

IFRNPO Guidance

January 2021

Response Document

PART 1: GENERAL NPO FINANCIAL REPORTING ISSUES

Instructions for completion

IFR4NPO has published this document for respondents to use for submitting their comments.

This document presents all of the questions in **Part 1** of the Consultation Paper with spaces for responses.

Respondents are encouraged to complete this document electronically but are not required to use this document. They may also respond using their own comment letter format or the online survey available at: 

Comments on **Part 1** are requested by **30 July 2021**

Information requested from all respondents

Name¹:

Australian Charities and Not-for-Profits Commission

Email address:

[REDACTED]

Description of your role if responding as an individual:

BLANK

Description of the activities of the organisation where responding on behalf of an organisation:

The Australian Charities and Not-for-profits Commission (ACNC) is the national regulator of charities in Australia. Charities in Australia do not need to be registered with the ACNC to operate, but registration with the ACNC entitles organisations to various tax concessions and benefits and may provide reputational advantages.

To be registered with the ACNC, an entity must meet the definition of a charity set out in legislation. It must be not-for-profit, and it must have only charitable purposes, or purposes that are incidental or ancillary to that charitable purpose. Registered charities must also meet the reporting and governance obligations that are imposed on them by the regulations.

The objects of the ACNC are set out in the Australian Charities and Not-for-profits Commission Act 2012 (Cth) and include:

- a. maintaining, protecting and enhancing public trust and confidence in the Australian not-for-profit sector (the sector), and
- b. supporting and sustaining a robust, vibrant, independent and innovative sector, and
- c. promoting the reduction of unnecessary regulatory obligations on the sector.

The ACNC has several functions which support these objects, including:

- a. deciding whether an entity is entitled to registration as a charity,
- b. maintaining a public register of charities,
- c. monitoring the compliance of registered charities with their obligations, and acting in response to non-compliance by charities,
- d. co-operating with other government agencies to minimise the administrative burden on charities, and
- e. publishing education and guidance material to assist charities in meeting their obligations.

The ACNC Act and Australian Charities and Not-for-profits Commission Regulation 2013 (Cth) (ACNC Regulation) establish the reporting obligations of registered charities. Charities must meet these obligations in order to maintain their entitlement to registration. Losing charity registration will usually mean that an entity is no longer entitled to charity tax

¹ Name of person providing the response and whether this is in an individual capacity or on behalf of an organisation.

concessions.

There are currently around 59,000 charities registered with the ACNC. The ACNC does not regulate not-for-profit entities that do not otherwise meet the definition of a charity (for example, not-for-profit sporting clubs). Estimates of the number of not-for-profit entities in Australia vary, but it is commonly accepted that there are several hundred thousand such organisations.

Most charities in Australia also have obligations to other regulators because of the nature of their activities. For example, some Australian charities are also regulated by, and required to provide financial reporting to, the Office of the Registrar of Indigenous Corporations. In some circumstances, the ACNC accepts reporting to the other regulators as an effective substitute for reporting to the ACNC.

As Australia is a federation, state and territory governments, rather than the ACNC, are responsible for some aspects of charity regulation (in particular, fundraising).

Jurisdiction(s) to which the feedback relates:

Registered charities in Australia

Accounting basis of NPO financial reports in the jurisdiction in which you mainly work:

(i) Accrual

BLANK

Financial reporting standard use by NPOs in the jurisdiction in which you mainly work

(v) NPO specific standards/guidance based on IFRS

BLANK

Please indicate whether you wish to receive further information about this project and consent to being contacted at the email address provided.

☒ Agree

☐ Disagree

This document has been designed purely to enable feedback to the IFR4NPO consultation. The responses will be used to shape the development of the IFR4NPO Guidance and not for any other purpose. We ask for your name and contact information to enable us to contact you if we should have any clarifications regarding your responses.

Responses to the consultation will be public, but personal contact information will not be disclosed. Participation in this consultation is undertaken on an entirely voluntary basis. Personal information will only be held for the purposes of the project. You may withdraw your consent for us to hold any of your personal information at any time by contacting us at [REDACTED]

Information requested only if the organisation on behalf of which you are responding is an NPO

Which International Classification of Non Profit Organisation (ICNPO) group best describes your organisation and activities?²

12. Not elsewhere classified

Regulator

Rank revenue sources of your NPO in order of importance (optional)

	1	2	3	4	5	6
(i) Grants	☐	☐	☐	☐	☐	☐
(ii) Donations	☐	☐	☐	☐	☐	☐
(iii) Sale of goods and services	☐	☐	☐	☐	☐	☐
(iv) Gifts in kind	☐	☐	☐	☐	☐	☐
(v) Services in kind	☐	☐	☐	☐	☐	☐
(vi) Other	☐	☐	☐	☐	☐	☐

BLANK

Approximate total revenue per annum of your NPO in US\$ (optional)

BLANK

BLANK

² http://ccss.jhu.edu/wp-content/uploads/downloads/2011/09/CNP_WP19_1996.pdf

General Matters for Comment (GMC)

Introduction

Part 1 of the Consultation Paper discusses the broader NPO landscape and considers this in the context of the project objectives set out in the Introduction. Part 1 includes a description of the broad characteristics of NPOs. It considers accountability and decision making and the role that general purpose financial reports can play in providing decision useful information for external stakeholders. Finally, it looks at the suitability of existing international and national financial reporting regimes as the basis of future NPO Guidance.

