

Supporting Community Organisations - a better regulatory framework

PILCH Victorian Election Priorities 2010



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Better and more efficient regulation of non-profit community organisations is urgently needed. The Victorian Government must play a leadership role in this area.

Value of non-profit sector

The non-profit sector is vital to the economic and social life of Victoria. It touches every Victorian – those who receive help from non-profit social support services, the millions who play sport, those who rely on non-profit aged care or childcare ... as well as those who give to the sector by donating money or volunteering.

- ▶ Non-profits contribute around \$43 billion+ to Australia's economy, and employ 8.9% of Australians.
- ▶ The Victorian Government directs \$2 billion+ per year to the sector via funding.
- ▶ 87% of adult Victorians donate money to non-profit organisations and over 40% volunteer.
- ▶ Victorians contribute approximately \$3-4 billion per annum to non-profit fundraising (2005-06).



Sound regulation of not-for-profit organisations is important to build and maintain trust in the sector, facilitate the establishment and operation of organisations with community-purpose and promote higher standards of service care and public safety - Productivity Commission Report

A regulatory framework that does not work

Over the last 15 years, major government inquiries have repeatedly confirmed that the regulatory environment for non-profit organisations is unnecessarily complex, riddled with inconsistencies and inefficient.

The overlap between state and federal laws has resulted in over 20 different non-profit legal structures, numerous regulators and multiple legislative definitions of 'charity'. These problems are exacerbated by the absence of a specialist, national regulator for non-profits, and the lack of national fundraising laws.

This regulatory framework is stifling the ability of Victorian non-profit organisations to operate efficiently.

The majority of non-profits have very limited financial resources and rely heavily on volunteers. Despite this, they are being forced to grapple with more regulation than the 'for-profit' sector. Precious time and money donated to Victorian non-profit organisations is being wasted on negotiating red tape, rather than going to direct relief or community activities.

There is overwhelming evidence and consensus in favour of simplification and reform of the regulation of the non-profit sector. Yet, to date, there has been a frustrating lack of progress and the sector's strength, sustainability and ability to innovate is being stymied.

A common struggle with red tape

We recently started a small, volunteer-run, non-profit group for children living with a particular disability. We're passionate about supporting these young people, but we've been overwhelmed by legal issues and paperwork ever since we started.

We had to incorporate (to be able to get grants and insurance) but, when we applied for charity tax concessions, we found Consumer Affairs Victoria's 'model rules' didn't meet the Australian Tax Office's requirements. Four months later we're still trying to work this out.

We had to register as a fundraiser (again with CAV), but this only worked for Victoria - to raise money interstate we need to register our group separately in every single State! And our fundraising registration doesn't cover raffles - there are different laws for this ...and more forms, this time for the Victorian Commission for Gaming and Racing.

And now we are trying to find out about working with children checks, food handling laws, insurance issues and more ... we've hardly begun and already we're struggling.

Call to action

Without urgent reform to ensure a more tailored and streamlined regulatory regime, the vital contribution of the non-profit sector to the economic and social fabric of the Victorian community will decline. Victoria (and the rest of Australia) will fall further behind international best practice.

Reform is achievable and well overdue. The Victorian Government can drive transformational change that will benefit every Victorian community group and the millions of people they involve and serve.

Support compliance and best practice governance

Support better regulatory compliance and best practice governance among Victorian non-profit organisations by funding PilchConnect (\$320,000 p.a. for 3 years) to provide legal advice to non-profit organisations that assist marginalised and disadvantaged Victorians. Advice will be provided via a telephone service staffed by in-house lawyers with specialist knowledge of legal issues for non-profits, with priority given to rural and regional groups.

Reduce red tape and modernise and harmonise the fundraising regime

- ▶ Work with federal and state governments to reduce red tape for non-profits by establishing a 'one-stop shop' independent, national regulator to register and oversee non-profit incorporation, fundraising and determination of charitable status.
- ▶ Continue to lead the COAG process for modernisation and harmonisation of the existing fundraising regime, so that it can be adopted as a national regime, to be enforced by a national regulator.

Simplify the Associations Incorporation Act 1981 (Vic)

Consolidate, re-order and simplify the drafting of the *Associations Incorporation Act 1981* (Vic) before the *Associations Incorporation Amendment Act 2010* commences.

Background resources

1. Victorian Government inquiries include: 2005 Allens Consulting (DPCD website), 2007 Strengthening Community Organisations Project (DPCD website), 2008 State Services Authority (SSA website), 2010 Victorian Competition & Efficiency Commission (plus multiple reviews of the fundraising and incorporated associations' regimes, Consumer Affairs Victoria)
2. Commonwealth Government reviews include: 1995 Industry Commission Report, 2001 Charity Definition Inquiry, 2008 Commonwealth Senate Inquiry into Disclosure Regimes for Charities and Not-for-Profits, 2010 Australian Productivity Commission Report, 2010 Henry Tax Review.
3. For PilchConnect submissions to these inquiries, see: <http://www.pilch.org.au/submissions/>
4. See also National Roundtable of Nonprofit Organisations (NRNO), *Nonprofit Regulation Reform Program: An initial statement by the NRNO*, Sydney (2004) and Lyons & Passey *Giving Australia: Research on Philanthropy in Australia*, Canberra (2005).