the 1956 CSHA the Commonwealth failed to achieve the direction of assistance to low income earners (chapter 4). In 1978 the Commonwealth did not obtain adherence the rent formula aimed at targeting subsidies to low income earners. On the other hand in 1997 the Commonwealth did, as a result of discussions with the States in 1997, have some influence on State actions concerning procedures for allocating public rental dwellings, resulting in changes aimed at targeting assistance to the most needy (chapter 8).

Overall with the CSHA the Commonwealth has on some occasions influenced State actions so as to meet its spillover objectives, however this was not consistently achieved.

### **Disability Services**

The Commonwealth became involved in disability services for spillover reasons relating to defence and social security (chapter 7). The areas identified were services for former Defence personnel and employment related disability services. The Commonwealth has been involved in these areas either through direct provision or direct funding of organisations. This applies today with the Commonwealth

responsible for employment related services under the Commonwealth State Disability Agreement and also providing assistance through the Commonwealth Rehabilitation Service.

Given that the States and Territories have little involvement in such provision it could be considered that Commonwealth-State relations are not a factor in the success or not of the Commonwealth in mitigating spillover affects. However the lack of State provision to support the initial Commonwealth services was one reason for the Commonwealth's further expansion in disability services. This shows that the separate provision by the States and Territories did inhibit the achievement of Commonwealth objectives. Problems of coordination between Commonwealth and State services also inhibited the achievement of Commonwealth objectives (chapter 6). Thus separate Commonwealth involvement to meet spillover effects may not be totally successful where uncoordinated State activities, or the lack of such activities, impact on the Commonwealth programs.

A similar situation applied under the CSDA as a result of the division of responsibilities between the Commonwealth and the States and Territories under that agreement. Lack of coordination between Commonwealth and State provision was given by the Commonwealth as the reason for departing from a strict coordinate approach for the 1998 CSDA. The introduction of the possibility of "bi-lateral" agreements involving concurrent provision was seen as meeting this difficulty (chapter 7). In the first round of bi-lateral agreements there was a strong emphasis on programs designed to assist in the transition from education or other services into employment (chapter 9). This shows the Commonwealth's concern that their

employment related programs required linking with areas of State responsibility such as education. Thus the strict coordinate division of responsibilities under the first CSDA did, to some extent at least, inhibit the Commonwealth in achieving its objectives relating to spillover effects

### **Conclusions Relation to Spillover Effects**

Overall it can be seen that the Commonwealth has had some ability to achieve its objectives for meeting spillover effects in both the housing and disability areas. However in the housing area these were not consistently achieved. That it is possible for the Commonwealth to achieve to, some extent at least, spillover related objectives was shown by the analysis in chapter 8. Some of methods used by the Commonwealth to attempt to influence State actions within joint arrangements were generally successful, including earmarking of funds for a purpose which can be used to achieve spillover related objectives. However other methods were less successful. Thus the Commonwealth has had the ability to achieve spillover related objectives, but depending on the method chosen, has not always done so.

With disability services the separate provision of Commonwealth and State services to some extent inhibited the ability of the Commonwealth to achieve spillover related objectives as a result of the lack of Commonwealth influence over State actions. Similarly the strictly coordinate first CSDA also inhibited the ability of the Commonwealth to achieve spillover related objectives as the Commonwealth had little influence over the States areas. The introduction of a concurrent element into the



second CSDA has increased the ability of the Commonwealth to achieve spillover related objectives.

### **A Desired Level of National Uniformity**

One reason for the Commonwealth becoming involved in areas Constitutionally given to the States and Territories is to ensure a degree of national uniformity (chapter 2). The extent to which uniform provision had applied under the various arrangements being considered in this study was discussed in chapter 9. Commonwealth involvement in joint arrangements made the amount of funds and the level of provision more even between the States than State only programs and, for some periods, Commonwealth only programs. Joint programs were also more even than State only programs in terms of target groups for assistance. Such actions and achievements could be seen as consistent with some approaches that see national uniformity as a justification for Commonwealth involvement. For some commentators social programs were appropriately undertaken by the Commonwealth government as having these programs undertaken by lower level governments could result in a lowest common denominator approach to provision (chapter 2). The Commonwealth government could meet this point by acting to ensure that minimum levels of provision occurred, rather than taking over responsibility for the area. That joint arrangements resulted in more even levels of funding and provision, and more even targeting of different groups, suggests that this justification for Commonwealth involvement has, to some extent at least, been met.

## **Conclusions**

The Commonwealth was able to influence the States sufficiently, in the areas of joint responsibility being considered, to have some impact on the spillover concerns of the Commonwealth and to promote a degree of greater national uniformity in provision. The achievement of these has been greater with the agreements than in separate uncoordinated provision by both levels of government. Within the agreements, concurrent arrangements (the CSHA and the bi-lateral agreements within the 1998 CSDA) have been more likely to produce these results than coordinate arrangements (the 1991 CSDA).

### **CRITERION 2: STATES SHOULD BE ABLE TO REFLECT LOCAL PRIORITIES AND CIRCUMSTANCES**

That provision varied substantially between States and Territories was a conclusion in chapter 9. This applied to both the CSHA and CSDA. Thus States and Territories had considerable opportunity to reflect local priorities and circumstances.

The main areas where the Commonwealth did succeed in restricting States and Territories freedom of action were the level of provision and the targeting of assistance. The issue of uniformity of levels of provision raises broad questions of Commonwealth-State financial arrangements, in particular the extent to which States should be free to choose to allocate funds between different areas of activity. This issue is outside the scope of this thesis which concentrates on the results of areas of joint responsibility (chapter 1).

One of the Commonwealth's objectives for targeting of assistance was to ensure that particular needy groups in all States and Territories received assistance. Another objective was a desire to target assistance to the more needy sections of society. In these areas the Commonwealth will have restricted States and Territories ability to reflect local priorities to some extent. However both these objectives fall within the areas justified by criterion 1 for Commonwealth involvement. The targeting of the more needy sections of society provides a spillover justification for Commonwealth involvement as it can reduce the demand for Commonwealth social security. That a particular group can receive assistance in each State and Territory is part of the justification of that minimum levels of provision should apply throughout Australia.

Chapter 8 concluded that there were limits on the Commonwealth's ability to influence State and Territory actions within joint arrangements as often the tools that proved more successful for the Commonwealth were often only suitable in relation to general, non-detailed Commonwealth aims. This suggests that States and Territories will usually be able to determine the details of provision under joint arrangements and thus be able to reflect local conditions. Certainly under both the CSHA and the CSDA the States and Territories generally had considerable freedom of action in the area of types and details of assistance, notwithstanding some Commonwealth attempts at influencing this (chapter 9). This shows that States and Territories have been able, within the CSHA and the CSDA, to reflect local conditions in the types of assistance they have provided.