Comments are welcome on any or all of the parts in the Consultation Paper. Please note:

- There is no requirement to respond to all issues
- You may respond to all of the questions raised in the Consultation Paper or may choose to respond only about certain elements
- There is no minimum number of questions that can be addressed in a response. But, the greater the number of responses received, the richer the feedback for the project team to consider.

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Chapter 2 *Who are NPO stakeholders and what are their needs?* examines NPO external stakeholders, what information those external stakeholders need for accountability and decision-making purposes, and issues with current arrangements

Chapter 3 *What are the essential aspects of NPO Financial Reporting Guidance?* explains two key premises to develop the Guidance to support the provision of information that is useful for accountability and decision-making

Chapter 4 *How far can existing international financial reporting regimes assist NPOs?* highlights that limitations on time and resource mean that the Guidance must draw on existing frameworks. International financial reporting frameworks are proposed as the basis of the Guidance, with each having its advantages and disadvantages

Chapter 5 *Proposed way forward* puts forward a proposed model for developing the Guidance. The proposal uses *IFRS for SMEs* as a foundational framework and draws on full IFRS, IPSAS and jurisdiction level standards to develop the Guidance

Each Chapter provides General Matters for Comment (GMCs)

Chapter 1 *What are non-profit organisations?* outlines a broad characteristics approach to describing NPOs for developing the Guidance.

GMC 1(a) Do you agree with the broad characteristics proposed in Chapter 1 for describing NPOs? If not why not? Which alternative characteristics would you propose, and why?

We note the four factors included in Chapter 1 as indicators that an entity is an NPO:

- a. They deliver services for the public benefit.
- b. They direct any profits to the public benefit.
- c. The voluntary donations and grants they receive may be significant.
- d. They hold and use assets for social purposes.

It is important to stress that, in the Australian context, ‘not-for-profit’ and ‘charity’ are discrete concepts, and while a charity must be a not-for-profit, the reverse is not true. Our response to this question should be viewed in that context.

In our experience, a charity would be likely to meet all four of these limbs, although our legislation does not use the form of words that is used in these factors. A not-for-profit, on the other hand, is much broader and would encompass most organisations that do not exist to provide a personal gain – financial or otherwise – to any person, including its operators or members (although they may remunerate people in exchange for services).

On that basis, we suggest that the paramount criteria for determining whether an entity is an NPO is the second factor, with additional emphasis on the first factor where the second factor is irrelevant simply because the entity does not receive any meaningful profits. We submit that the first two factors are a reliable indicator of whether an entity is an NPO, but further guidance on the meaning of ‘public benefit’ may be necessary to ensure consistent application of the term. ‘Public benefit’ is also a term that has a precise meaning in charity law in Australia; see Division 2 of the Charities Act 2013 (Cth).

It is suggested in Chapter 1 that “public benefit” is meant to include “services to the general public, community, or for social benefit”. In our view, the section of the ‘public’ that is served by the entity must be appreciable. For example, it may not be appropriate to characterise a single family unit or group of people united by a common business interest as the ‘public’.

Secondly, ‘services to’ may inadvertently exclude organisations that provide goods or undertake intangible activities, such as awareness-raising, or lobbying of governments. It may be desirable to include such organisations, even though they do not provide material services directly to the public.

To the extent that the fourth factor is relied on, we also suggest that ‘social purpose’ may need further definition. Examples may help illustrate what types of organisations are, and are not, meant to be covered.

Chapter 2 *Who are NPO stakeholders and what are their needs?*

examines NPO external stakeholders, what information those external stakeholders need for accountability and decision-making purposes, and issues with current arrangements.

GMC 2(a) Do you agree that NPOs are accountable to service users, resource providers, and regulators and have societal accountability? If not why not? What alternative groups would you propose that NPOs can be seen as accountable to, and why?

The ACNC agrees that NPOs have varying degrees of accountability to users of their services, their contributors and members and any relevant regulators. In our view, there are community expectations about how NPOs should behave, and those expectations may play a part in the accountability framework for NPOs - when NPOs fail to meet community expectations, the NPO may experience reputational damage and/or a loss of revenue, which may drive it to correct its behaviour. Obviously, this form of accountability is less formal than that which is provided by a regulator or an organisation's members.

