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Hello and welcome. I'm Ram Subramanian, Policy Adviser in Reporting at CPA Australia. Joining us for this podcast is Melville Yates, Director for Reporting, Red Tape Reduction and ACNC Corporate Services at the Australian Charities and Not-for-profits Commission, the ACNC.

There are a number of current developments and other forthcoming changes that will have an impact on the operations of many charities around Australia in the near future, and it probably will have an impact on other not-for-profits as well who may or may not also be registered charities. Mel is here today to signpost some of these changes and discuss their implications, and also provide some insight into what the ACNC is doing in providing assistance to charities to comply with these new requirements.

For members, I would expect that those members who work in the not-for-profit sector, they will probably find this podcast of use because they will get to have a reasonable understanding of some of the evolving issues in the space. And public practitioners who have clients who are not-for-profits and charities should also be able to get some value out of this podcast. Welcome Mel.

Hello.

Perhaps I'll just jump into the questions straight away just to get a feel for where we are and what's happening in this space. The ACNC obviously has an educational role, providing support to be sector in a number of ways. If you could tell me what resources the ACNC has recently developed and is developing to assist charities?

Absolutely. So we've currently got I guess a bit of a focus on the compliance resources that we make available. A lot of these are sort of self-assessment type things that charities can use. So I'll touch on a couple of things. One of the things that we've just recently published is a self-evaluation tool for charities. And that really helps charities to understand whether they are complying with the ACNC Governance Standards, and therefore meeting one of their key obligations to the ACNC. So the ACNC Governance Standards are mandatory for all registered charities with the exception of basic religious charities, but this resource it's fillable PDF document that helps charities describe some of the practical steps that they're taking to meet their obligations. And it also prompts them to list some of the relevant policies or procedures that they might have within their organisations.

Now, charities don't need to complete the return or give it to the ACNC, and it's not part of a charity's obligations to us. But what it is designed to do is to really go through and do a bit of a thorough stock take of how the organisation is complying with the ACNC Governance Standards. It's optional. So charities don't have to do it. But I certainly would encourage charities to have a look at this resource, which will help them to focus on any areas that they might need to improve to meet their obligations. And it really sort of focuses charities attention on all of the different sort of areas and issues that
may present themselves within different organisations right across the very diverse charity sector.

One of the other things that we’re currently working on is called the governance toolkit. So that's a new series of specialised resources that will help charities manage the governance issues that may arise in four key areas of risk. And these are financial abuse, working with partners, safeguarding, and cyber security. So this is not yet released, it’s not yet finished, but we have been undertaking some consultation, and we're expecting that this resource will be available probably around the middle of this year.

And the third thing I want to touch on is the charity compliance report. So this really looks at all of the compliance and enforcement activities that we've undertaken during the 2018 calendar year. The report sort of de-identifies all of the investigations that we've done. And it uses aggregated data to give everyone an insight into what sort of work we do in terms of the compliance and investigation and enforcement function. And it also puts, I guess, our focus for the year ahead, out in the public arena so that charities can understand what we’re really looking at targeting. Now this year, we've included a case study that was written by Guide Dogs Victoria, and that actually outlines their personal experience managing internal fraud that occurred. So some of the information in the compliance report outlines how we consider risk and what would be the most effective response to the risks that are presenting themselves.

And some of the factors that we look at include the type to the problem, whether there's been any contravention of legislation, any misconduct, what or who is at risk, the likelihood and potentially the frequency of recurrence or occurrence, the impact on the charity, including the impact of any proposed enforcement action, as well as the risk profile of the charity and the behaviour of the charities responsible persons. We have a real focus at the ACNC on four particular areas of conduct or misconduct that really could impact trust and confidence across the charity sector. And those four things are fraud and financial mismanagement, terrorism, failure to safeguard people, and political or unlawful activities.

Now, it does outline that we have undertaken more proactive compliance work during 2018 in comparison to 2017. And I guess some of the outcomes if you like, from 2018 include revoking 113 charities because they didn’t provide reporting that they need to provide to the ACNC, and also 24 compliance agreements. So they’re voluntary agreements that we've entered into with charities to improve some sort of concern that we've identified.

Ram: Thanks, Mel. And you just touched on reporting there. Clearly, that's an important aspect of being a charity, being accountable for their activities and their places. A charity in the communities is quite important in many ways. In terms of charities and their reporting obligations, what resources are being made available to the sector to assist them with their obligations?

Melville: That's a good question. If I can, I might sort of touch on a couple of different points. So in October of last year, October of 2018, we launched the new charity portal. That's the vehicle through which charities do most of their reporting. Most of the reporting and
the transactions with the ACNC are done online [inaudible 00:08:21]. Now, we launched that in October, but we've all ready made some changes to the charity portal based on feedback that we received. So we've actually grouped a lot of the similar sort of tasks together within the portal. So they now fall under three broad categories. And they are managed reporting, manage people or manage other charity details. Now there is a lot of resources that are available about the new portal, because it's been quite a big shift for the ACNC.

