The parties respond to Governance Institute’s questions

Governance Institute put a selection of questions to the main parties in the federal election, to see where they stand on the issues important to the association. These questions were generated by our members, our policy submissions and advocacy work.

Of the major parties contacted at the beginning of the election cycle, only One Nation declined to participate. The Nationals did not respond before deadline, but as Coalition partners with the Liberal Party their responses are represented as ‘the Government’. In some instances the replies combined answers to multiple questions, in which case we have we have indicated this.

Reform of fundraising laws

The current state and territory-based regulatory framework which governs fundraising is fragmented, burdensome, and rarely enforced correctly. It is failing in its objective to protect donors, provide transparency and build public trust in fundraising organisations.

As part of the #fixfundraising coalition, we have called on government to reform and make fundraising laws nationally consistent. This can be achieved through three simple steps.

1. Minor amendments to the Australian Consumer Law (ACL) to ensure application to fundraising activities is clear and broad.
2. Repeal of state-based fundraising laws.
3. Working with other regulators (for example, state-based regulators and self-regulatory bodies) to improve fundraiser conduct (for example, door-knocking, telemarketing, excessive spending of funds on third party services).

What is your party’s stance on reforming fundraising laws in line with the recommendations above? Is this something your party will address if elected?

<table>
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<tr>
<th>Party</th>
<th>Response</th>
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<tbody>
<tr>
<td>Government (Liberals/National Coalition)</td>
<td>The Morrison Government strongly supports reducing red tape in the charities sector. Our Government has already begun working with states and territories through the Consumer Affairs Forum to address reduce red tape for charities when fundraising.</td>
</tr>
<tr>
<td>The Greens</td>
<td>The Greens support the aims of the #fixfundraising campaign to nationalise and standardise fundraising laws under Australian Consumer Law.</td>
</tr>
<tr>
<td>The Labor Party</td>
<td>Labor was the first party to have a Charities and Not-for-Profits portfolio. Labor has fought the Liberal government’s war on charities at every stage, including the proposed abolition of the Australian Charities and Not-for-Profits Commission and their attempt to silence advocacy. The Shadow Minister for Charities and Not-for-Profits Andrew Leigh has publicly stated Labor’s belief that fundraising reform is a high priority and should be achieved within two years of the election. Labor will ensure Governance Institute are notified of additional commitments in this space.</td>
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</table>
**ACNC register for charities**

Governance Institute has long advocated for the Australian Charities and Not-for-Profit Commission (ACNC) register to record the details of the company secretary of charitable companies.

ASIC no longer keeps this information, and our members consistently report to us the issues their organisations face due to the inability of banks, landlords and other third parties to easily locate and verify the details of the organisation’s company secretary.

What is your party’s stance on this issue, and is this something your party will address if elected?

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<tbody>
<tr>
<td>Government (Liberals/National Coalition)</td>
<td>The Morrison Government will continue to work with the Australian Charities and Not-for-profit Commission (ACNC) to ensure the strong and transparent governance of charities. As the ACNC is an independent regulator, we commit to working with them to understand why this information is no longer recorded, and what steps are required to report company secretary details on the ACNC register.</td>
</tr>
<tr>
<td>The Greens</td>
<td>The Greens are strongly supportive of ensuring the ACNC is effective, responsive and independent in its role of regulating, supporting and promoting the charity and not-for-profit sector. We note the concerns raised by Governance Institute of Australia about the absence of company secretary details being published on the ACNC register. We would raise this issue with both the Government and the sector for consideration in the next term of parliament to ensure that there is confidence in our regulatory process.</td>
</tr>
<tr>
<td>The Labor Party</td>
<td>(combined answer, repeats the above)</td>
</tr>
<tr>
<td></td>
<td>Labor was the first party to have a Charities and Not-for-Profits portfolio. Labor has fought the Liberal government’s war on charities at every stage, including the proposed abolition of the Australian Charities and Not-for-Profits Commission and their attempt to silence advocacy. The Shadow Minister for Charities and Not-for-Profits Andrew Leigh has publicly stated Labor’s belief that fundraising reform is a high priority and should be achieved within two years of the election. Labor will ensure Governance Institute are notified of additional commitments in this space.</td>
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**Modernisation of key business registers**

Governance Institute has been a long-time supporter of initiatives to modernise existing business infrastructure, such as the Modernising Business Register program.

