



# ***Life Activities Clubs Victoria Inc***

Registered Incorporated Association: A0054351A ABN: 85 104 164 408

## The Treasury

### **Review of not-for-profit governance arrangements**

#### **Submission by Life Activities Clubs Victoria Inc.**

#### **Who we are**

Life Activities Clubs Victoria Inc. (LACVI) represents a network of incorporated Life Activities Clubs throughout Victoria that are run by volunteers on a non-profit basis.

Life Activities Clubs provide people in retirement or approaching retirement (typically aged 50 and over) with opportunities to enjoy a full, satisfying and connected community life and maintain lifelong wellbeing.

There are currently 22 incorporated Life Activities Clubs in Victoria (including 5 in regional centres) with each Club offering its members a wide range of recreational and social activities that provide physical, mental and social stimulation. The activities provided for the 4000 club members are determined by the interests of the members of each Club.

#### **Submission**

It is obvious that views differ widely across our membership and it is therefore not possible for any submission adequately to represent the breadth of opinion from such a diverse constituency. Having said that, the following comments are made with the interests of both the parent body and its member Clubs, as well as the community at large, in mind.

It might be noted that we are a small organisation and all our member Clubs are relatively small. None of us are well-resourced and none have any employees so we rely exclusively on the available time of volunteers for both governance and all operational aspects of our activities. The level of administrative expertise varies considerably across our network, but all are enthusiastically committed to delivering the outcomes our members expect.

Given this scarcity of resources and the time of the year this submission is required, we are unable to provide comment on all your specific questions, but overall, our thesis is quite simple and the following general comments are relevant.

We are a collection of small membership organisations attempting to do the best we can to assist people in our community. We pose no risk to the public and have no exposure other than to the bodies that provide grants or sponsorship from time to time. We have an obligation to account to them for the outcome of their investment and to our members for the delivery of the services expected for their membership subscriptions. It is hard to imagine why any other requirements should be imposed on us because we do not seek

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public contributions, relying solely on membership levies and agencies who offer funding to support projects or outcomes they wish to come to fruition.

In terms of accountability to stakeholders, it should be self-evident that one size does not (and never) will fit all. As attractive as it may be to establish a single worst-case scenario set of rules and require everyone to comply with the whole gamut of regulations, force-fitting small, low-risk Not-For-Profits into a compliance structure designed to regulate the highest risk organisations, this will be counter-productive. It will discourage smaller organisations from seeking the protection of incorporation (and the obligations that go with that) and will result in markedly increased non-compliance and escalating monitoring and enforcement overheads. We argue that the level of regulation should reflect the level of public risk, with the vast majority of NFPs requiring only minimal regulation.

Financial accountability is simply a subset of the range of accountabilities that are due to stakeholders and narratives, status reports and evidence of achievements are just as important. We strongly support the Standard Chart of Accounts (SCOA) as the reporting structure for regulatory and grant acquittal purposes. We believe this initiative was (and continues to be) well-founded and should be sufficient for at least most purposes. There may be occasions where the circumstances justify something in addition to a SCOA report, e.g., for a large charity seeking funding direct from the public or a large or complex government grant, but if so, the additional requirements should be known in advance and should still not require more than is strictly necessary.

Most regulation does little more than keep the honest and well-meaning honest. With or without regulation, the great majority of NFPs would still deal honestly with their stakeholders and the public at large. On the other hand, dishonest people will always be dishonest and even with stringent regulation and the direst of penalties, they will continue to push the boundaries of what is legal and attempt to cover up their breaches – or simply ‘grab the money and run’ in the hope that they will enjoy the spoils before (or without) being apprehended. This means that regulation is often ineffective, merely imposing unreasonable burdens on the honest, without significantly reducing the incidence of abuse or fraud by unscrupulous opportunists. Typically, fees are imposed on everyone to fund enforcement, but it is rarely effective, at best minimally effective, and breaches continue to occur – often inadvertently by even the most honest operators, simply because the regulations become so complex or irrelevant that full compliance becomes impractical. The scoundrels continue to commit major breaches while the regulators are verifying compliance by the honest and this results in the honest paying for the sins of the dishonest – who are either never detected, never apprehended, or never adequately punished or prevented from committing ongoing breaches.

All this dictates that particular attention should be given to balancing the extent of regulation against the risks involved as well as the appropriateness of measures and the likelihood of widespread compliance (or successful enforcement).

**Brief Responses to Questions** (With more time, expanded responses could have been given to all questions.)

1. *Should it be clear in the legislation who responsible individuals must consider when exercising their duties, and to whom they owe duties to?*

We would hope that legislation is clearly drafted and understandable by lay-people. The two topics mentioned should be allied to the proposed tiered structure.

2. *Who do the responsible individuals of NFPs need to consider when exercising their duties? Donors? Beneficiaries? The public? The entity, or mission and purpose of the entity?*

Life Activities Clubs need to consider the entity and their members. Consideration of public (read as Government) or sponsors where specific support is provided.

