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*Ways to make
a difference*



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WESTERN AUSTRALIA**

Governance Changes for NGOs

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A Few Questions

1. Where is the regulatory environment heading for NGOs?
2. The ACNC Objectives and Activities – where can it head?
3. Advocacy – risks & purpose?
4. Are there specific human services and governance risk areas?

Not-for-profits
UWA
Inaugural Summit
November 2018
Not-for-profit
Regulation

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Not-for-profits UWA Research Group

Report on Regulation and the Contemporary Not-for-profit

Based on the Proceedings of a Summit
held at the University of Western Australia
on 26 November 2018

Charity Law Association of
Australia and New Zealand

UWA
Public Policy
Institute

Authors: Ian Murray, David Gilchrist, Fiona McGaughey, Kylie Hansen, Ava Hill-De Monchaux

OUT SOON!!!

The ACNC Approach

- Principles based
- Focused on broadly the right questions
- Tiered but response in the hands of those charged with governance
- Accounting standards only partly mandatory
- Audit and Reporting requirements fit for purpose

ACNC Objects

- maintain, protect and enhance public trust and confidence in the sector through increased accountability and transparency
- support and sustain a robust, vibrant, independent and innovative not-for-profit sector
- promote the reduction of unnecessary regulatory obligations on the sector.

ACNC Governance Regulations

- a) By Regulation
- b) Principles Based
- c) Standards:
 1. Purposes and not-for-profit nature of a registered entity
 2. Accountability to Members
 3. Compliance with Australian Laws
 4. Suitability of Responsible Entities
 5. Duties of Responsible Entities

ACNC Act Review

- The ACNC Act Review concluded in 2018 with the essential recommendations pertaining to charity recognition and tiers as well as functional changes for the ACNC Act
- However, there were recommendations calling for the ACNC to have functions and duties commensurate with the objects, including in relation to its education and research function and its privacy restrictions
- Government is yet to respond

ACNC Act Review

- The size-tiers were the subject of a recommendation to change to:
 - Small: turnover up to \$1m
 - Medium: Turnover from \$1m to \$5m
 - Large: Turnover in excess of \$5m
- Related Party Transactions
- Large registered entities be required to report the remuneration of senior executives & directors
- Powers of the Advisory Board to be enhanced to allow it to provide advice directly to government

ACNC Act Review Cont'd

- Basic Religious Charities
- Allow ACNC to accept governance standards created elsewhere
- Disqualifying purposes: ACNC Resourcing be increased to empower the commissioner to pursue this area
- NFPs with turnover above \$5m ought to be captured by ACNC Act
- Charity Passport Revival with Commonwealth mandating use
- ASIC powers be transferred to ACNC to reduce confusion

Fundamental Elements: the four pillars

- Quality of Service Delivery
- Governance Maturity
- Human Resources Management Maturity
- Financial Strength

Your governance and reporting processes should
address these pillars

Advocacy

- Systemic Advocacy
- Client Advocacy
- Political Advocacy – Disqualifying purpose but where is the line?
- Freedom of Speech and charitable purpose

Clinical Risk & Clinical Governance

- Human Services Quasi-Market Environment
- Increased Resource Pressure
- Board Make Up – portfolios v fit-for-purpose directors
- Clinical minima establishment and outcomes reporting
- Can services continue to be provided

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