These reforms will simplify the way clients interact with government registers and streamline internal processes, our members report significant inefficiencies and costs for use of the existing registers.

What is your party’s policy around modernising Australia’s key business registers? Is this something your party will pursue if elected?

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<tr>
<td>Government (Liberals/National Coalition)</td>
<td>The Morrison Government is committed to modernising Australia’s key business registers. The Coalition announced the Modernising Business Registers (MBR) program in the 2018–19 Budget. This program will shift the Australian Business Register (ABR) and the Australian Securities and Investments Commission (ASIC) business registers onto a single platform that will be administered by the Australian Business Registrar within the Australian Taxation Office.</td>
</tr>
</tbody>
</table>
The Greens

The Greens support the modernisation of business registers and the introduction of DINs. It was unfortunate that the government’s package of bills to address these issues (Commonwealth Registers Bill and other bills) was introduced too late in the 45th Parliament to enable the concerns of the senate to be addressed. We hope that the new parliament picks up where these bills left off.

In particular, the Greens hope that the introduction of DINs will assist in: preventing the illegal phoenixing; and discouraging complex company structures that are designed for tax avoidance purposes.

The Labor Party

Labor will continue the modernising the business registers program, although Labor notes that to date some details have been largely absent from the current government’s proposals. Labor notes key details of the modernisation project have not been made public.

The details of the modernisation project remain unclear. Basic project management details such as an estimated completion date, the estimated total cost for implementation and the anticipated tactics for execution, such as whether to migrate all registers in one attempt or to iteratively merge registers, have not been provided to the parliament.

Many of these details are presumably in the business case that has been developed and provided to government, and as yet has not been made public.

**Director Identification Numbers**

We have also advocated for the introduction of a Director Identification Number (including company secretaries) to address information confidentiality and security concerns of directors, and company secretaries, concerning publication of their personal data.

**What is your party’s policy around Director Identification Numbers? Is this something your party will pursue if elected?**

**Government (Liberals/National Coalition)**

The Morrison Government remains committed to the introduction of a Director Identification Number (DIN).

DINs are being progressed as part of the Modernisation of Business Registers program to ensure that the DIN is integrated with other important registry data. The Treasury Laws Amendment (Registries Modernisation and Other Measures) Bill 2019 also provides a legal framework for the introduction of DINs.

The requirement to hold a DIN will assist regulators to track directors, find their corporate past, monitor current and future directorships, and enable disruption of phoenixing. This will provide greater insights to regulators, businesses and individuals on the identity of directors. Having all business registry data linked will help with risk profiling and help prevent illegal phoenixing.

**The Greens**

(combined answer, repeats the above)

The Greens support the modernisation of business registers and the introduction of DINs. It was unfortunate that the government’s package of bills to address these issues (Commonwealth Registers Bill and other bills) was introduced too late in the 45th Parliament to enable the concerns of the senate to be addressed.

We hope that the new parliament picks up where these bills left off. In particular, the Greens hope that the introduction of DINs will assist in: preventing the illegal phoenixing; and discouraging complex company structures that are designed for tax avoidance purposes.
Election 2019: The parties respond to Governance Institute’s questions

The Labor Party

Labor was the first party to back a Director Identification Number, announcing our support in May 2017. Labor will consult on the exact details that will be made available through the DIN register, noting that there are divergent views on the degree of information that should be made available. It should be noted that Labor has a pro-transparency disposition.

The first issue is that stakeholders have expressed concern about tying the introduction of the Director Identification Number (DIN) to the registry modernisation project, which may delay the implementation of DINs for years.

