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Sallyann Stonier
Acting Assistant Commissioner
Australian Charities and Not-for-Profits Commission (ACNC)
GPO Box 5108, Melbourne VIC 3001
By email: rajan.aiyappan@acnc.gov.au

Dear Assistant Commissioner Stonier,

Proposed changes to the ACNC registration application form

Who we are

Governance Institute of Australia is a national membership association, advocating for our network of 40,000 governance and risk management professionals from the listed, unlisted, public, not-for-profit and charity sectors.

As the only Australian provider of chartered governance accreditation, we offer a range of short courses, certificates and postgraduate study. Our mission is to drive better governance in all organisations, which will in turn create a stronger, better society.

Our members have primary responsibility for developing and implementing governance frameworks in public listed, unlisted and private companies, as well as not-for-profit and charity organisations and the public sector. They have a thorough working knowledge of the operations of the markets and the needs of investors. We regularly contribute to the formation of public policy through our interactions with Treasury, ASIC, APRA, ACCC, ASX, ACNC and the ATO.

General comments

Governance Institute members welcome the ACNC's review of its registration application form.

Our members also take a strong interest in digital technology policy. They consider it is vital that government work with all sectors, including the charitable sector, to promote the digital economy and Australia's digital future. At a practical level this includes ensuring that key compliance points such as the ACNC registration application process meet and enable digital best practice.

As a founding member of the '#fixFundraising' campaign Governance Institute advocates for further harmonisation of charitable fundraising laws across all jurisdictions. Several of our comments below relate to the general aims of this campaign.

Specific comments

Reduce length and complexity to accommodate inexperienced applicants

The online form is currently quite lengthy and there would seem to be opportunities for simplification. New applicants for ACNC registration are likely to be time poor volunteers with limited experience of the process, as charities are likely to apply only once. The application form and process should be as user friendly and as guided as possible to assist inexperienced applicants.

Clarify unclear questions with commentary

Some questions in the form may be unclear to volunteers and staff new to the process. The registration checklist and registration FAQs often provide answers, but a new applicant may forget to consult these guides or not be readily aware of them.

An example is found in the 'Structure and governing document – Legal structure' section. The question is asked 'When was your organisation established?'. The registration checklist clarifies what is meant here. Without the benefit of this guide, a new volunteer or staff member may be confused by various legal dates or simply unaware of the answer or where to find the answer. Commentary in the checklist guide could be adapted and added to the online form to prevent confusion.

Provide for a central point to upload documents

Applicants are currently asked to upload documents at various points. For example, they are asked to upload the governing document in the 'Structure and governing document' section and may then be asked to upload the latest annual report if they are a Health Promotion Charity in the 'Charity Operations – Charity Subtypes' section, as well as financial statements in the 'Governance & Finances – Financial Information' section.

It may be more helpful to consolidate uploads at a central point in the application, preferably at the end of the form, even if reference is made to the need to upload at relevant parts throughout the process. This would simplify the process and make it easier for the charity to verify they had uploaded all the documents as required and/or intended.

Provide a print-friendly PDF format

Our members' practical experience is that the registration application form is usually exported or printed so that boards and/or charity staff can review and discuss the questions internally and seek external advice, if required. A staff member (frequently a volunteer) is then usually delegated the task of inputting the agreed information and uploading the necessary documents.

Currently, it is difficult for charities to digitally export and print a version of the form that accurately reflects the online form. The consultation version provided by the ACNC does not accurately reflect the online experience. For example, many of the questions appear to be open-ended text boxes when in fact they are drop-down menus or auto-populated fields in the Charity Portal form. A digital and print-friendly PDF version of the form would assist charities.

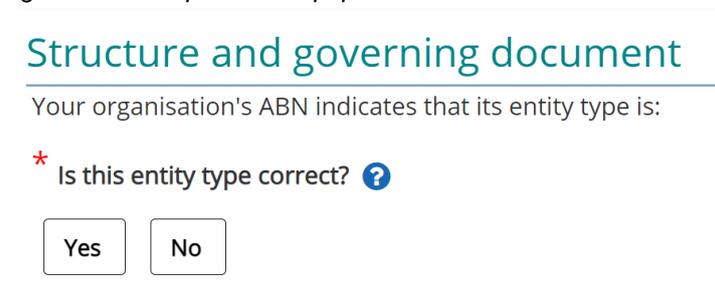
We note that applicants are given the option in the 'Review & Submit' section to 'Download a PDF copy of your application so you can review it before you submit it'. However, this may not assist a charity at the beginning phase of its registration when it is deciding what information it needs to provide.

Apply the 'report once, use often' approach by auto-populating more fields

As a general principle, Governance Institute members support all departments and agencies at all levels of government adopting a 'report once, use often' approach. Faster, easier online reporting systems that gather data at a single point, rather than requiring charities and businesses to provide data at multiple points, assists in reducing the compliance burden on all sectors.