GMC 2(b) Do you agree that external stakeholders require information on an NPO's achievement of objectives, economy efficiency and effectiveness, compliance with restrictions and regulations, and longer term financial health, for accountability and decision-making purposes? If not why not? What alternative areas would you propose and why?

The legislation which the ACNC administers requires Australian charities, through their annual reporting obligations, to provide this sort of information, which is then made available to the public on the ACNC Register. The ACNC favours transparency as far as possible, noting that it improves confidence in the sector and assists donors to make informed decisions about where to direct their contributions.

The ACNC is also using charity reporting as an opportunity to create and embed an enhancement to the ACNC Register, which will meet a user need we have identified: namely, accessible and digestible information about the programs of charities. Charities can report details of their programs, the beneficiaries of those programs, and the location in which they are delivered. A standard classification system is applied to that information, so that users can quickly identify a charity that is providing a specific service in a specific area.

Many stakeholders have a legitimate interest in how well NPOs are meeting their objectives, but meaningful data on this can be more difficult to capture than data about an NPO's financial performance - further consideration may be needed of what metrics can be applied fairly across the sector to measure the achievement of an organisation's objectives. Similarly, "efficiency and effectiveness" is an important component of reporting, but the sector is diverse, and further detail is needed about how 'effectiveness' can be objectively measured for entities that are dissimilar in size, structure, and the nature of their activities.

Further clarification is needed about what sort of "restrictions and regulations" are included. Noting that we favour transparency, a broad definition may be appropriate, but it would be helpful to know whether it includes, for example, any relevant: workplace health and safety regulations; labour regulations; taxation obligations; or environmental regulations. Some

users may also appreciate information on what could be termed ‘social responsibility’ matters (for example, offsetting of environmental impacts).

The ACNC Act contains strict secrecy provisions, and we are generally prevented from disclosing information that we receive about charities beyond the information that we are required, by the ACNC Act and ACNC Regulation, to publish on the Charity Register. We may not have a lawful basis to collect and disclose additional information about charities’ compliance with restrictions and regulations. Charities may make their own decisions to proactively disclose this information in the interests of transparency, accountability and corporate responsibility.

GMC 2(c) Do you agree with the issues that have been identified with current accountability and decision-making arrangements for NPOs? If not why not? Are there any other issues with current accountability and decision-making arrangements, particularly financial accountability to donors, that you would wish to highlight?

We generally agree with the issues that have been identified. In particular, the reality that an increasing number of NPOs operate across jurisdictions may mean a complicated set of reporting obligations for these entities, which, in turn, may make it difficult for donors and stakeholders to obtain the information they need. There are advantages to harmonised requirements across jurisdictions.

While the interests of users (including donors) are important, another issue is that those interests must be balanced with the need to reduce the administrative burden on NPOs. Such organisations may not all have the skills and resources to properly commit to onerous reporting obligations. The ACNC supports solutions where it is as easy as possible for entities to provide users with enough relevant information to meet their needs.

Among other purposes, the Governance Standards and External Conduct Standards contained in the ACNC Regulation also serve to provide this form of accountability. For example, in order to remain entitled to registration as a charity, charities must be able to demonstrate that they are achieving their charitable purposes and have the character of a not-for-profit entity and provide information about their purposes to the public, and they must be accountable to their members. The ACNC’s compliance function investigates allegations of charities failing to meet these standards.

Chapter 3 *What are the essential aspects of NPO Financial Reporting Guidance?* explains two key premises for developing the Guidance so that it supports the provision of information that is useful for accountability and decision-making.

GMC 3(a) What, if any, do you see as the main challenges with Guidance that is accrual-based?

In Australia, charities designated as 'small' based on their annual revenue do not need to submit a financial report to the ACNC, but they must provide some unaudited financial information in the form of 'Annual Information Statements'. Basic Religious Charities (a category of charity defined by legislation whose sole purpose is to advance religion) are not required to submit any financial information. Charities that are not designated as small use accrual-based accounting to prepare their financial reports.

Although many smaller charities in Australia use cash accounting, they are generally not required to prepare financial reports for the ACNC. Insisting on accrual-based accounting may be an issue for other regulators and grant makers that require financial information from these smaller charities or require cash-based financial reports or acquittal reports, but it would have minimal impact on the ACNC.

For some charities, cash accounting is more appropriate, and some are unable to adopt accrual accounting. These charities will not be able to use accrual-based Guidance. We would support cash accounting guidance being developed as well.