### **CRITERION 3: THE RESPONSIVENESS OF GOVERNMENTS TO CITIZENS SHOULD BE INCREASED**

Some supporters of concurrent federalism see increasing the responsiveness of citizens to government as a major advantage flowing from a concurrent approach to federalism. Other commentators favouring some versions of competitive federalism saw responsiveness coming from competition between levels of government where each level acted independently of the other (chapter 2). However not all observers have agreed that in fact federalism has increased responsiveness in Australia. For example Gillespie has commented that such assertions were based on "...American analogies, that were weakly based even in their own country" (Gillespie 1994:69). It is argued below that the studies undertaken of the Commonwealth State housing Agreement and the Commonwealth State Disability Agreement do show that having both the Commonwealth and State and Territory levels of government involved in the agreements has increased the responsiveness of governments to their citizens. However responsiveness was not increased under the separate provision of disability services prior to 1991, thus suggesting that concurrent arrangements, but not competition between levels of government, have been shown to increase responsiveness in Australia in the areas studied.

#### **Uncoordinated Overlapping Provision by Different Levels of Government**

The area of disability services prior to 1991 provides an example of uncoordinated overlapping provision by two levels of government. This arrangement does not appear to have increased the responsiveness of governments to their citizens. Many

commentators and reports saw gaps in provision of services occurring during this period (chapter 6). One cause of the perception of gaps in provision was that Commonwealth services were limited to the classes of people the Commonwealth wished, and that other people who could benefit from the service could not use these services, or obtain alternative services from State or Territory governments. This was one of the reasons for the Commonwealth slowly expanding its role in disability services. Another cause of gaps in provision was that although the Commonwealth desired the States and Territories to provide the services in the areas outside that the Commonwealth saw as its role, Commonwealth activity in disability services inhibited State provision. Thus separate uncoordinated arrangements delayed the Commonwealth's moves into these areas and resulted in governments being unresponsive to the needs of its citizens. That the arrangements prior to 1991 contributed to gaps in provision was concluded by a number of reports and reviews into disability services including the National Committee of Inquiry into Compensation and Rehabilitation, the Handicapped Programs Review, the Standing Committee of Social Welfare Administrators and the Council of Social Welfare Ministers (Woodehouse 1974:36; HPR 1985:49-50; DCSH, 1990:53).<sup>1</sup>

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<sup>1</sup>The conclusion that disability services prior to 1991 did not increase responsiveness runs counter to the arguments from some American writers that uncoordinated overlapping responsibilities increases responsiveness (chapter 2). One possible explanation is given by the Canadian writer, Simeon. He suggests that in the United States legislators are more responsive to regional and local pressures than in "British" systems such as Canada where tight party discipline is enforced (Simeon 1972:304). Such an argument could apply to Australia. In areas such as disability services some observers thought that having both levels of government involved without co-ordination led to each expecting the other to provide such services (chapter 6). With tight party discipline each level of government might hold to this line, whereas with more responsiveness to local or particular interests as in the USA system some legislators are likely to support provision of the services to meet their local interests. Further exploration of this issue is outside the scope of this thesis.

## **The Commonwealth State Housing Agreement and the Commonwealth State Disability Agreement.**

The examination of the negotiation and operation of these agreements in this study indicates that they have increased the responsiveness of governments to citizens.

The Commonwealth State Housing Agreement had always been a compromise, with neither the Commonwealth or the States and Territories achieving all they wished.

Political factors, in particular the expectation by the States and Territories of public reaction,<sup>2</sup> were identified as the major factor in those cases where the Commonwealth had been able to achieve changes to State or Territory actions that were against State or Territory wishes. Examples included Queensland's acceptance of funds for rental housing in 1945 and their acceptance of funds for pensioners in 1969 (chapters 4 and 5). Similarly the Commonwealth State Disability Agreement was also a compromise with political factors a major influence on the outcome. One example was the Commonwealth's acceptance of increased funding for the 1999 CSDA (chapter 7).

Examining the processes generated by a Commonwealth offer of funds to the States led to the conclusion that an offer of funds by the Commonwealth was as much a persuasional measure as a financial one, with expectations of public reaction an important factor in the acceptance of Commonwealth funds (chapter 8). This could work in both directions, such expectations did on occasions result in the State or Territory accepting funds and thus undertaking activities they would not otherwise have done. On other occasions the Commonwealth changed the purposes for which

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<sup>2</sup> Public reaction may include expectations of reactions from service recipients or providers, other groups interested in the issue or, if the issue is seen as a potential election issue, the electorate. The term public is being used to encompass any or all of these.

offered funds could be used following indications that the State would not accept the funds and the Commonwealth expected that public reaction would favour the States refusing the funds.

Political factors, along with the availability of information, were also important in whether the other tools considered in chapter 8 were successful in achieving Commonwealth aims.

The importance of political factors, especially expectations of public reaction, in both the negotiation and implementation of the joint arrangements considered indicates that joint arrangements can increase the responsiveness of governments to citizens.

Having two levels of government involved increases the chance of a decision becoming a political issue as it can be raised at either level. Thus with joint arrangements governments may be more likely to have to consider the possible public responses to their actions (or lack of action) in a particular case than where one level of government has total control. Hence in the areas of housing and disability services joint arrangements have increased the responsiveness of governments to citizens although the separate overlapping uncoordinated provision did not.

#### **CRITERION 4: THE ABILITY FOR STATES TO INNOVATE FOR STATES TO LEARN FROM EACH OTHER SHOULD BE ENCOURAGED**

The ability to learn from other governments is possible whenever more than one government is involved in an area, and may include overseas as well as other

Australian governments. The extent to which this occurs depends primarily on the actions of individual governments and not the details of intergovernmental arrangements. However structures and processes of intergovernmental arrangements can assist in the ability to learn from other governments. This section is thus concerned with the structures and processes that may assist in governments learning from other governments, and not in the actual learning that may or may not have occurred.

Under both the joint arrangements considered in this thesis the Commonwealth, States and Territories had opportunities to exchange knowledge and experience with a view to learning each from the other. It was concluded above that the States and Territories had considerable freedom in providing assistance under both the CSHA and the CSDA, so the opportunity for States and Territories to innovate was present.

A variety of arrangements and mechanisms have existed from time to time under both Agreements which could have assisted States and Territories to learn from other each other, however such opportunities do not appear to have been fully exploited. Regular conferences between Commonwealth, State and Territory ministers and officials are held in relation to both housing and disability services. In the case of the CSHA this included two yearly conferences aimed at enabling middle ranking officials to exchange information, however these are no longer being held. Commonwealth and State officials interviewed for this project commented that contacts between Commonwealth and State officials, and between officials of different States, were essentially ad hoc except at the very highest levels. State officers did not have regular



contact with their counterparts from other States and were not necessarily familiar with developments in their areas in other States.

