

Committee Secretary

The Group wishes to thank you for the opportunity to be able to make comment, it is appreciated.

It is considered that Incorporated Associations etc must remain free and independent organisations because their work is essential to society. But as recognised there is a need for some regulation on behalf of those who give to and benefit from not for profit organisations, and on behalf of recipients the wider community. As acknowledged community service organisations [not for profit] have emerged as a previously hidden third sector of our economy after government and the private sector. Performance of a social rather than a direct economic service. A service that improves the wellbeing of individuals in the community;

- Producing a surplus rather than a profit that is used to improve the service performed rather than paid to shareholders; and
- The largest component if not all is voluntary service made up of those who give their time and funds for the higher public good of the community.

It is therefore essential that there is greater accountability within this sector, which appears from experience to be lacking in many instances and it is these that need greater guidance and made fully aware, for example, of their corporate governance obligations. Some of the key issues that have become clearly evident are:

- The elementary question of what exactly the organisation is about together with clarity and consistency as to satisfactorily fulfilling their constitutional *Objects*.
- Lack of understanding of office bearers and committee member roles.
- Relationship between stakeholders and the organisation. Accountability to stakeholders is on many occasions still opaque or non-existent, especially given at times the range of people covered by the term stakeholder which includes donors, recipients of services, the taxpayer, private and public grant providers and government which out sources services to the not for profit sector.
- Communication at all levels tends, in many instances, to be on 'a need to know basis' and therefore there is a greater requirement for a more open and transparent approach. As a consequence organisations have not strategically linked effective communication methods as to the way they receive or access information, which has to be a two way process without the flow being unduly or unnecessarily restricted. In many instances it is difficult for members to find how money is spent, but is a far more challenging position from a donors perspective including, was the money spent effectively.
- As above there is currently no legislative requirement to produce an operational annual report, which there should be minimum standards of accountability and reporting. [This factor needs to be rectified in the legislation]. Without this report, organisations have on occasions, been seen to be conducted as a secret society. This report must be tabled and accepted at the Annual General Meeting the same as the financial and audit reports.
- Due to not having good Corporate Governance in place either in part or full [the latter being more dominant] there has been a demonstrated lack of ability to adapt to the ever changing environment in particular accountability related to poor strategic, operational and to a lesser extent budget planning. This has been clearly evident with respect to grant applications and their execution etc.
- All of the above relates to planning, which has from experience been clearly identified as a key indicator as how problems have emerged and continued. Those organisations that have undertaken good planning in some form have not encountered problems to any great extent.

Corporate Governance which planning must be considered to be one of the most essential components within the legislative framework as stated above in relation to operations and financials. When executed effectively it provides significant confidence to both members and stakeholders.

As acknowledged in the Consultation Guide more and more Associations are looking for Government assistance with respect to education for members and assistance to resolve problems. It is clearly evident from experience that the area is significantly under resourced when one considers the significant economic and social contributions made by those who run the Associations [unpaid members/volunteers] and donors from a financial perspective. It is also acknowledged that this is a growing area and therefore saving additional major government spending in so many recognisable areas and as such it is not only time for this legislative change but should be backed up with government support in the above noted areas.

It was also highlighted during the review processes in WA in 1996 and 1998 in particular that there was insignificant money being spent by Governments in the above noted areas but it appears little to nothing has been done about them even though it was also recognised at the time the significant savings accrued to Government and the people of WA as well as Australia in general.

Experience still clearly demonstrates that the majority of organisations are far from fulfilling their maximum potential due to not having the necessary skills, knowledge, competencies, training etc to effectively and efficiently to achieve greater outcomes. It is considered that the majority of the people have capacity once given the necessary training, tools etc to make improvement. This can only be achieved by government providing assistance to achieve the where with all because of the financial status of the majority of Associations. By providing appropriate resources the problem could be solved as well as ensuring that future advances are made as circumstances change.

On behalf of all it is requested that Government not only in-act but also make the legislation stronger in the key areas where it has been identified because the identified problems will only be further exacerbated as time goes by. It is time to become proactive rather than reactive, which to a large extent is what the legislative changes are attempting to address. Given the rate of change and the time it takes for legislative change in particular this from a parliamentary priority perspective is considered to be an insignificant piece of legislation whilst still remaining important. From past performances no further major review can be foreseen for at least a decade or more, which is far from acceptable if government does not step in and assist organisations to achieve at the highest level.