There used to be a system that provided one login per charity, and that had to be potentially used by more than one person in making sure that all of the obligations for the charity were met. We are now moving into the new portal, which provides a unique login for each person. So it's quite a big fundamental shift and we are finding that some charities are needing a little bit of help moving across to this new portal.

But I'll focus now on some of the resources that we've developed specifically around the 2018 Annual Information Statement. So the biggest thing is within the form itself, we've included quite a lot of inbuilt guidance actually in the form that will provide information to help people complete the document, provide the information that we're requesting. Some of the other resources I would like to highlight include the Annual Information Statement guide, so that includes a wealth of information, links, resources, and other advice to help charities complete their AIS. And we also have a checklist. Now the checklist includes everything that you need to consider, everything you need to do, and everything you should have ready to complete your 2018 Annual Information Statement. So the checklist also contains tips to help you complete your AIS to avoid some of the common mistakes we see.

Now, the changes that took place in the 2018 Annual Information Statement include collection of corporate trustee details for ancillary funds, because we provide that information to the Australian Taxation Office. There is some questions in relation to some of the streamline reporting arrangements that we have now implemented. And we've really taken advantage of the functionality that's available in the new IT platform, which helps with speed and those sorts of things. And I guess fast forwarding to the 2019 Annual Information Statement, very scary, but it's only a few months away, we'll be collecting web presence or any social media platforms or internet website pages that a charity might have, as well as also changing the way that we're collecting some financial reporting for charities that have a withholding request in place, which has been approved, and some financial reporting information is redacted from the register.

**Ram:** As a regulator, the ACNC obviously has an obligation to ensure that charities are complying with their reporting obligations. Whilst also being an educator and provider of resources, you equally have an obligation to make sure that the quality of reporting remains at the highest possible standard. In that regard, could you just tell us a little bit about what the ACNC is doing to make sure that reporting both financial and other forms of reporting continue to be of high quality?

**Melville:** Absolutely. So I might highlight some work that we've done on the last complete set of reporting, and that's the 2017 reporting period. So each year, we've basically refined the Annual Information Statement, and the analysis we do on the annual financial report.
And that's really helped us to refine the quality and the accuracy of the information that's published on the register. It's helped us improve the form and identifying trends or errors that we're seeing in the reporting. And we use those findings sort of in an iterative fashion, so that when we develop the form in the future year, we accommodate some of the issues that we've seen and we come up with ways to fix some of those issues.

So in 2017, we looked at the Annual Information Statement responses, and we also looked at the annual financial reports for medium and large charities. That was on a sample basis. What we found is that there seems to continue to be a number of charities which incorrectly think they are a basic religious charity, and therefore entitled to exemption from financial reporting to the ACNC. We also saw a number of charities that operated in the 2017 period, but they didn't provide any financial activity. And we also saw a range of charities that operated in 2017 but they provided exactly the same financial information as the year before, which would seem a bit odd to basically have exactly the same financial outcomes as the year before.

So out of all of that work, we contacted nearly 750 charities with areas where we identify that there was an error. And the vast bulk of those charities have now launched updated reporting, to correct those errors. Some of those errors included updating in excess of 51,000 full time equivalent staff. So a lot of charities had included their volunteers when we asked for information about paid staff. The reason we asked about paid staff is because charities shouldn't have any private benefit. So if we see that there are large numbers of staff, or doesn't have to be large, but if there are staff that seem to be getting large remuneration, then that potentially could be an indicator of private benefit. We also saw adjustments to revenue of nearly 21 billion and we saw adjustments to assets of over $600 million. So they're quite significant amounts of money that I'm talking about.

Now, the 2018 AIS, we have implemented bit of validation to try and detect and prevent errors through the submission process. We've also allowed for the change to some of the questions, to help the flow of questioning and improve the user experience. And we've also included additional validation to prevent charities from incorrectly assessing themselves as a basic religious charity, as well as some guidance relating to the full-time equivalent questions that we ask about paid staff. And we've also included an inbuilt calculator to help charities determine what those numbers should be.

Now in terms of the financial reports that we've had at look at, we do check that there are the whole suite of finance statements as they should be, as well as the notes. We have a look and compare the financial statements to the financial elements that are included in the Annual Information Statement. We also make sure that where a charity is eligible to use transitional reporting arrangements, then they're entitled to that. So we only want that happening where there is a valid reason for that. And we obviously check a whole suite of mandatory reporting requirements, depending on the type of entity and whether it's a reporting entity or not a reporting entity. There's obligations around which accounting standards apply. If there's an audit report or a review report, then we want to make sure that that references, the requirements that are set out in
the ACNC Act, and it's important that the responsible persons providing their declaration as part of the financial reporting.

So when I think about the focus areas for 2019, we'll continue to improve the functionality and the accessibility of the online form. And particularly the interaction with the charity portal in the new website. We've also developed a checklist that can be used by charities in 2018 for all of the reporting-

Ram: Mel, where can charities who are looking for information on some of the issues that you've just raised go to find more detail?

Melville: It's on our website at www.acnc.gov.au/financialstatements. So the checklist is available there.

Ram: In terms of the errors and other issues that you've been identifying with the charities that you've been looking at for the 2017 period, how have you found the quality when compared to the previous years where you conducted a similar exercise? Has there been an improvement generally is the kind of question I suppose I'm asking you.

