

Submission to the Australian Government – Response to the Consultation Paper December 2011

'Review of not-for-profit governance arrangements'

Micah Projects welcomes the opportunity to respond to the consultation paper on the 'Review of not-for-profit governance arrangements'. Not all of the consultation questions have been answered in this submission. Instead we offer a written submission that addresses the organisation's impression of the governance arrangements outlined and raises some concerns.

Micah Projects is a community based not-for-profit organisation operating as an incorporated association. We provide a range of support and advocacy services to individuals and families. Micah receives a range of support and concessions including from State and Federal Governments. Micah Projects' turnover for 30 June 2011 was \$10,168,012. Twenty-nine recurrent grants from the state represented 84% of the turnover with 6% being non-recurrent grants from both state and federal government. Income from donations were 3% of total turnover and other income from PBI benefits (salary sacrifice savings) was the equivalent of 2% of total turnover.

We currently meet four accredited standards for care including the Disability Sector Quality System; ISO9001 for a quality management system; Standards for Community Services; and, Home and Community Care.

Micah Projects has a strong governance framework in place, with a clear mission statement, guiding principles and strategic framework and monitoring and review procedures. The organisation maintains a high level of accountability, transparency and integrity and all staff and board members act in good faith and in the best interests of the organisation and all stakeholders. It is noted that the Government believes "principles-based governance arrangements will ensure flexibility and proportionality. If the organisation already has an adequate governance framework in place it is likely the ACNC will not be expecting more from organisations to meet any new requirements".

The success of the new arrangements and support from NFPs will rely on the ability of the new ACNC to remain flexible, minimise disruption and acknowledge the diversity and strength amongst the sector.

Micah agrees with the intent of core governance principles to ensure the NFP is operating in the best interests of those affected by its operations and to further its

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stated goals, and recognise that any rules will take into account the size of the NFP, risks it presents, turnover and amount of government support received. Our concerns are that:

- mandating particular requirements (such as investment strategies, minimum insurance requirements, rules related to relationship with members) could prove problematic because of the diversity of NFP entities. Micah would support more broad requirements to ensure NFPs have adequate procedures in place. If there are minimum requirements around standards of care when exercising duties and the core duties and roles of responsible individuals in the organisation, it can be expected that the organisation and its members will govern effectively without mandated requirements around conflicts of interest, risk management procedures including insurance requirements, review processes etc. Minimum qualifications for responsible individuals, or CEO/coordinator etc should not be mandated. To govern effectively many NFPs draw from the experience and corporate knowledge of their staff, not necessarily gained through formal qualifications. The vital diversity and strength of the sector has been built on the richness and variety of skills and backgrounds individuals bring to each organisation;
- the process of negotiation with states and territories in aligning requirements for all NFPs may take time and there may be some additional red tape burden during a transitional period. There must be adequate and continual education and consultation around transitional arrangements;
- also, that over the long term the regulator will have significant powers regarding asset protection, suspension/removal of responsible persons, deregistration, imposition of fines etc. Explanation of these powers and the proposed penalty system needs to be readily accessible to all NFPs and should always remain flexible in regard to size and risk presented by entity.

Please consider this submission with regards to the organisation's additional response to the exposure draft legislation

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