

APPENDIX 4

Recommendations of the 2008 inquiry into disclosure regimes for charities and not-for-profit organisations

Summary of Recommendations

Recommendation 1

The committee recommends that all Australian Governments agree on common terminology for referring to organisations within the Sector. Governments should also develop a common meaning for terms referring to the size of these organisations, including 'micro', 'small', 'medium' and 'large'. This standard terminology should be adopted by all government departments.

Recommendation 2

The committee recommends that the Government establish a unit within the Department of Prime Minister and Cabinet specifically to manage issues arising for Not-For-Profit Organisations. The unit should report to a Minister for the Third Sector.

Recommendation 3

The committee recommends that there be a single independent national regulator for Not-For-Profit Organisations.

Recommendation 4

The committee recommends that the Australian National Regulator for Not-For-Profit Organisations should have similar functions to regulators overseas, and particularly in the UK, including a Register for Not-For-Profit Organisations with a compulsory sign-up requirement. The committee recommends consultation with the Sector to formulate the duties of the National Regulator.

As a minimum, the Regulator should:

- a) Develop and maintain a Register of all Not-For-Profit Organisations in Australia. Once registered, the Commission should issue each organisation with a unique identifying number or allow organisations with an ABN to use that number as their Not-For-Profit identifier. This could be enabled using existing ASIC website resources.
- b) Develop and maintain an accessible, searchable public interface.
- c) Undertake either an annual descriptive analysis of the organisations that it regulates or provide the required information annually to the ABS for collation and analysis.

- d) Secure compliance with the relevant legislation.**
- e) Develop best practice standards for the operation of Not-For-Profit Organisations.**
- f) Educate / Advise Not-For-Profit Organisations on best practice standards.**
- g) Investigate complaints relating to the operations of the organisations.**
- h) Educate the public about the role of Not-For-Profit Organisations.**

The voluntary codes of conduct developed by ACFID and FIA respectively should be considered by the Regulator when implementing its own code of conduct.

Recommendation 5

The committee recommends that the Commonwealth Government develop the legislation that will be required in order to establish a national regulator for Australia.

Recommendation 6

The committee recommends that, once a Register is established and populated, this information should be provided to the ABS, who should prepare and publish a comprehensive study to provide government with a clearer picture of the size and composition of the Third Sector.

Recommendation 7

The committee recommends that a single, mandatory, specialist legal structure be adopted for Not-For-Profit Organisations through a referral of state and territory powers. Given the degree of change such a legal structure would mean for some not-for-profit organisations, the legal structure must be developed in full consultation with these organisations.

Recommendation 8

The committee recommends that the Henry Review include an examination of taxation measures affecting Not-For-Profit Organisations with a view to simplifying these arrangements and reducing confusion and cost of compliance for these organisations.

Recommendation 9

The committee recommends that a National Fundraising Act be developed following a referral of powers from states and territories to the Commonwealth.

This Act should include the following minimum features:

- It should apply nationally.
- It should apply to all organisations.

- It should require accounts or records to be submitted following the fundraising period with the level of reporting commensurate with the size of the organisation or amount raised.
- It should include a provision for the granting of a license.
- It should clearly regulate contemporary fundraising activities such as internet fundraising.

Recommendation 10

The committee recommends that a tiered reporting system be established under the legislation for a specialist legal structure.

Recommendation 11

The committee recommends that the tiers be assigned to organisations based on total annual revenue.

Recommendation 12

The committee recommends that the Commonwealth Government work with the Sector to implement a standard chart of accounts for use by all departments and Not-For-Profit Organisations as a priority.

Recommendation 13

The committee recommends that a new disclosure regime contain elements of narrative and numeric reporting as well as financial, in acknowledgement that the stakeholders of the Sector want different information to that of shareholders in the Business Sector. The financial reporting should be transparent and facilitate comparison across charities.

Recommendation 14

The committee recommends that the national regulator investigate the cost vs benefit of a GuideStar-type system (a website portal that publishes information on the aims and activities of Not-For-Profit Organisations) in Australia to encompass all Not-For-Profit Organisations.

Recommendation 15

The committee recommends that a Taskforce be established for the purposes of implementing the recommendations of this report. The Taskforce should report to COAG. Its membership should include:

- a government representative from the Commonwealth;
- a COAG-elected representative to speak for states and territories;
- one or more qualified legal experts with expertise with the major pieces of legislation affecting Not-For-Profit organisations;

- a representative from an organisation which manages private charitable foundations;
- an accountant with not-for-profit expertise; and
- a number of representatives from the peak bodies of Not-For-Profit Organisations, including a representative from a peak body for social enterprises.

The Taskforce should actively seek to ensure that the measures of reform that it implements do not impose an unreasonable reporting burden on small and micro Not-For-Profit Organisations.