Information on activities undertaken by the States and Territories (and Commonwealth in relation to the CSDA) is collected and published in a number of ways. Agreements for the collection statistical information between the Commonwealth and States and Territories are in place for both the CSHA and the CSDA. The statistics are collected in conjunction with the Australian Institute of Health and Welfare (AIHW). The AIHW, although a Commonwealth statutory body, operates separately from the Commonwealth departments administering the Agreements and thus offers an independent body for data collection and dissemination. (AIHW 2001:40-41,45-46).

Data and information on the CSHA and the CSDA, including that collected by the AIHW, is published in the Housing Assistance Act Annual Reports, the “Report on Government Services” by the Steering Committee for the Review of Commonwealth State Service Provision, and the Bi-annual “Australia’s Welfare” report by the AIHW (FACS 2000b; SCRCSSP 2000; AIWH (1999)). The above information enables comparisons to be made of different States and Territories provision and, during interviews undertaken for this project, was described by State officers as useful for policy development purposes. The role of the AIHW as an independent agency in the collection and analysis of program data was also valued by these officers. The information described above is a product of joint Commonwealth-State processes arising from the CSHA and CSDA and would not otherwise be produced.

Other publications have also been produced which provide information on provision which is distributed to State and Territory governments. The Commonwealth Department of Family and Community Services publishes “Disability News” which is a newsletter that contains news about developments in disability services and includes articles on particular examples of provision. From 1945 to 1952 the Commonwealth published the Australian Housing Bulletin which contained information on developments in different States and overseas (Department of Works and Housing 1945).

Thus a range of mechanisms has provided opportunities for States and Territories to learn from each other and the Commonwealth under the Commonwealth State Housing Agreement and the Commonwealth State Disability Agreement. Most of these mechanisms would not have existed without the areas being areas of joint responsibility. Despite the range of mechanisms for dissemination of information more could have been done, for example continuing a publication similar to “Australian Housing Bulletin” past 1952 that provided detailed accounts of existing and possible provision of housing, and publication of similar material for disability services might have increased the opportunities of governments to learn from other governments. Also more regular contact between officers, especially at lower levels than head of department level could assist in States being aware of developments in other States. It is apparent that the full potential of joint arrangements for enabling States to learn from each other has not been realised in the areas considered in this study.

**CRITERION 5: INEFFICIENCIES CAUSED AS A RESULT OF  
DUPLICATION AND DELAYS CAUSED BY JOINT PROCESSES SHOULD  
BE MINIMISED**

Inefficiencies are seen by some critics as a major disadvantage of areas of joint responsibility between different levels of government (Chapter 2). Duplication and delays in decision are identified as the major causes.

**Duplication**

For both the Commonwealth State Housing Agreement and the Commonwealth State Disability Agreement any duplication of effort is duplication of administration and not of provision. Under the CSHA all actual provision is carried out by the States and Territories. With the CSDA provision is divided between the Commonwealth for employment related services and the States and Territories for accommodation and support services (chapter 7). Thus duplication of service provision should not occur.

With disability services, in the period up until 1991 when both the Commonwealth and the States and Territories independently provided services duplication of provision was possible. However it appears that very little, if any, such duplication occurred. Many commentators argued that the total amount of disability services was inadequate and that all services were operating close to capacity (for example, ACOSS, 1991:16). If this were the case than duplication of services was not present as, however uncoordinated the provision may have been, the provision of more of a particular service than was required did not occur.

## **Duplication of Administration**

Any area of joint responsibility will involve some additional administration compared with provision by one level of government. In joint arrangements such as the CSHA and CSDA payments have to be made between levels of government, and some monitoring and reporting processes will be required as governments will wish to ensure that the joint arrangements are being operating according to the provisions of the arrangements. With uncoordinated areas of joint responsibility, such as disability services prior to 1991, both levels of government will be required to set up administrative systems.

Given that some administrative duplication is inevitable in areas of joint responsibility some criteria for assessing whether the duplication is excessive or unnecessary is required. What is unnecessary duplication will not be agreed on by all commentators. Some strongly coordinate commentators see no justification for joint arrangements and thus all administrative duplication would be regarded as unnecessary (chapter 2). However if some reasons are accepted for Commonwealth involvement in otherwise State and Territory activities than the amount of duplication of administration needed to bring about the reason for the Commonwealth involvement may be regarded as necessary. Thus unnecessary duplication of administration is being taken as additional administration to that necessary to achieve the reasons for Commonwealth involvement. This includes occasions where the Commonwealth introduces administrative measures aimed at influencing State and Territory actions but fails to do so.

Chapter 8 examined the various tools used by the Commonwealth in trying to achieve its objectives in joint arrangements. These were examined against the effectiveness of the tools and the resources required by the Commonwealth. It was concluded that in general those tools that required high levels of resources proved less effective from the point of view of the Commonwealth. Thus unnecessary duplication of administration did occur in relation to those tools that required high levels of resources, especially where the tool was not effective from the Commonwealth's point of view.

#### The Commonwealth State Housing Agreement

Instances of unnecessary duplication of administration between the Commonwealth and the States, in the sense outlined above, have occurred with the CSHA.

The most effective tools used by the Commonwealth to attempt to influence State and Territory provision under the CSHA included: financial tools such as earmarking funds for a purpose; some general authority tools, such as conditions of sale for dwellings; and, some informational tools such as specific direct negotiations between the Commonwealth and the States and Territories. These measures are all relatively undemanding in their use of Commonwealth and State and Territory informational and organisational resources.

In general those measures that had higher demands for resources proved less effective in achieving Commonwealth aims through the CSHA. Examples include the

requirements for Commonwealth and State plans from 1989 onwards and the performance measures introduced in the 1996 CSHA. Other less effective measures included some authority measures, for example rent setting requirements after 1978. As these formula were relatively complicated they would have been more demanding on resources than the tools mentioned above such as conditions on the sale of dwellings. Also less effective were a number of general informational measures, such as the requirements operating from 1945 to 1956 for the Commonwealth to monitor aspects of State provision.

Specific purpose programs including community housing and crisis accommodation were an exception as these proved effective in achieving Commonwealth objectives despite requiring a high level of resources. However these programs have been particularly criticised for the level of resource commitments they required from both Commonwealth and State and Territory governments (chapter 8).

From the above it can be concluded that the Commonwealth State Housing Agreement has created a degree of unnecessary duplication of administration. However it is also apparent that the Commonwealth has been able to achieve a degree of influence over State and Territory actions in order to achieve the reasons for its becoming involved with tools that are relatively light in their use of resources. Thus it would have been possible for the CSHA to be effective from the point of view of the Commonwealth without creating a high level of administrative duplication.