A recent review of the ACNC's legislation recommended increasing the thresholds at which different reporting obligations apply. We estimate that under the new thresholds recently announced by the Australian Government, approximately 70% of all charities will not be required to prepare and submit a financial report to the ACNC and will have the option to use cash reporting. The charities' governing rules may still contain an obligation to use accrual-based reporting, and other state and territory regulators may have different requirements for certain charities.

GMC 3(b) What, if any, do you see as the main challenges with Guidance that includes non-financial information reporting?

We agree that reporting non-financial information is important, and meaningfully complements financial information. A challenge will be setting standards that can be applied consistently across a diverse sector, so meaningful comparisons can be drawn for disparate organisations. There is also a risk that requirements for reporting of non-financial information only yield high-level information for some organisations.

The ACNC has some experience in collecting non-financial information. The ACNC's Annual Information Statements (AIS) – which are a regulatory requirement for each charity – gather information such as programs and areas of operation. Users can, in broad terms, see what each charity is offering, who they are helping and where they are operating. Each year, the ACNC reviews and modifies the AIS that charities are requested to complete – we can provide copies of the current and past versions of the AIS if it would assist you.

Given the diversity within the sector, entities need some flexibility in how they meet requirements to report non-financial information. The Guidance will need to be principles-

based rather than prescriptive. Organisations will need to decide what measures are important to them and how the information can be presented in a way that provides a holistic picture of their achievements. Some organisations will want to use a narrative structure to report, while some will prefer quantitative measures. This may be unavoidable. It will have an effect on the consistency and comparability of the reporting, which will mean that the data that is ultimately disseminated is not as meaningful as it would be if all entities used an identical method to report.

Feedback from the Australian Accounting Standards Board (AASB) from AASB Exposure Draft 270 and New Zealand's post implementation review on service performance reporting standards should yield some insights.

Chapter 4 *How far can existing international financial reporting regimes assist NPOs?* highlights that limitations on time and resource mean that the Guidance must draw on existing frameworks. International financial reporting frameworks are proposed as the basis of the Guidance, with each having its advantages and disadvantages.

GMC 4(a) Do you agree that international frameworks are the best start point for the Guidance? If not, why not?

International frameworks will provide a convenient starting point, as they are already available and can be adapted to be fit-for-purpose more quickly than taking a 'greenfields' approach to developing the Guidance. International frameworks have also already been tested, and observers will have highlighted the perceived benefits and disadvantages of each framework. There may be value in the Guidance acknowledging that local legislative requirements take precedence, so that this fact is clear to the audience.

GMC 4(b) Do you agree with the criteria that have been used to assess the suitability of the existing international frameworks? If not, why not and what other criteria do you believe could be used and why?

The ACNC believes the proposed criteria are appropriate.

With respect to criterion 3, we suggest that additional emphasis on the ongoing need for guidance materials may be helpful. Use of any particular framework will be more feasible if guidance can not only be easily developed, but if that guidance can be easily adapted to suit changing conditions.

GMC 4(c) Do you agree with the high-level assessment of the existing international frameworks against these criteria? If not, why not? What assessment would you make and why?

While a more detailed review of each framework may be necessary, the ACNC uses specific standards for not-for-profit entities based on the IFRS, and agrees this may be the most appropriate foundation for the Guidance.

Chapter 5 *Proposed way forward* puts forward a proposed model for developing the Guidance. The proposal uses the *IFRS for SMEs* Standard as a foundational framework and draws on full IFRS Standards, IPSAS and jurisdictional-level standards to develop the Guidance.

GMC 5(a) What do you see as the main challenges, if any, with the proposed model and the use of the IFRS for SMEs Standard as the foundational framework? What, if any, alternative model and/or foundational framework do you suggest would be more suitable and why?

We note the intention to initially focus on NPOs with more complex reporting requirements, and we understand the rationale for doing so. This should provide an opportunity to use a relatively small cohort to test and refine the Guidance in the most challenging circumstances. That work will build confidence that the Guidance can serve the wider sector. While we do not disagree with that approach, the needs and interests of NPOs with less complex requirements, which is a much larger group, also need to be considered. Their interests may be inadvertently overlooked if the experience of these NPOs is not tested until late in the process. There is also a risk that guidance material may be developed to deal with the circumstances presented by NPOs with complex requirements early in the process, and therefore may not be in a form that is relevant to an entirely different cohort.

Secondly, we note that there will inevitably be changes to the IFRS for SMEs after the Guidance has been implemented. The consultation paper suggests that the Guidance will be automatically updated to reflect any changes, but we suggest there may be value in assessing any changes first, and deciding whether they are suitable for NPOs, before updating the Guidance.

The outcomes of the Audits of Less Complex Entities project may provide useful insights.

There is a risk that changes to technology or other innovations may overtake guidance or require a rapid response to ensure the guidance remains current.