**Review of corporate reporting (red tape and compliance)**

Our members strongly support the simplification of corporate reporting requirements, which have become overly burdensome, not only to meet statutory requirements but also provide meaningful data that investors can use. Corporate reports have ballooned in size, as more and more disclosure requirements are added in piecemeal fashion to the legislation. This makes them largely incomprehensible to investors (especially non-institutional investors).

What is your party’s policy on the simplification of corporate reporting and red tape? Is this something your party will address if elected?

**Government (Liberals/National Coalition)**

The Morrison Government is committed to delivering effective and efficient regulation and regulatory frameworks that impose the least necessary burden on businesses. The Coalition wants business to spend more time growing the economy and less time with paperwork and red tape.

Since 2013, we have reduced unnecessary government regulation by approximately $6.8 billion.

This includes:
- the Simpler Business Activity Statement has been simplified for 2.7 million small businesses;
- ASIC financial reporting thresholds have been doubled (reducing the burden on 2,200 companies); and
- the regulatory framework for employee share schemes have been simplified. But we recognise more needs to be done at all levels of government.

The Coalition is working with the states and territories — providing $300 million to incentivise them reduce their red tape on small business.

**The Greens**

The Greens support corporate reports presenting information in a form that is coherent and relevant to investors and the wider public.

However, without understanding the details of what is meant by ‘simplification of corporate reporting’, we cannot commit to support this policy.

While the desire to cut red tape is understandable, this is also often a catch phrase for measures that reduce corporate transparency and accountability.

**The Labor Party**

Labor is open to reducing red-tape where appropriate.

Labor has announced a Growth and Competition Taskforce, including an independent remit on matters of corporate governance (filling the space left by the Competition and Markets Advisory Committee, abolished by the Coalition) and streamlining regulation where it is beneficial to do so.

The Taskforce may be able to look at the issue of technological overlap with the Corporations Act.
Whistleblowing law reform

While our members supported the legislation introduced into parliament last year to protect whistleblowers, there are a number of the recommendations that were not addressed:

- A stand-alone, general whistleblower protection regime in its own Act rather than the current approach, which inserts the same provisions in multiple pieces of legislation.
- A lead agency such as an Ombudsman or Office of the whistleblower to undertake the whistleblower protection role and implement the new scheme.

What is your party's policy on continued whistleblower protection and law reform, in line with the recommendations above? Is this something your party will pursue if elected?

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<tbody>
<tr>
<td><strong>Government</strong> (Liberals/National Coalition)</td>
<td>The Morrison Government is committed to strengthening the whistleblower frameworks in the public, corporate, tax and registered organisations sectors. The Coalition has delivered on its commitment to strengthen whistleblower protections in the tax and corporate sectors through the Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (‘The Whistleblower Act’). The Whistleblower Act establishes a single, strengthened, private sector whistle-blower regime in the Corporations Act which applies to the corporate, financial [financial products and services], superannuation, insurance, credit and not-for-profit sectors (within the Commonwealth’s constitutional powers). The Act also establishes a new regime in the Taxation Act to protect whistle-blowers who report suspected non-compliance with Australia’s taxation laws. This regime will operate independently of the regime established by the Corporations Act amendments because there are some elements of the tax whistle-blower regime which necessarily differ from the corporate sector whistle-blower regime.</td>
</tr>
<tr>
<td><strong>The Greens</strong></td>
<td>The Greens support further reform of laws for whistleblowers. The Greens detailed our priorities for further reform in our Additional Comments to the Senate Economics Legislation Committee’s inquiry into Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2017. This included: a single, simple Whistleblower Protection Act covering all relevant Commonwealth regulation, rather than multiple legislative requirements; and an agency with full obligations and powers to implement the regime, including taking action to ensure protection and compensation.</td>
</tr>
<tr>
<td><strong>The Labor Party</strong></td>
<td>Labor strongly believes in protecting and rewarding whistleblowers. • Labor will set up a Whistleblower Rewards Scheme. • Establish a Whistleblower Protection Authority. • Overhaul our whistleblowing laws with a single Whistleblowing Act. • Fund a special prosecutor to bring corporate criminals to justice. A Shorten Labor Government will create a single Australian Whistleblowing Act, consolidating all mainstream whistleblowing legislation into one Act so that whistleblowers can readily understand how they are protected.</td>
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</table>
Independent legislative research