### The Commonwealth State Disability Agreement

The CSDA has involved less duplication of administration than the CSHA. The first CSDA included requirements for agreed Commonwealth, State and Territory plans, similar to those in the 1989 CSHA. These are likely to have required a high level of resources from both the Commonwealth and State and Territory governments however they were not in fact implemented (chapter 8). The first CSDA contained few other administrative requirements. In the second CSDA the planning requirements were replaced by provisions for “bi-lateral” agreements. These have involved relatively simple requirements directed at specific areas of provision. As such they are less demanding on Commonwealth and State and Territory resources than overall planning arrangements. They have had some success in enabling the Commonwealth to achieve its objectives (chapter 8). Thus like the CSHA, with the CSDA it is possible for the Commonwealth to achieve objectives without a high level of duplication of administration

### Separate Commonwealth and State Programs for Disability Services prior to 1991

Having separate provision requires the setting up of separate administrative systems A number of commentators and reports criticised the creation of parallel systems as creating duplication and inefficiency (for example Rowe 1958; Burniston 1970:13-14; HPR 1985:104).

The money amount involved in this duplication is hard to estimate, one estimate is of one half to one per cent of program expenditure (across all areas) (FSRC 1998: footnote p12).

Thus a degree of duplication of administration occurred with the separate provision of disability services prior to 1991.

### **Conclusions on Duplication**

With the two areas of joint responsibility being examined duplication of services does not appear to have occurred. Duplication of administration did occur. With the joint arrangements (CSHA and CSDA) some of this was unnecessary in that it did not assist in achieving the reasons for entering into the joint arrangement. However it would have been possible to achieve these aims with arrangements that used tools which were relatively low on the amount of Commonwealth, State and Territory informational and organisational resources used. Thus the amount of duplication of administration could have been kept to a relatively low level. With areas of overlapping uncoordinated separate responsibility a certain degree of duplication of administration will occur as two parallel systems are required.

### **Delays**

These are associated with joint arrangements when approval or agreement by both levels of government is required. Delays can occur both during formulation of arrangements and during their implementation. An example of delays during the



formulation of arrangements was when the second CSDA was delayed as a result of a dispute over funding levels (chapter 7). While this delayed changes being introduced, the existing arrangements continued until the new agreement was in place (NSWADD 1997:57). Thus no major disruption of delivery of services occurred.

Delays during the implementation of joint arrangements can occur whenever approval from the Commonwealth government is required for a particular State or Territory government action. Thus the potential for delays in the CSHA was greatest for specific authority tools and combination tools such as the community housing and crisis accommodation specific purpose programs. The specific purpose programs were heavily criticised for causing delays (chapter 8).

The first CSDA required Commonwealth approval for plans for expenditure of funds but these were not in fact implemented (chapter 6). The second CSDA includes “bi-lateral” agreements which require Commonwealth and state and Territory approval and thus could cause delays. However so far no major concerns been expressed about delays in relation to these. During interviews with State officials for this thesis this was not raised as a concern.

Delays then have existed in the CSHA, created by some of the arrangements that have applied, in particular the specific purpose programs for community housing and crisis accommodation. However delays have not existed throughout the history of the CSHA, or for the CSDA.

## **CRITERION 6: OPPORTUNITIED FOR COLLUSION BETWEEN DIFFERENT LEVELS OF GOVERNMENT SHOULD BE MINIMISED**

“Collusion” is considered to exist where governments or government officials combine to further their own interests rather than the interests of their citizens (chapter 2). Determining whether collusion has occurred is not easy, as successful collusion between officials from different levels of government would be likely to be kept secret. Also in order to be sure that collusion had not occurred in the joint arrangements being considered it would be necessary to examine every decision that had been taken, this is clearly not possible given the large number of decisions involved. However it is possible to look at the results of the joint arrangements to see whether the outcomes that would be expected if collusion between Commonwealth and State levels of government was common are present. It needs to be noted that the presence of such outcomes does not, by itself, prove that collusion was present, although the absence of such outcomes suggests that collusion was not present.

The “public choice” (or rational choice) theorists who point to the danger of collusion expect politicians and officials to act in their own interests. Thus the results of collusion in joint arrangements would be to expand the area the subject of the joint arrangement and protect it against attacks on the area or changes that could be expected to be detrimental to the people working in the area (for example Sproule-Jones 1975:73; Bish 1978:23). An examination of the history of the areas of joint responsibility being considered shows little evidence that collusion has produced results such as those above, although some of these characteristics are present.

## **Disability Services Prior to 1991**

Kincaid argued that having two levels of government in competition with each other reduced the risk of collusion (Kincaid 1991:89). Grossman argued that uncoordinated provision by governments was likely to reduce the level of expenditure of governments (Grossman 1989:4). However the history of separate provision of disability services does not totally support these views. Both Commonwealth and State programs in the mid 1980s South Australia had relatively high levels of funding . This was, in part, attributed to good coordination and cooperation between State, and State based Commonwealth officers (Hardwick, James et al. 1987:111). Whether this is collusion will, in part, depend on whether the assistance provided through the programs is regarded as necessary. If it is seen as unnecessary assistance then the result could be regarded as collusion in that the Commonwealth and State officers have expanded the program to meet their own ends, and not that of governments or citizens. However it could also be regarded as collusion even if the assistance was needed as the cooperation between the officials could have resulted in South Australia receiving more than its share of the funding, and thus the other States suffered as a result of their activity. This shows that having separate but overlapping provision without any formal arrangements between the different levels of government does not necessarily avoid collusion or produce the lower levels of expenditure expected by some public choice theorists.

