

## Inquiry into the disclosure regimes for charities and not-for-profit organisations

### Submission

An integrated federal disclosure regime for not for profit organisations (NFPs) (including charities) is essential. There needs to be two different levels of accountability based on size, not because of untested arguments about capacity but simply because of cost v benefit. I would suggest this be based on turnover (more specifically revenue) in the range of \$50,000 to \$100,000 p.a. The higher level requirements should be on an opt-in basis for those under the revenue mark in a similar way to registration for GST.

This is needed because smaller community based NFPs are being pushed out of service delivery and out of existence because they fail to reach standards which are not appropriate to their size, their complexity and the work they do in their local community. The unstructured multi faceted regulatory regime in which they currently operate creates an atmosphere where both community groups and funding providers are unsure as to what level of accountability each particular NFP is working under. This leads to less community based groups and greater centralisation of government funded service delivery or charitable service delivery; which defeats the very purpose of providing such services through local groups with local knowledge who form for altruistic reasons to provide for their own community.

There seems to be a view that an NFP is “better” because of the greater governance and regulatory controls if it is incorporated under the company regime. This appears increasingly, to becoming the view of government and philanthropic grant funders. Is this because of a lack of faith in the alternate regulatory regimes? Or is it because of a need to look for “safe waters” and hence to minimise the risk of being seen to give funds to less regulated bodies if something goes awry (fraud, mismanagement or poor program delivery). This view places a cost burden on smaller community based NFPs which is not justifiable. This greater regulatory burden and cost on smaller organisations is inappropriate because there is little inherent complexity in their operations or their governance structures – i.e. the extra costs do not add proportionate value.

A market is being created for providers of specialist NFP services. This is, in itself, not a bad thing. However, there seem to be an increasing amount of for profit organisations that rely on fear to market themselves. They push the need for organisations to “improve” themselves through use of their exorbitantly priced services or risk losing contracts, donors or even risk being sued for failing in their fiduciary duties. They also seem to be becoming increasingly expensive for the services they provide. They provide specialist director governance courses, specialist audit services and specialist accounting, risk management and consultancy services at over \$1,000 per day. Traditionally, much of this was provided at discounted rates or pro bono by local accountancy or legal firms. There is increasingly becoming a view that if it’s free or discounted it must be second rate.

Grant providers are increasingly working outside the regulatory regime. That is, contracts are becoming longer, more convoluted and more prescriptive. Much of the added prescription is positive but much is also an added burden. Often, the extra certifications, reports and audit certificates do not add to good governance nor do they achieve greater accountability or dare I

say better program delivery: they add to the committee's fear and create an administrative burden. One organisation I audit pro bono has had to sack their community workers (which are hard enough to find and train) at the end of each year and re-employ or re-recruit the next year when their reports are finally signed off and funding reapproved. These various contracts often use different definitions of, for example, expenses, administration costs, committed funds, accrual and assets. This shows a lack of faith by funders in the over arching regulatory regime in which the NFP operates.

The increased length of contracts means many organisations become unaware of exactly what the important aspects of the contract are and what areas will be irrelevant to them – for example signing a deed poll to ensure all intellectual property rights belong to the grant provider should be no problem for most small NFP service providers as they don't need or want the IP and they are very unlikely to create any with any worth during their program delivery. However, obligations in regard to insurance, bank accounts and acquisition and disposal of assets may be very important. Contracts increasingly are prescriptive in relation to qualifications and or training of board members and the need for outside accreditation processes which may be out of proportion to smaller organisations.

There is an increasing trend to give monies to NFPs for the delivery of services based on submission rather than need. At face value, this seems meritorious but often this means funds are put into one region over another (as opposed to evaluating proposals from different NFPs including smaller community groups within the same region). But what criteria are used: corporate structure, copies of the last two annual reports, accreditation standards, previous implementations. I have seen reliance on balance sheet liquidity – NFPs, if accounting properly, should have very little equity and a current ratio at about one as their excess funds (money in the bank) should usually be, by definition, held against a liability for unearned income representing services not yet delivered. Under the present regime outlined above, those areas with greatest needs (often in smaller or more remote areas or in areas that have less community infrastructure) are less likely to tick as many boxes. The funds will either then be spent elsewhere or centralised, exacerbating the situation.

I believe such a standardised regulatory regime could easily operate under current Australian Accounting Standards (which have been based on the International Financial Reporting Standards). For most transactions by most NFPs, the more complex areas within the standards are irrelevant. There would need to be some agreement as to use of funds, assets and depreciation but these are minor matters that could be worked out. It is more important that a regulatory regime is one which is accepted and respected by both philanthropic and government providers and separate regulation is not prescribed by third parties or by contract.

I am more than happy for you to contact me in regard to any of these matters.

Thanking you,

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