Our members have also advocated for some time for the establishment of an independent research-based reform body similar to the former Corporations and Markets Advisory Committee (CAMAC). Such a body would be in a position to provide advice to politicians without the constraints of the electoral cycle, and assist both the government and the opposition to formulate policy.

What is your party’s policy on developing such an organisation? Is this something your party will pursue if elected?

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<td>Government (Liberals/National Coalition)</td>
<td>As part of its broad ranging review of public service agencies, the Commission of Audit recommended that CAMAC should be consolidated into the Department of the Treasury. The decision to cease the operation of CAMAC was announced by the Coalition in the 2014–15 Budget.</td>
</tr>
<tr>
<td>The Greens</td>
<td>The Greens support, in principle, the establishment of an independent research-based reform body, although would like to undertake further consultation before making an absolute commitment. The Greens opposed the abolition of CAMAC through the Statute Update (Smaller Government) Bill 2017, particularly given that an alternative means of providing independent expert advice to the parliament was not proposed.</td>
</tr>
<tr>
<td>The Labor Party</td>
<td>Labor is open to reducing red-tape where appropriate. Labor has announced a Growth and Competition Taskforce, including an independent remit on matters of corporate governance (filling the space left by the Competition and Markets Advisory Committee, abolished by the Coalition) and streamlining regulation where it is beneficial to do so. The Taskforce may be able to look at the issue of technological overlap with the Corporations Act.</td>
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Technology to bring the Corporations Act into the 21st Century

Currently the Corporations Act requires too much 'hard copy'. Government should aim to enable transactions and business to be carried out digitally end-to-end: regulation should not make it more difficult and expensive to conduct business through purely digital channels. This allows for innovation in shareholder engagement and corporate reporting.

Given the speed of technological change, it is important that any amendments to the Corporations Act or any other acts affecting business are technology-neutral.
### What is your party's policy on modernising the Corporations Act to allow this? Is this something your party will address if elected?

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<td><strong>Government (Liberals/National Coalition)</strong></td>
<td>In August 2018, the Government provided ASIC with more than $6 million in government funding (over two years) to expand their work in RegTech. RegTech is a term used to describe the combination of technology with regulation and compliance to provide solutions to challenges being experienced across a regulated industry. The Government sees the regulatory technology sector as one of enormous potential to help organisations build a culture of compliance with the Corporations Act. The funding being provided by government will be used to promote the development and use of RegTech solutions by financial services firms, and to accelerate ASIC’s use of RegTech to deliver better regulatory compliance and outcomes, helping to make Australia a world leader in the development and use of regulatory technology. The Government has also established a FinTech Advisory Group to advise the government on developments in the sector, ensure priorities of the industry are considered in the implementation of government policies, and identify areas for reform.</td>
</tr>
<tr>
<td><strong>The Greens</strong></td>
<td>The Greens support, in principle, modernising the Corporations Act for the digital age. The great promise of the digital age is that the transaction costs associated with distributing information will, effectively, vanish. The Corporations Act should accommodate this revolution. Obviously, such changes would require detailed consultation to ensure that transparency and accountability is maintained, particularly in regard to the chain of custody of corporate.</td>
</tr>
<tr>
<td><strong>The Labor Party</strong></td>
<td>(combined answer, repeats the above) Labor is open to reducing red-tape where appropriate. Labor has announced a Growth and Competition Taskforce, including an independent remit on matters of corporate governance (filling the space left by the Competition and Markets Advisory Committee, abolished by the Coalition) and streamlining regulation where it is beneficial to do so. The Taskforce may be able to look at the issue of technological overlap with the Corporations Act.</td>
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