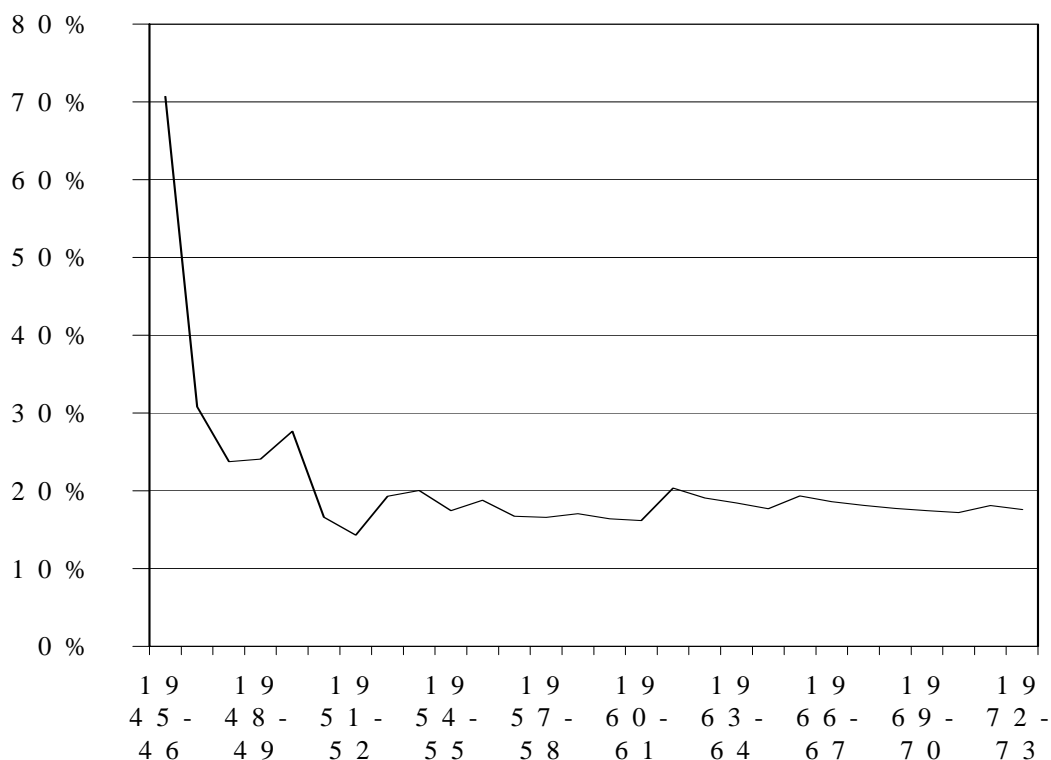
## **The Commonwealth State Housing Agreement**

If collusion between Commonwealth and State and Territory officials had been a major factor in decision making under the CSHA it could be expected to be evident in decisions on funding levels and on the lack of major changes to the arrangements. There is no evidence that decisions in these areas were influenced by collusion.

In the period until 1973 the amount of capital funds the States allocated from their Loan council allocation for the CSHA was a matter for the States alone and thus collusion was unlikely to occur. While it might be argued that collusion occurred between the Commonwealth and the States in determining the incentive for the States to nominate funds, there is no evidence that the size of the incentive had a major impact on the amount of funds nominated. While there was a theoretical incentive to nominate funds for the CSHA as a result of the increased amount of subsidy received in the period 1945 to 1971, no incentive applied in 1971-72 and 1972-73. This is because under the 1971 States Grant (Housing) Act subsidies to the States were fixed in dollar terms and remained the same irrespective of the amount of loan council funds used by the States for housing. As Figure 10.1 below shows the proportion of Loan council funds allocated to housing stayed about the same in 1971-1972 and 1972-73 compared with the amounts nominated in previous years under the CSHA. By the early 1950s the proportion allocated stabilised at just under 20% and stayed there for the rest of the period. The higher proportions in the earlier years reflect the post war housing shortage (chapter 4). The lack of any marked change despite the different financial incentives in 1971 suggests that States had not, prior to 1971 been lured into using excessive proportions of funds for housing as a result of

generous concessions. There is no evidence of collusion in the financial arrangements prior to 1973.

**Figure 10.1 Percentage of Loan Council Funds Allocated to the CSHA, Australia, 1945-46 to 1972-73**



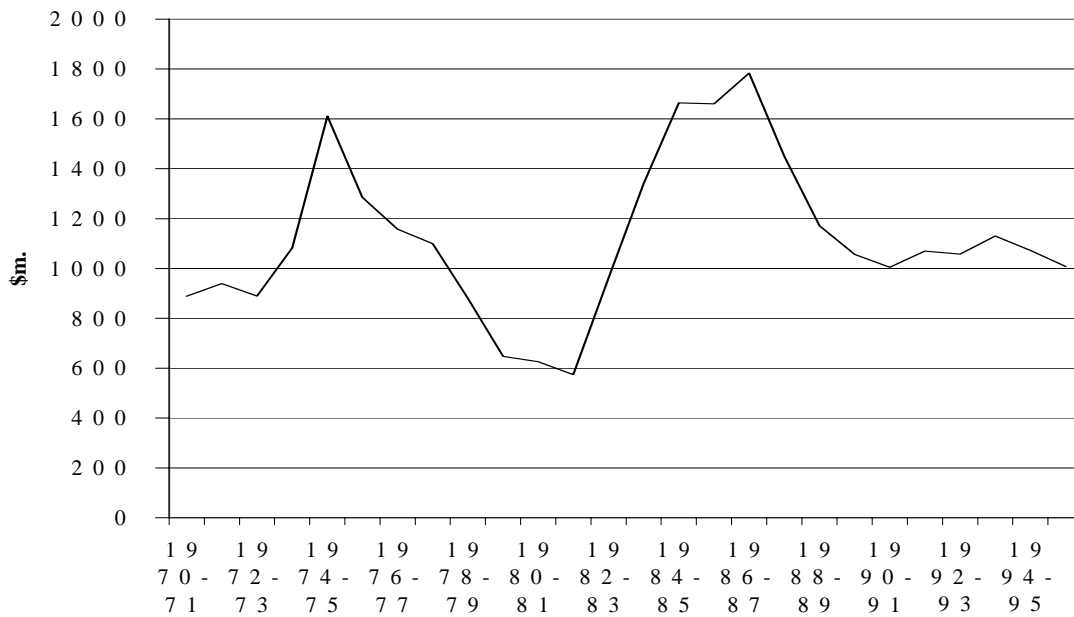
**Source:** Commonwealth Budget Papers, various years

From 1973 the Commonwealth allocated the funds for the CSHA to the States, although after 1978-79 States were required to match these funds. Figure 10.2 below shows Commonwealth funds, in real terms, from 1973 onwards.

As can be seen there were some periods of significant increase in Commonwealth funds, however there have also been periods of sustained decline. The two major periods of increase followed the election of Commonwealth governments committed to increasing funds for public housing in 1972 and 1983 (Johnson 1973:4; Uren 1982). Thus these increases may be attributed to political factors rather than collusion

between Commonwealth and State and Territory officials. Overall there is little to suggest that the level of Commonwealth funds into the CSHA increased as a result of cooperation between Commonwealth and State and Territory officials.

**Figure 10.2 Commonwealth Funding to the States(a) through the CSHA in Real Terms(b), 1970-71 to 1995-96**



**Source:** Commonwealth of Australia Yearbooks and Housing Assistance Act Annual Reports, various years.

(a) Includes NT from 1981-82 and ACT from 1989-90

(b) Constant 1989-90 dollars. Adjusted by CPI housing group index figures. Australian Bureau of Statistics ABS 6401.0

In 1978-79 States were required to match Commonwealth CSHA funding. Although the States opposed this at the political level, an element of collusion could be claimed as both Commonwealth and State officials working in the housing area would benefit from an increase of funds, (from whatever source) into the CSHA. However it seems unlikely that matching requirements did in fact increase the amount of funds provided

at least prior to 1989-90 (chapter 5). There is thus no evidence to suggest that collusion played a part in the introduction of the matching requirements.