By having well developed and run organisations it will not only create significant efficiencies and effectiveness but will bring with it greater public confidence and trust, which in part governments have an obligation to ensure that this takes pace. Investment in this area will be well rewarded in economic terms as a minimum at least one hundred times therefore it is a small price to pay.

It is unfortunate that in the past in WA DOCEP has only seen to be a registrar/gatekeeper and therefore whoever assumes the role should be provided with far greater capacity to support because of the value to the Australian economy as well as the overall quality of life which the organisations duly bring.

With regard to the background paper the following comment is offered.

It in broad terms the concerns and issues aptly describes the current situation.

With regard to small organisations being disadvantaged this in our view to a large extent is overstated. Whatever is done must produce an outcome that is effective and of high quality an integrity. It should be sufficiently flexible to ensure that one size does not fit all. Instead it should reflect the aspirations of good practice for optimising performance and accountability in the interests of members and the broader community.

ICAA in their report titled '*Not for profit sector reporting: a research project*' held the view that greater clarity was required in reporting, which is endorsed. Too often stakeholders needs are overlooked the reports tend to be inwardly looking and as such does not provide people with sufficient confidence to invest in a particular organisation and will go elsewhere.

The following key elements were identified:

- The financial report must meet the needs of the stakeholders - number and spread, their involvement, organisational impact on the community, and reliance on government, grants and donations;
- Use of segment reporting [programs/projects] and detail the results [outcomes] of their activities;
- Government, grant funding and significant donations are recognised in the profit and loss statements; and
- Consideration is given as to whether in-kind donations should be recognised.

Further what is missed or not clearly defined above is that key operational aspects should be reported upon. As stated earlier on many occasions members and stakeholders are left in the dark as to what has been achieved, how dollars were spent. This essential aspect was also identified in ICAA's report titled *Not for profit sector reporting: a research project*, which made recommendations to further assist in transparency, completeness and clarity associated with annual reports. In essence they recommended:

- That readers be told what the organisation is trying to do - mission, goals activities and funding that fulfils its mission;
- Provides information on the vision and future plans [direction and purpose];
- Clearly explains corporate governance arrangements; and
- Includes measures of output, outcome and import as well as reasons for change if any.

All of this detail falls out from the establishment and continuation of unified planning and clear direction of purpose and if the board outline is followed as demonstrated at *Attachments 1 & 2* then the reporting can be easily undertaken with little to no additional burden.

With respect to governance other aspects, which are quite often overlooked, are:

- The meeting of legal requirements for being a charity;
- Management committee is properly equipped to run the organisation efficiently and effectively;
- Continuation to operate for public benefit and not private advantage; and
- That decisions are free of control or undue influence from outside.

Clearly there should be an obligation that both the operational and financial aspects should not only be reported upon but also audited.

Recently Ralph Evans CEO, Australian Institute of Company Directors quoted in his article *Challenges of Not for Profit Boards* the comments made by Elaine Henry of the Smith Family who said *"It is an extremely retrograde step to even suggest a lower standard for the not for profit sector, which should have the same rules and high level of governance that apply to other sectors."* The comment is *fully supported*. The level of governance is based upon the size and complexity of the organisation, which is well catered for we believe under current reporting arrangements except for what has been outlined above. Ralph Evans further added, *"Directors of not for profits face certain challenges that are different from those with profits but the solutions are often analogous."* This comment is also agreed.

Another point, which is often over looked is the legal and subsequent serious personal consequences for an individual if for example the organisation that they govern becomes insolvent. To lessen the standards could make those more vulnerable.

By having well developed and run organisations it will not only create significant efficiencies and effectiveness but will bring with it greater public confidence and trust, which in part governments have an obligation to ensure that this takes place. Investment in good legislation, which translates into high quality corporate governance in this area, will be well rewarded for all concerned.

With regard to the recommendations all are sound, however with respect to 23 it is not clear as to how these can be clearly distinguished.

Further the Group does not support the ATO being given any further roles and that it be restricted to their current legislative role. Experience has shown that they are inflexible and far too rigid in particular when dealing with not for profit organisations. If the ATO does play a role it would be like putting the fox in the chicken house.

The Group is willing to provide further and better particulars with respect to its overall submission. The Group also demands that Associations be recognised as critical and essential to community service and that anything in the future does not further deteriorate over time like it has in the past two decades. It is essential that Governments invest to meet the needs of today and tomorrow not just catching up and patching up but to keep up with or ahead of developments to keep this most vital sector vibrant and highly respected.

These comments can be placed in the public domain if the Committee deems it appropriate.

Yours sincerely

Bevan Dellar

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Chair

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