3. *What should the duties of responsible individuals be, and what core duties should be outlined in the ACNC legislation?*

One officer of the entity should be responsible for compliance reporting.

4. *What should be the minimum standard of care required to comply with any duties? Should the standard of care be higher for paid employees than volunteers? For professionals than lay persons?*

Minimum standards should apply to the entity irrespective of whether a responsible position be held by an employee or volunteer.

5. *Should responsible individuals be required to hold particular qualifications or have particular experience or skills (tiered depending on size of the NFP entity or amount of funding it administers)?*

Life Activities Clubs, by the nature of their size and activities, would be considered in the lower tier so we would not expect mandatory requirements to be imposed.

6. *Should these minimum standards be only applied to a portion of the responsible individuals of a registered entity?*

Standards on a tiered basis should apply to the entity.

7. *Are there any issues with standardising the duties required of responsible individuals across all entity structures and sectors registered with the ACNC?*

We would agree if they are based on a tiered structure.

8. *Are there any other responsible individuals' obligations or considerations or other issues (for example, should there be requirements on volunteers?) that need to be covered which are specific to NFPs?*

We have not prepared an answer to this question.

9. *Are there higher risk NFP cases where a higher standard of care should be applied or where higher minimum standards should be applied?*

We have not prepared an answer to this question.

10. *Is there a preference for the core duties to be based on the Corporations Act, CATSI Act, the office holder requirements applying to incorporated associations, the requirements applying to trustees of charitable trusts, or another model?*

We would support the requirements applying to incorporated associations in Victoria.

11. *What information should registered entities be required to disclose to ensure good governance procedures are in place?*

We suggest: annual financial statements, number of members, number of general meetings, number of office bearers and their attendance at management meetings, remuneration of office bearers.

12. *Should the remuneration (if any) of responsible individuals be required to be disclosed?*

Yes.

13. *Are the suggested criteria in relation to conflicts of interest appropriate? If not, why not?*

We would support the criteria in the Corporations Act with the inclusion of "material personal interest".

14. *Are specific conflict of interest requirements required for entities where the beneficiaries and responsible individuals may be related (for example, a NFP entity set up by a native title group)?*

We have not prepared an answer to this question.

15. *Should ACNC governance obligations stipulate the types of conflict of interest that responsible individuals in NFPs should disclose and manage? Or should it be based on the Corporations Act understanding of 'material personal interest'?*

See answer to Q 13.

16. *Given that NFPs control funds from the public, what additional risk management requirements should be required of NFPs?*

As Life Activities Clubs generally do not control funds from the public, we have not prepared an answer to this question. The essence of a tiered structure should be based on exposure to risk, and we expect the great majority of NFPs to be in an extremely low risk classification.

17. *Should particular requirements (for example, an investment strategy) be mandated, or broad requirements for NFPs to ensure they have adequate procedures in place?*

Life Activities Clubs, by the nature of their size and activities, would be considered in the lower tier we would expect to not justify mandatory requirements.

18. *Is it appropriate to mandate minimum insurance requirements to cover NFP entities in the event of unforeseen circumstances?*

We would support this proposal if it was allied to a tiered structure.

19. *Should responsible individuals generally be required to have indemnity insurance?*

No. The cost would be prohibitive and it would be impossible to recruit individuals to fill necessary roles for the organisation.

20. *What internal review procedures should be mandated?*

We have not prepared an answer to this question.

21. *What are the core minimum requirements that registered entities should be required to include in their governing rules?*

We would support rules based on the incorporation requirements in Victoria.

22. *Should the ACNC have a role in mandating requirements of the governing rules, to protect the mission of the entity and the interests of the public?*

Yes.

23. *Who should be able to enforce the rules?*

ACNC.

24. *Should the ACNC have a role in the enforcement and alteration of governing rules, such as on wind-up or deregistration?*

Yes.

25. *Should model rules be used?*

Yes, if based on a tiered structure.

26. *What governance rules should be mandated relating to an entity's relationship with its members?*

We would support rules based on the incorporation requirements in Victoria.

27. *Do any of the requirements for relationships with members need to apply to non-membership based entities?*

We have not prepared an answer to this question.

28. *Is it appropriate to have compulsory meeting requirements for all (membership based) entities registered with the ACNC?*

Yes.

29. *Are there any types of NFPs where specific governance arrangements or additional support would assist to achieve in better governance outcomes for NFPs?*

We have not prepared an answer to this question.

30. *How can we ensure that these standardised principles-based governance requirements being administered by the one-stop shop regulator will lead to a reduction in red tape for NFPs?*

We have not prepared an answer to this question.

31. *What principles should be included in legislation or regulations, or covered by guidance materials to be produced by the ACNC?*

We have not prepared an answer to this question.

32. *Are there any particular governance requirements which would be useful for Indigenous NFP entities?*

We have not prepared an answer to this question.

33. *Do you have any recommendations for NFP governance reform that have not been covered through previous questions that you would like the Government to consider?*

We have not prepared an answer to this question.