Proposals for radical change to the CSHA put forward in the mid 1970s and again in the mid 1990s were both defeated. State opposition to the proposals was seen as at least part of the reason for this. Blocking major change could be expected to be in the interests of officials at both the Commonwealth and State level. However it is not clear that the changes proposed in the mid 1970s would have adversely affected Commonwealth and State officials. The defeated proposals still would have had the Commonwealth providing capital funds to the States, albeit on different conditions (chapter 5). Thus the interests of the officials should not have been markedly affected. In the case of the proposals in the mid 1990s officials interests could have been expected to be affected as the Commonwealth would have ceased funding the States for public housing. However senior Commonwealth officials were publicly identified with the reforms so collusion between Commonwealth and State and Territory officials did not play a major part in the decision not to proceed with the reforms (see for example Foster, 1996).

The above brief account of those decisions under the CSHA where collusion between Commonwealth and State officials could be expected to be present if collusion had been a feature of decision making under the CSHA shows little evidence that collusion did in fact occur.

## **Commonwealth State Disability Agreement**

As with the CSHA, there are a couple of occasions where the results that might be expected if collusion occurred can be observed. However, as with the CSHA, other explanations apart from collusion exist for these results.

In relation to the level of funding for the CSDA, the CSDA appears to have resulted in increased levels of funding than would have occurred otherwise (chapter 7). This was particularly the case with funding for the second CSDA on its introduction in 1998. However this increased funding occurred after a public confrontation between the Commonwealth and State and Territory governments, suggesting that political factors, rather than collusion between officials of different levels of government, was the reason for increases in funding.

Only relatively minor changes to the CSDA were made with the second CSDA despite an evaluation report recommending more major changes (chapter 7). However the recommended changes would have increased the role played by State and Territory governments so could have been expected to advantage State and Territory officials. Thus it seems unlikely that collusion of the type outlined above was a factor in this decision.

## **Conclusions on Collusion**

There is little evidence that collusion between Commonwealth and State and Territory officials played any major role in decision making for the joint arrangements being



considered. However an example of what could be regarded as collusion was identified in relation to overlapping separate provision of disability service programs prior to 1991. This evidence casts some doubt on the claim from some public choice theorists that overlapping uncoordinated provision between different levels of government is preferable to joint arrangements as a result of the risk of collusion in joint arrangements.

## **CONCLUSIONS**

The criteria, against which the results of areas of joint responsibility have been assessed in this chapter are not a single agreed list. Not all will be accepted by all commentators, and differing emphases may be placed on the criteria. Thus a single answer as to whether the arrangements being considered were successful, or which arrangements were the most successful, can not be given. As well a single example each of the three different types of arrangements has been considered, separate but overlapping provision (disability services prior to 1991), joint arrangements on concurrent lines (the CSHA) and joint arrangements on coordinate lines (the CSDA, especially prior to 1998). However a comparison of the different arrangements against the criteria does provide information which can assist in judging the various arrangements.

### **The Commonwealth State Housing Agreement**

Under the CSHA the Commonwealth showed some ability to influence States provisions so as to meet its spillover objectives. The Commonwealth has also

achieved some influence over the target groups for assistance and greater uniformity of funding occurred once the Commonwealth funded the States in 1972. The States and Territories have generally had the ability to meet local needs and conditions, either because the Commonwealth has not attempted to limit their actions or as a result of Commonwealth attempts being ineffective. The history of the CSHA does show some evidence of an increased responsiveness of governments to its citizens as a result of having two levels of government involved. Some evidence of the ability of States to innovate and learn from each other was also noted, although this could have been taken further. On the other hand there was a degree of duplication of administration, although not of provision. It was however concluded that the Commonwealth could have achieved influence sufficient to meet its spillover and uniformity of provision objectives with a lower amount of duplication of administration than did at times occur. Also at some periods the administrative arrangements caused delays that led to inefficiencies, although again it was concluded that the Commonwealth could have achieved its spillover and uniformity objectives without these arrangements. Finally there was little evidence of collusion between Commonwealth and State or Territory officials having any major impact on decisions under the CSHA.

### **The Commonwealth State Disability Agreement**

Compared with the essentially concurrent CSHA, the more coordinate CSDA showed less ability for the Commonwealth to influence uniformity of provision, particularly in terms of funding and target groups as Commonwealth influence applied to only part of the funds provided under the Agreement. The Commonwealth in particular had

little influence over target groups until the second CSDA which added a more concurrent element to the previously more coordinate CSDA. Although the Commonwealth was directly responsible for provision in the areas that aimed to meet its spillover aims some factors in the arrangements that inhibited this were noted. As with the CSHA, the history of the CSDA shows that the States and Territories were able to meet local needs and conditions and also shows an increased responsiveness of government to citizens as a result of having two levels of government involved. Also similar to the CSHA there was some evidence of the ability of States to learn from each other and little evidence that collusion between Commonwealth, State and Territory officials significantly influenced the results of the Agreement. A difference between the results of the CSDA and the CSHA was that less duplication of administration (and none of provision) appears to have occurred with the CSDA although it was noted that a higher level of duplication would have occurred if all of the provisions of the first CSDA had in fact been implemented.

### **Disability Services Prior to 1991**

The separate but overlapping provision of disability services prior to 1991 showed less uniformity of provision than the two Agreements considered. In relation to funding this applied not only to State provision but also to the Commonwealth provision, although in later years the Commonwealth provision became more uniform. As with the CSDA, although the Commonwealth was directly responsible for provision in the areas that aimed to meet its spillover aims, the separate provision in some ways inhibited the Commonwealth from achieving its aims. With separate provision the States were, not surprisingly, able to meet local needs and conditions.

Some degree of learning from other States was able to take place although this was less than for the Agreements. Unlike the CSHA and the CSDA greater responsiveness to citizens as a result of the involvement of two levels of government does not appear to have occurred. Also unlike with the Agreements, an example of possible collusion between Commonwealth and State officials was noted. In relation to duplication, a reasonable amount of duplication of administration, although not of provision, took place.

### **Summary**

Overall the results of the Commonwealth State Housing Agreement show most of the advantages claimed for areas of joint responsibility between different levels of government and, with the exceptions of some duplication of administration and during some periods delays causing inefficiencies, few of the possible disadvantages. The Commonwealth State Disability Agreement also shows some of the advantages claimed, although if a degree of uniformity of provision is seen as an advantage, this was achieved to a lesser extent. The main disadvantage was a degree of duplication of administration. In contrast the separate but overlapping provision for disability services prior to 1991 did not show the advantages of increased responsiveness or avoidance of collusion claimed for this arrangement, while still showing a degree of duplication of administration. A low degree of uniformity of provision was present.