We note that the 'Structure and governing document' section of the form includes the prompt 'Your organisation's ABN indicates that its entity type is'. This is an example of the 'report once, use often' approach.

Figure 1 – Example of auto-population



The screenshot shows a form section titled "Structure and governing document" in teal. Below the title, it says "Your organisation's ABN indicates that its entity type is:". There is a red asterisk followed by the question "Is this entity type correct?" and a blue question mark icon. At the bottom, there are two buttons: "Yes" and "No".

In our members' experience, the ABN register contains errors in its entity type, particularly with small charities as the information was originally submitted by individuals who were uncertain. In contrast, the ASIC database is accurate and would be better to use.

To reduce duplication and double-handling, we encourage the ACNC to consider if the scope for auto-populated fields in the application form could be expanded to more information entities may have already provided to state and territory consumer affairs agencies or other federal agencies.

An example is the 'When was your organisation established?' question in the 'Structure and governing document – Legal structure' section. This information is likely to be included in the ASIC database for many charities, but may be difficult for a volunteer or staff member to find quickly.

Once fully established, the new Australian Business Registry Services (ABRS), which will combine ASIC's 31 business registers and the Australian Business Register into a new modern system at the ATO, may assist with auto-population. The ACNC should consider how it can leverage this new database.

Enhance the fundraising section

Given Governance Institute's support for the #fixFundraising campaign, our members take a special interest in the 'Charity Operations – Operating Locations' section of the form. We note this section includes check boxes for nine jurisdictions, and that if the South Australian box is ticked, a message appears reminding the user that 'If your organisation intends to collect (fundraise) for particular charitable purposes in South Australia, it must notify South Australia's Consumer and Business Services (CBS)'. No other tick box generates a similar message yet similar issues could arise in other state and territory jurisdictions except Northern Territory.

Figure 2 – Jurisdiction question

Charity operations

▼ **Operating locations**

Select all the locations where, over the next two years, your organisation intends to:

- undertake activities (including administrative activities, fundraising activities and activities in collaboration with third parties)
- or
- send funds or other resources (including to third parties).

Answer this question carefully because this information will be included on the ACNC Charity Register and may be used to identify your organisation's regulatory requirements in states and territories.

Select the locations.

- Australian Capital Territory
- New South Wales
- Northern Territory
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia
- Overseas

Governance Institute members recommend the following:

- The ACNC continue its efforts in conjunction with the relevant Minister's office to advocate for harmonisation of charitable fundraising laws across jurisdictions, with the ACNC as a single point for registration, authorisation and reporting.
- Include a more detailed explanation in the 'Charity Operations – Operating Locations' of why regulation of fundraising activities may differ by jurisdiction. In May 2021, a [major survey of over 600 charities and not-for-profits](#) by the #fixFundraising campaign revealed that a high proportion (39 per cent) of respondents were not aware of the need to comply with different state and territory licenses and regulations. This section of the online form could be used to raise regulatory awareness.
- Consider if South Australia is the only jurisdiction that requires special explanation. Our members are aware of other potentially relevant regulations in other jurisdictions. This section of the form should aim to give an accurate picture of the regulatory complexity, to encourage compliance.
- Ensure the section is continually updated with new regulatory developments.

Consider the impact of the Director ID program

As part of the next phase of the Modernising Business Registers program, the ATO is currently working to roll out the new director identification (director ID) regime. This may have implications for the 'Responsible Persons – Add Responsible Person' section of the form.

Figure 3 – Section for possible inclusion of Director IDs

The screenshot shows a form section titled "Add Responsible Person" in a blue header. Below the header, there are three input fields: "Family name", "Given name", and "Position in organisation", each with a person icon to its left. Below these fields is a button with a plus sign and the text "Add Responsible Persons".

Provide for a governance board declaration

In the 'Review and submit' section, a person is asked to sign a declaration. From the perspective of a good governance, we consider it would be advisable to allow the applicant to indicate, where applicable, if their organisation's board has delegated or authorised the registration application, to encourage oversight and accountability. To accommodate the wide variety of entities that seek registration, including unincorporated associations, this field should not be mandatory.

Consider additional call centre assistance

Our members report it can take some time for the ACNC to respond when new charities lodge a request for a call back through the 'Make an enquiry' form. There may be a need for additional call centre resources to help volunteers and charity staff navigate the application process.

Facilitate a continual improvement process

Once the form is submitted, it may be helpful to ask applications for feedback on the length of time it took them to complete the form, its difficulty, and any suggestions for improvement, to enable a data-informed continual improvement process.

If you wish to discuss any of the issues raised in this letter, please contact me.

Yours sincerely,

Catherine Maxwell
General Manager, Policy & Advocacy