



Thursday, 28 August 2008

Committee Secretary
Senate Economics Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Sir/Madam,

Inquiry into disclosure regimes of charities and not-for-profit organisations

The attached submission is based on our current study on accountability of a neighbourhood house in Victoria. While we are a student and member of academic staff at Monash University, the submission is not made on behalf of Monash University.

Yours sincerely,

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Submission to the Inquiry into the Disclosure Regimes for Charities and Not-for-Profit Organisations

Terms of reference

- a. the relevance and appropriateness of current disclosure regimes for charities and all other not-for-profit organisations;
- b. models of regulation and legal forms that would improve governance and management of charities and not-for-profit organisations and cater for emerging social enterprises; and
- c. other measures that can be taken by government and the not-for-profit sector to assist the sector to improve governance, standards, accountability and transparency in its use of public and government funds

Summary

1. Accountability has two sides. When aiming to improve accountability, it would be useful to take into account both types of accountability and avoid concentrating on one to the neglect of the other.
2. Current disclosure regime is suitable for the Surrey Hills Neighbourhood House, a small community based, not-for-profit organisation.
3. However, the SHNC faces other regulatory challenges, which affect its activities.

General Comments

The focus of the Inquiry is disclosure regimes for charities and not-for-profit organisations. Disclosure regime, as we understand, refers to the regulatory arrangement which defines when, to whom, how and what information charities and not-for-profit organisations should disclose. However, since this Inquiry was prompted by the concern for the lack of transparency and accountability of the not-for-profit sector, we thought it useful to make our submission from the perspective of accountability of not-for-profit organisations.

Accountability is an elusive concept. There are different conceptualisations of accountability. The concept of accountability that may be more suitable for the given context regards accountability as consisting of two sides or components for which researchers use terms such as objective and subjective accountability (Mosher, 1968; Cutt and Murray, 2000), mechanistic and organic (Gregory and Hicks, 1999), hard and soft accountability, (Cribb, 2005). The first side takes accountability as formal requirement to account and assumes answering to other parties, while the second one emphasises trustworthiness and personal integrity. The two sides are complementary and “the trick is to strike the optimal balance between the two” (Gregory and Hicks, 1999).

The not-for-profit sector has traditionally been based on trust, needing little answerability. However, the community demands more transparency from not-for-profit organisations these days and as a matter of principle, there should be no objection to the demands for more transparency, reporting and disclosure. As expressed above, the two approaches of accountability are complementary, and as pointed out the Background Paper of the Inquiry, trust may be eroded if demands for more transparency are not met.

However, when we start discussing what should be disclosed or made transparent by the not-for-profit organisations, issues arise. Disclosing inputs, such as financial reports may be relatively straightforward. But developing and assessing appropriate impact or outcome indicators for not-for-profit organisations is very difficult. Some of the difficulties include lack of agreement by stakeholders on intended outcomes, and technical challenges and cost of data collection/measurement. In addition, excessive focus on outcomes specified may divert attention from important but less measurable, less explicit areas such as community strengthening to those areas formally endorsed as intended outcomes.

The general point we would like to make is that any regulatory initiatives into charities and not-for-profit sector need to be careful not to shift the balance towards more formal requirements. The following matrix can be used to illustrate this point.

Figure 1. Responsible Accountability

		Trustworthiness	
		High	Low
Transparency	High	Responsible accountability	Irresponsible accountability
	Low	Responsible unaccountability	Irresponsible unaccountability

Source: Gregory and Hicks, 1999:3

The current state of accountability of not-for-profit organisations can be assessed as ‘high trustworthiness and low transparency’, or **Responsible unaccountability**. The objective would be moving to ‘high trustworthiness and high transparency’, or **Responsible accountability**. But mechanistic implementation of improved accountability may affect trustworthiness and lead to “low trustworthiness and high transparency”, or **Irresponsible accountability**. The last version, ‘low trustworthiness and low transparency’, or **Irresponsible unaccountability** is unlikely to happen.

Specific Comments

Currently, we are conducting a research study on accountability of a neighbourhood house in Victoria. Therefore, ideas suggested in this part of our submission are based on the neighbourhood house sector in Victoria.

a) the relevance and appropriateness of current disclosure regimes for charities and all other not-for-profit organisations;

Neighbourhood houses in Victoria operate under the Associations Incorporations Act 1981. The Surrey Hills Neighbourhood Centre (SHNC) was incorporated in 1996. In accordance with the Act, the SHNC lodges its Annual Report with the Registrar once a year. From administrative perspective, this does not take much time, cost or effort.

However, while the SH community members who attend the Annual General Meeting (AGM) receive the copy of the Annual report, the other members of the community as well as the general public do not have access to the Annual reports unless they make request to the SHNC.

Therefore, we support the recommendation of the recent review by the State Services Authority (2007) in Victoria to make it mandatory for non-profit organisations to place their Annual reports on their website. The SHNC is preparing to put its Annual reports on the website and inform the community about the online availability of Annual reports through its newspaper ‘Surrey Hills Neighbourhood News’.

The SHNC is not a charity and it does not get tax concessions. But it does receive grants from local and state governments. Disclosing information and reporting to the government funders do not entail much additional time, cost or efforts than would be required as part of normal organisational governance practice.

Therefore, in terms of disclosing information and reporting, we think there may be no need to undertake any reforms or changes.