## CHAPTER 11: SUMMARY AND CONCLUSIONS

This study aimed to examine two areas of joint responsibility between Commonwealth, State and Territory governments to see the results that flowed from involvement by both levels of government. Two very different questions are raised. First, was the result of having two levels of government involved desirable? Second, why and how did having two levels of government involved affect the results? The main conclusions reached were that the more concurrent arrangements had been fairly successful in achieving the advantages claimed for federal arrangements and avoiding the disadvantages, but that arrangements based more on coordinate principles had been less successful. It was also concluded that the key factor determining the results of areas of joint responsibility was the level of resources held by the different levels of government, with political and organisational resources being at least as important as financial resources.

As this study involves only two areas, and often there is only one example of a particular type of arrangement, care has to be taken in drawing general conclusions for Commonwealth-State arrangements. The processes described from the housing and disability services examples may well apply in other areas as well, however without examining further examples they can only be taken as showing the results of the housing and disability joint arrangements, why these results occurred and their consequences in the areas of housing and disability services.

In order to assess the desirability of the results of areas of joint responsibility chapter 2 examined three main approaches to federalism: coordinate (where subject areas are

divided between the levels of government); concurrent (where different levels of government are involved in the same subject area) and competitive (where competition between governments is seen as a desirable feature of federal arrangements) (Painter 1996). For each approach the expected advantages and disadvantages of having areas of joint responsibility were examined. The combined list of expected advantages and disadvantages was:

1. The arrangements should facilitate Commonwealth government policies necessary to mitigate “spillover effects” and to provide the desired level of national uniformity.
2. States should be able to reflect local priorities and circumstances
3. The responsiveness of governments to citizens should be increased
4. The ability for States to innovate and for States to learn from each other and the Commonwealth should be encouraged
5. Duplication of administration, inefficiencies, and delays caused by joint processes should be minimised.
6. Opportunities for “collusion” between different levels of government should be minimised

Chapter 3 examined frameworks for the analysis of areas of joint responsibility and adopted a framework based on the methods or tools used by the Commonwealth to attempt to influence State actions within the agreements. This framework was derived from Hood’s analysis and consisted of examining areas of joint responsibility in terms of the tools used by the Commonwealth within the arrangements to try to influence

state actions (Hood 1983). The tools used are financial, authority and informational tools and combinations of these tools

Chapters 4 and 5 examined the history of the Commonwealth State Housing Agreement (CSHA). Chapter 6 considered Commonwealth involvement in disability services prior to 1991 and chapter 7 examined the Commonwealth State Disability Agreement (CSDA) from its introduction in 1991. These examples enabled consideration of three broad types of arrangements for areas of joint responsibility. These were, uncoordinated separate provision by both levels of government (disability services prior to 1991), an agreement between different levels of government on concurrent lines (the CSHA) and an agreement between different levels of government on coordinate lines (the 1991 CSDA). The later 1998 CSDA was also largely coordinate, but included a concurrent element, the ability for the Commonwealth and an individual State to agree on action, including additional funds, for any area covered by the CSDA. This element was introduced as a result of lack of coordination between Commonwealth and State provision, which had been a factor in inhibiting the achievement of Commonwealth objectives.

A major conclusion drawn from chapters 4, 5 and 7 was that the two agreements, the CSHA and the CSDA, were always compromises, with neither the Commonwealth nor the States dominating. Chapter 6 concluded that despite the Commonwealth entering the area of disability services in order to achieve spillover objectives, it proved very difficult, if not impossible, for the Commonwealth to confine its involvement to that justified by coordinate principles. The Commonwealth gradually expanded its involvement until it covered the whole field of disability services. This

expansion took place as a result of two processes that arose from the Commonwealth's initial involvement in disability services, the necessity for further involvement to support the initial involvement and the existence of political pressures to expand created by the earlier involvement.

Overall it was concluded from chapters 4 to 7 that having both levels of government involved did make a difference to the results of areas of joint responsibility. The quantity, type, distribution and target groups for both housing and disability services would have been different had only one level of government been involved.

Chapter 8 examined the implementation of the joint arrangements studied, the CSHA and the CSDA. The analysis concentrated on the actions and ability of the Commonwealth government to achieve its objectives. The reason for this is that, as the areas studied Constitutionally belong to the States, the ability of the States to achieve State objectives is not dependent on the existence of areas of joint responsibility, although such areas might inhibit their ability to achieve their objectives. By definition, the Commonwealth is dependent on areas of joint responsibility to achieve objectives in areas given by the Constitution to the States. The framework for analysis was that discussed in chapter 3 derived from Hood. It was concluded that generally financial tools and some authority tools had been the most effective from the Commonwealth's viewpoint. This was attributed to them requiring less informational and organisational resources than other tools.

Chapters 9 and 10 examined the results of the areas of joint responsibility studied.

Chapter 9 considered how uniform between the States the provision in these areas had



been. It was concluded that joint arrangements had generally produced more uniform results than either separate State or Commonwealth programs. This was attributed to the political processes inherent in reaching agreements that mean each State is concerned about its share of the funds. Chapter 10 assessed the results of the areas of joint responsibility against the criteria outlined in chapter 3 and concluded that generally most of the advantages claimed for areas of joint responsibility had occurred with relatively few of the disadvantages.

The first two criteria raise the balance achieved between the influence on the results produced by the Commonwealth government and that of the State governments. On the one hand the Commonwealth government needs to have sufficient influence to mitigate spillovers and achieve a degree of national unity (if desired), on the other hand the States need sufficient influence to be able to reflect local priorities and circumstances. The CSHA showed a reasonable balance between Commonwealth and State influence. The Commonwealth did achieve some influence over the amount of provision, especially after 1972 when the Commonwealth directly allocated the funds. The Commonwealth also had some influence on the target groups for assistance. On the other hand the States had considerable control over many aspects of provision including the nature, location and details of assistance. The CSDA showed a lesser ability on the part of the Commonwealth to achieve its objectives relating to spillovers and, in respect of target groups, uniformity of provision. Similarly the separate uncoordinated provision of disability services prior to 1991 did not always enable the Commonwealth to achieve spillover related objectives and achieved little in the way of national uniformity.

From the above it can be seen that the agreement along concurrent lines (the CSHA) achieved more of a balance between Commonwealth and State influences than either the more coordinate CSDA or the separate uncoordinated provision of services.

In relation to the other criteria for assessment both the CSHA and the CSDA had shown a fair degree of government responsiveness to citizens, but with the uncoordinated separate provision of disability services prior to 1991 governments seemed to be less responsive.

