

ACNC Adviser Forum – Wednesday 16th March 2022

Agenda Item 2: Member discussion

Anna Longley, ACNC Assistant Commissioner General Counsel, welcomed both new and continuing members of the Forum and a question and answer style discussion occurred on matters that were raised by members prior to the Forum, including reviews being undertaken by the ACNC (specifically DGR endorsed entity reviews and compliance reviews), the Commissioner's Interpretation Statement on Public Benevolent Institutions, feedback on the timing of allocating and determining charity registration applications, and use of the enhanced ACNC Charity Register.

Agenda Item 3: Commissioner's Interpretation Statement update

Joanna Austin, ACNC Director of Legal & Policy, and Nicola Bennett, Legal Counsel, presented to the Forum on the review of Commissioner's Interpretation Statements (CIS), commencing with the CIS on Public Benevolent Institutions. The Forum was provided with a background on the project, including timeframes for upcoming consultation.

Agenda Item 4: Breakout rooms

1) Facilitated discussion on section 111L of *Corporations Act 2001* (Cth)

Following on from a discussion on this topic at the November 2021 Adviser Forum, Anna Longley facilitated conversation on the practical implications of section 111L of the Corporations Act.

Matters raised included: uncertainty as to the holding of meetings, particularly as many charity governing documents do not contain meetings clauses (and it is not covered in the ACNC's template); confusion for board members on both charity and NFP/for profit boards; the higher standard of Corporations Act requirements than ACNC Governance Standards and the ability to hold directors accountable (and not just the entity); and consistency across different charity legal structures.

2) ACNC/AASB/AuASB update on current projects

Mel Yates, ACNC Director of Reporting, Red Tape Reduction & Corporate Services provided an update on Key Management Personnel Remuneration Reporting Guidance – following feedback, the version on the website is currently being refined. Related Party Transaction Disclosure Guidance is due to be released in April 2022.

Fridrich Housa, AASB Deputy Technical Director & Maggie Man, Project Manager, AASB, provided updates on the following:

- Not-for-profit Private Sector Financial Reporting Framework Project: development of the proposed further reporting tier, Tier 3
- ED 318 illustrative examples for income of NFPs and right of use assets arising under concessionary leases. Three proposals for ED 318 were discussed:

- Example 7A - illustrate and clarify requirements of AASB 15 where NFPs charge upfront fees as part of goods and services
- Example 3A - clarify the analysis and accounting treatment to support recognition of financial liability and clarification of measurement of such liability
- ROU Assets - propose 'permanent' exemption for private sector NFP entities to measure ROU assets arising from concessionary leases at cost.
- There are a number of post-implementation reviews commencing this year.

Matthew Zappulla, AuASB Technical Director, provided an update on the following key projects

- Proposed auditing standards for less complex entities
- ASA 315 Identifying and Assessing the Risks of Material Misstatement
- New and revised quality management standard
- AUASB Agenda Consultation Process – to take place in 2nd half of 2022

Agenda Item 5: Australian Taxation Office Update

The Forum received an update from Assistant Commissioner Jennifer Moltisanti, Not-for-profit Centre and Government, ATO. Key messages included:

- Confirming the integrity of the NFP & Government tax administration
- Strategic initiatives – optimising interactions through our self-service channels, embedding new ways of working and unlocking data potential
- Overview of the Not-for-Profit Sector
- Key Focus Areas, include but not limited to Disaster Response, Private & Public Ancillary Funds, Self-assessment, Refund of Franking Credits, DGR entitlement, International Trends, Wind-up, Mutuality & Operating for Purpose
- NFP Premium Advice Service
- Market engagement signals and communication strategies including improving assurance for not-for-profits
- New measures around self-assessed income tax exemption for not-for-profits, deductible gift recipient reforms, a new DGR category for pastoral care services and the DGR category for community sheds
- Director IDs and modernising the business registers and eInvoicing
- An update on the Public Advice and Guidance refresh

Please note more details on the above are included in the presentation provided to attendees after the meeting.

Agenda Item 6: Treasury Update

Karen Dunn, Acting Assistant Secretary, Not For Profits and Tax Administration Branch, Treasury provided an update on the following topics:

- New DGR category – aimed at funds that support pastoral care services delivered to students in Australian primary, secondary schools. Consultation is now open and closes on 29 April 2022.
- Fundraising reform – Treasury currently working with state and territories to reduce inconsistency in fundraising conduct obligations. In December 2021, Council of Federal Financial Relations agreed to develop a national fundraising framework to reduce red tape associated with fundraising. Official working group has been set up, chaired jointly by Commonwealth Treasury and Victorian Dept of Justice & Community Safety. Has

representation from all the jurisdictions and the ACNC. Consultation to occur with the sector throughout the year.

- Transparency reporting code reform - already implemented. In February 2022, the Government and Fundraising Institute of Australia announced new guidelines for reporting charitable fundraising during natural disasters. In partnership FIA have implemented the transparency code through their existing FIA code mechanisms. Charities that are not members of FIA can be a voluntary signatory to the practice note and receive FIA support at no cost in implementing the practice note. The reporting obligations under this practice note are intended to take effect after the declaration of a national emergency.
- Recommendation 17 – update on secrecy reforms. Government is still considering its options around whether the secrecy provisions require adjustments. Will provide further updates as they become available.

Agenda Item 7: NFP Legal and Governance Network

Elaine Leong from the NFP Legal and Governance Network discussed current focus areas of the Network, including modern slavery, screening and probity checks, charitable fundraising, Environment Social Governance and human services during COVID19.

Elaine also spoke about having initiated community of practice forums and mentoring opportunities, for both mentors and mentees, where they match interested parties to gain support. Elaine is considering the creation of a Sector inhouse counsel induction webinar & toolkit, which will be available for any sector in-house counsel.