

ACNC Adviser Forum – Wednesday 13th October 2021

Agenda Item 2: Commissioner's Address

Hon Dr Gary Johns, ACNC Commissioner, provided an update on the ACNC's Data Integrity Project. Dr Johns presented the purpose of the project, information regarding one-off and ongoing projects, issues identified throughout the project and benchmarking to the Forum. A brief question and answer session occurred.

Agenda Item 3: Member Discussion

Anna Longley, ACNC Assistant Commissioner General Counsel, provided the Forum with an update on issues that were raised prior to the Forum, including the Regulator Performance Framework. The Forum were also advised the updated Commissioner's Interpretation Statement (CIS) on Provision of housing by charities will be published shortly and that the ACNC are continuing the review of the CIS on Public Benevolent Institutions.

The Forum were advised that the further information in relation Global Citizen Limited, a recent decision of the Administrative Appeals Tribunal, will be provided at the appropriate time.

The ACNC are progressing the updates of the registration application form and thank members for their feedback to date. Questions relating to the External Conduct Standards have been reviewed and will be further refined. The ACNC will be hosting a further discussion group prior to finalisation and information will be forthcoming.

Forum members received a brief further update on the Data Integrity project, specifically the charitable entitlement element and ensuring governing documents are up to date. Questions were asked of the ACNC regarding processes around governing document changes, number of responsible persons, and Forum members were encouraged to provide feedback.

Agenda Item 4: Breakout rooms

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

Dr Rosemary Langford and Jennifer Batrouney AM QC presented to members on issues and areas of uncertainty associated with turning off directors' duties. Members contributed questions and their views. The ACNC may facilitate a further discussion on this in the future to understand whether there are areas that the ACNC can provide additional guidance on.

2) AASB update on NFP-focused projects

Fridrich Housa, Deputy Technical Director, AASB, provided an update on the NFP Financial Reporting Framework. Fridrich received feedback from the members on Simplification of requirements on primary financial statements and leases and welcomes any further feedback on these and other topics from the presentation, including the AASB Agenda consultation.

Please send any feedback to fhousa@asb.gov.au.

Agenda Item 5: Requiring DGRs to register as charities: Treasury Laws Amendment (2021 Measures No.2 Bill) 2021

Lisa Difford, ACNC DGR Project Manager, and Prescilla Moses, ATO NFP Centre DGR Project Officer, provided the Forum with an update on the DGR reform measures set to be introduced on 14 December 2021. This update included information on transitional arrangements, eligibility criteria, applying to the ACNC for registration, and the impact on charity concessions and DGR endorsement.

Members were reminded that the *Charities Act 2013* (Cth) refers to 'government entity', whilst the *Income Tax Assessment Act 1997* (Cth) refers to 'Australian government agency', which affected entities will need to consider in seeking charity registration.

In response to member questions, it was confirmed that there will be further communication regarding the need to seek ACNC registration and that some entities will need to consider amendment of constituting documents/trust deeds.

Agenda Item 6: Australian Taxation Office Update

The Forum received an update from Assistant Commissioner Jennifer Moltisanti from the Not-for-profit Centre and Government, ATO. Key messages included information on the recently issued ATO Corporate Plan, an overview on the NFP sector, areas of focus for the ATO NFP Centre, detailed information on school building funds, community sheds and self-assessed income tax exempt NFPs. Jennifer also outlined other measures and programs, including the modernising business registers program, the ATO's NFP advice service as the gateway for NFP and government enquiries, and tax time messages.

Jennifer welcomed feedback from members on the presentation, in particular the use members find in the information regarding school building funds.

Agenda Item 7: Treasury Update

Jacky Rowbotham, Principal Adviser, Treasury provided an update. Three developments were highlighted:

1. Financial reporting obligations for registered charities – Treasury are seeking stakeholder views and consultation closes Friday 15 October 21.
2. Recommendation 17 of the ACNC Legislation Review (secrecy provisions) – Treasury has concluded the consultation process.
3. Government's proposal for a transparency code – 22 submissions were received from the sector, with a divided reception. Government has instructed Treasury to engage with the Fundraising Institute of Australia (FIA) to explore areas of commonality between government's proposed transparency code and that of the FIA.

Agenda Item 8: Australian Business Registry Services - Update on Director Identification Numbers

Assistant Commissioner Martin Jacobs, and Eleanor Beer and Matthew Ballantine from the newly established Australian Business Registry Services (ABRS) updated the group on director Identification numbers. Key messages included how Director ID is positioned in relation to

interactions charities may have with registrars, what it means for charities, the application process (including a demonstration), key dates and information on myGovID.

Agenda Item 9: E-Learning package

Rachel Smith and Rachel Gear, ACNC, provided the Forum with a demonstration of the draft course content for one of the ACNC's e-Learning modules, 'So you're thinking of joining a charity board?'. Feedback was received, including regarding ensuring clear and inclusive language. If members are interested in reviewing the course and content, please contact Rachel.Gear@acnc.gov.au. We can also provide an email for members to send to other potential volunteers.

Agenda Item 10: ACNC Legislation Review Rec 14 - Related party transaction disclosures

John Aitkin and Eric Li, ACNC, spoke with members about draft guidance on related party transaction disclosures. There was discussion about possible issues with language or terminology within guidance, examples of related party transactions for consideration, significant as opposed to material transactions, and disclosure within the Annual Information Statement by small charities. Feedback will be used to ensure clear guidance is provided.