Some degree of duplication between different levels of government occurred in all of the areas of joint responsibility considered. The least amount of duplication was in agreements or joint arrangements on coordinate lines, with both uncoordinated separate provision and joint arrangements on concurrent lines involving higher levels of duplication. Separate provision involved establishment of parallel administrative structures while joint arrangements on concurrent lines involved various approval, monitoring and checking processes by the Commonwealth. However the extent of these varied in accordance with the tools being used by the Commonwealth to influence State actions. Combined tools generally involved more administration than tools acting independently.

Little evidence of collusion was found, the only example being for uncoordinated separate provision. On the other hand it seems that the possibility inherent in joint arrangements to encourage innovation and exchange of information between States has been by no means fully exploited.

Overall the joint arrangement on concurrent lines met the criteria better than the other types of arrangements as it achieved the best balance between Commonwealth and State influence on the results of the arrangements. The joint arrangement on coordinate lines did involve less administrative duplication, however the difference was not necessarily substantial. The amount of administrative duplication involved with concurrent agreements varied, depending on the details of the arrangements.

The results summarised above can be explained by the resources (Rhodes 1981) required by each level of government in areas of joint responsibility. It is clear that it is difficult for either level of government to dominate the other.

The accounts of the negotiations for the various CSHAs and the CSDA concluded that political and organisational resources held by the different levels of government were at least as important as financial resources in determining the outcome of the negotiations. Political resources are not the monopoly of either level of government, so if they are likely to be a significant factor it would be expected that neither level would dominate. In the case of the CSDA both the Commonwealth and the States held organisational resources as both had established structures delivering disability services. In the case of the CSHA organisational resources were predominantly held by the States as they delivered housing programs. Often the Commonwealth will hold a higher level of financial resources so if these had been the dominant factor the Commonwealth perhaps would have dominated. The reason why financial resources were not the dominant factor was seen in the analysis of the implementation of joint arrangements. An offer of funds to the States does not, by itself, force the State to take the funds if they are opposed to the purpose of the funds. However the offer may

create political pressures on the State to take the funds if it is expected that the public would support the acceptance of the funds and oppose its rejection. Thus the Commonwealth requires political as well as financial resources to succeed in achieving its aims where the State does not agree with the purpose for which the funds are offered.

The analysis of the effectiveness of the various tools used by the Commonwealth to try to achieve its objectives within the joint arrangements also shows that the Commonwealth has been unable to dominate the States. Again the resources required explains why this occurred. While all tools required that the Commonwealth possess political resources, those that generally were effective from the Commonwealth's point of view were those that had low requirements for informational and organisational resources. These were financial tools acting independently and some authority tools acting independently. These tools enabled only fairly broad influence over State actions, for example that assistance be provided to a particular category of persons such as single aged pensioners. For the Commonwealth to achieve more detailed control over State actions generally required a higher level of informational resources than the Commonwealth possessed. Examples were combined authority and informational tools such as overall planning arrangements and performance indicators which proved largely ineffective in achieving Commonwealth objectives. An apparent exception was the use of combined financial, authority and informational tools which have proved effective in achieving Commonwealth objectives. The Crisis Accommodation and Community Housing specific purpose programs within the CSHA did enable the Commonwealth to achieve a detailed level of control. However it was noted in chapter 8 that these programs did require high levels of informational

and organisational resources from the Commonwealth and that such resources may not have been available in relation to wider areas than the small specific purpose programs. The other combined financial, authority and informational tool considered, the bi-lateral agreements under the 1998 CSDA, has in fact only aimed to achieve a broad Commonwealth influence over State actions. The Commonwealth has provided funds to achieve simple objectives, such as provision of funds for a specific purpose, and required from the States little more than that they spend funds on that purpose. The amount of resources required, and the degree of control achieved, was similar to that of financial tools operating independently. Thus the only circumstance in which the Commonwealth successfully exercised detailed control over States provision was when they provided high levels of resources over relatively small areas of activity. This suggests that the Commonwealth is unlikely to be able in joint arrangements, at least in the areas of housing and disability services, to exercise the type of detailed control that would significantly reduce the ability of the States to reflect local circumstances.

The role of political resources, as discussed above, for both the negotiation and implementation of joint arrangements such as the CSHA and CSDA explains why these arrangements increased the responsiveness of governments to their citizens. In joint arrangements issues can be raised as political issues by either level of government, thus increasing the chances of governments responding to public opinion, or their expectations of what public opinion would be in the event of a political controversy occurring. A government has to consider, with any action it takes in relation to a joint arrangement, the possibility of the other level of government raising it as a public political issue. With the uncoordinated separate provision of

disability services prior to 1991 neither level of government seemed particularly responsive to suggestions that they fill gaps in provision, both showing a tendency to leave it to the other. While in an uncoordinated situation one level of government may attack the other and attempt to raise it as a political issue for them, a formal joint arrangement makes this more likely to occur.

The resource requirements of different tools used in implementation also shows that the Commonwealth can be reasonably effective in achieving spillover objectives and a degree of national uniformity without requiring a high level of duplication with the States. Generally the most effective tools in enabling the Commonwealth to achieve its objectives were those with relatively lower demands for informational and organisational resources on the part of the Commonwealth. Thus the amount of duplication of administration need not be high in order to achieve the claimed advantages of areas of joint responsibility. Attempts by the Commonwealth to achieve a higher degree of control over State actions will involve higher levels of duplication without necessarily achieving any greater Commonwealth control.

From the above it can be seen joint arrangements on concurrent lines are more likely to achieve the advantages claimed for federal arrangements and minimise the disadvantages than the more coordinate arrangements. Not only have the coordinate arrangements not shown the advantages claimed for federal arrangements to the same extent but the attempt to divide disability services between the Commonwealth and the States on strictly coordinate lines failed. As noted above in the period of uncoordinated separate provision prior to 1991 the Commonwealth was unable to confine itself to a strictly coordinate role. With the 1991 CSDA the Commonwealth

found that difficulties arose in coordinating Commonwealth and State provision which, to an extent, inhibited the achievement of Commonwealth objectives. These were the same types of difficulties that had led, in the period of uncoordinated separate provision, to the Commonwealth expanding its involvement. As a result of these coordination difficulties the 1998 CSDA included a concurrent element where both the Commonwealth and the State could be jointly involved in any area of disability services.

However if concurrent joint arrangements are to achieve to a high level the advantages of joint arrangements while minimising the disadvantages the Commonwealth needs to limit its attempts to influence State actions. The most successful arrangements have been those where the Commonwealth has attempted only to achieve a few particular objectives consistent with the Commonwealth's role of mitigating spillovers and creating a minimum level of national uniformity, for example ensuring that assistance is received by all needy groups.

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