However, the SHNC is facing a different kind of regulatory challenge, which will be discussed in the next section.

b) models of regulation and legal forms that would improve governance and management of charities and not-for-profit organisations and cater for emerging social enterprises; and

People who work for and with the neighbourhood sector feel that in the last five to ten years, the various regulatory requirements have become more and more stringent. At present, risk management is one of the main concerns of governance for the SHNC. Risk management applies to different aspects of the organisational life, including money handling, food handling, membership procedures, as well as programs and activities such as playgroup, Saturday market stalls, and strength training.

Currently, it is not clear what the main potential risks are for the SHNC and there are no guidelines on how a neighbourhood house is supposed to manage them. It is not clear to what extent potential risks of small, non-profit, community-based organisations such as the SHNC are different from those faced by large private or government organisations.

As part of good governance practices, the SHNC is committed to complying with all relevant standards and legislations. However, there are always some compliance costs associated with requirements and these costs are increasing. Moreover, these requirements are pushing the neighbourhood houses to more institutionalisation and professionalization, which may impact the community spirit and undermine community strengthening.

For example, strength training was one of the successful programs of the SHNC, led by dedicated volunteers. It was set up around 5 years ago and many elderly people regularly attend the classes. Volunteer leaders were trained, although they lacked formal qualifications. Due to its popularity, strength training class was able to run at a low cost (\$2.50 per session), and to contribute to subsidising some of the other new programs take off. There were no injuries whilst led by volunteers. However, due to the recent requirements to have a qualified instructor and to bring medical certificate, the fee has had to be increased to pay the instructor. Volunteer leaders are no longer as active as before. No longer is the strength training able to subsidise the start-up of other new programs. While individual participants may still be getting the benefits of strength training, the fact is that volunteer initiative was discouraged, and once financially self-sustainable program was made dependent on increased fee or government subsidising grant. The main rationale behind this requirement is injury risk to participants while doing strength training, if not guided by qualified instructor.

The regulatory requirements and associated compliance cost may also lead the not-for-profit organisations to opting not to provide certain programs. For example, the SHNC has decided not to offer the Adult Community and Further Education (ACFE) programs and occasional childcare. While the community statistics show that the Surrey Hills suburb does not have large recent migrant population, and this may be the other explanation for the absence of some ACFE programs, the statistics also show considerable proportion of children aged under 5, which suggest a latent demand for occasional childcare.

To reiterate the point made at the beginning of this section, these requirements are not differentiated and while they may be suitable to medium/large private and government organisations, they are hard for small not-for-profit organisations, such as neighbourhood houses, to meet and constrain the range of programs and activities they can offer.

One of the recommendations made in the Review by the State Services Authority (2007) on not-for-profit sector regulation is to introduce simplified bookkeeping and financial reporting. It would be useful to extend such simplification to the other areas of risk management, including food handling and OH&S.

The Association of Neighbourhood Houses and Learning Centres (ANHLC) of Victoria, the peak body of the neighbourhood houses, tries to assist its member organisations, and may be able to initiate development of a guideline on risk management relevant to neighbourhood houses. However, such guidelines will not change the nature of requirements and would only attempt to facilitate compliance.

We believe that regulatory reform may be needed in the not-for-profit sector, but the objective of such reform should be to reduce any unnecessary regulatory burden on not-for-profit organisations.

There may be sections of the sector which require significant improvement of disclosure, but this should not be the primary objective of the overall regulatory reform.

c) other measures that can be taken by government and the not-for-profit sector to assist the sector to improve governance, standards, accountability and transparency in its use of public and government funds.

Under the 1981 Associations Incorporations Act, Committee of Management (CoM) is composed of voluntary members. There are three challenges for voluntary CoM members.

Firstly, as mentioned above, due to the stricter demands volunteer committee members need to spend more and more time on this role, if they want to do good job. This discourages potential new members of CoM, who have work, family and other commitments. Successful succession of CoM members is very important for the sustainability and preserving organisational culture of small not-for-profit organisations.

Secondly, knowledge and skills required from CoM members of a neighbourhood house are quite demanding these days. This demand is beyond the average member of a community. While there has always been a need for members with backgrounds in finance, human resources, information technology or procurement etc, the need is greater now. In addition, community development or strengthening is a new area for many of them. But there is a lack of support system to committee members. Generic information is available from www.ourcommunities.com.au, but tailored material is very limited. The neighbourhood sector peak body of Victoria, ANHLC and regional networks provide support and assistance to its member organisations, but they have limited resources.

Up-to date orientation and induction for Committee of Managements (CoMs) of neighbourhood houses needs to be developed. The information package needs to include all areas of operation and may be complemented by short-term training or workshops, and its online version. Those materials that are available are designed to assist CoM members to comply with all the requirements. However, such materials also need to make the point that the role of the CoM is not to blindly comply with all the requirements, rather to be mindful and reflective of requirements which may hinder the achievement of mission and vision of the organisation.

Thirdly, discussions around governance, accountability and transparency of not-for-profit organisations tend to emphasise the formal aspects of these notions, as if not-for-profit organisations are similar to government and business entities.

For the SHNC, the main accountability obligation is to contribute to community strengthening and be responsive to community needs. Responsiveness takes place in different ways, including informal interactions and involvement of volunteers. Many research studies on accountability of not-for-profit organisations seem to be advocating mutual trust, understanding and agreement between not-for-profit organisations and funding bodies on expected outcomes and relevant accountability requirements. Therefore, efforts towards reconciling accountability demands of government and not-for-profit organisations may be one option, which may not necessarily require regulatory reform.

In sum, when aiming to improve accountability, it would be useful to take into account both types of accountability and avoid concentrating on one to the neglect of the other.