Melville: I'd probably answer that by hedging my bets. Yes and no. So we actually had a focus in 2017, of looking at charities that we identified issues within 2016. So we actually looked at them again to see whether those errors had been addressed. Some had, some hadn't. But I guess if we think about we've now had four full annual cycles of reporting collected by the ACNC. I think it's fair to say that the sector has digested the financial reporting requirements. And I think overall, the quality is improving but we still see some systemic issues around basic religious charities and the exemptions being misapplied, for example.

Ram: Thank you, Mel.

Continuing to look at financial reporting, could you perhaps signpost some of the current changes to financial reporting that charities should be aware of, and how they should be preparing for these changes? And perhaps, if possible at all, signpost some of the upcoming changes in the near future, which might also affect charities.

Melville: Yeah, absolutely. So we don't have enough time in this podcast to talk about some of the accounting standard changes that will apply for the 2019 Annual Information Statement, where it's a 31 December year end, or the 2020 AIS, where there's a 30 June year end. And I'm talking about obviously, AASB 15, 16 and 1058. And I know you have done a lot of educational... You've developed a lot of tools yourself around some of those changes. So what I would say to charities and professional supporting charities is have a conversation with your accountant, have a conversation with your auditor, so that these issues that may manifest themselves as some of these changes, come through, they can be addressed and dealt with earlier rather than later on.

We are changing some of the group conditions that apply to introduce that report on a collective basis to the ACNC, particularly around where they are preparing a special
purpose financial statement. So we’ve added a new condition that the group entity must adopt AASB 124, so related party disclosures in full or at the IDR level. And we’re also having a look at the group reporters just to make sure that we're getting the reports in a timely basis. So where charities aren't returning the reports to us by the due date, we'll consider reassessing the approval that they have to report as a group, and we might I guess, revoke that approval to report as a group. Because it's very important that charities meet their obligations on a timely basis.

So there are plenty of resources around from CPA Australia, from many other sources, including the AASB's website as well, about these changes to accounting standards and what they mean. But I would really encourage charities to be speaking with their professionals and their advisors now, because things all ready been placed to manage these. And if you haven't had a conversation yet, I would urge you to have one urgently with your advisors.

Ram: Yeah, I couldn’t emphasise that more. If I may add to that, the new accounting centre on revenue, AASB 15, and its accompanying standard 1058, AASB 1058 also looking at income for not-for-profits, and AASB 16, which is on leases, all come into effect from 1st of January 2019. So if you've got a 30th of June year end, you should really be looking at it now, I would say-

Melville: Absolutely.

Ram: ... because the year to 30th of June 2020, which starts on the 1st of July 2019, which is not very long ago, is when these changes will have to be taken into account. So, just wanted to add that, if I may [crosstalk 00:22:24].

Melville: Yeah, absolutely.

Ram: Moving away from financial reporting, whistleblower legislation was recently passed through parliament. What does this mean for charities? And what should they be doing to comply with these new laws?

Melville: Yeah, it's a really interesting one, this one. So the Treasury Laws Amendment Whistleblowers Act of 2017 is now in place. And one of the biggest things for charities, which are companies, there is a requirement under the Corporations Act that they will have a whistleblower policy from 1 January 2020. Now, the policy has to have certain information, which includes the protections that are available to whistleblowers, how that company will ensure fair treatment of employees who are mentioned in whistleblower disclosures, as well as making the policy available to officers and employees of the company. This is something that charities should be turning their attention to now if they are affected by these changes. Because as we've just mentioned, time is certainly creeping up on us and the 1st of January is not too far away.
Ram: Thanks, Mel. Another big area of change is External Conduct Standards, which I believe are coming into force very soon. Could you tell us a little bit about what this means for the sector?

Melville: Absolutely. So this is quite a big change for the registered charities with the ACNC. Basically, the External Conduct Standards, a new group of standards that relate to any activities, which include sending funds overseas or any activities which are conducted overseas. Now the intent of these standards is to provide a minimum level of assurance, that charities meet appropriate standards of governance and behaviour when they operate outside of Australia. There's four standards, and they are around controlling resources including funds, requiring an annual review of overseas activities and record keeping. There's a standard on anti fraud and anti corruption. And the final standard is protection of vulnerable individuals. Now, originally, these were supposed to start on the 1st of July 2019, but they were introduced through regulation, and they need to sit in both chambers of parliament for 15 sitting days to allow a motion of disallowance and to be raised. Now, that hasn't happened yet. But we are in a caretaker period and there was an election being held in May.

So when the new parliament forms, and we get clarity on the sitting calendar, we'll know exactly when the standards will actually come into force. But at the moment we're expecting it will probably be in August of 2019, at some point. I want to point out that these External Conduct Standards are in addition to the existing ACNC governance standards. There are organisations, for example, basic religious charities are exempt from the Governance Standards. However, all charities will be required to comply with the External Conduct Standards, if you are operating overseas, or if you are sending any funds overseas. So there will be some organisations, which currently don't have to apply any Governance Standards, will have to apply these External Conduct Standards.

So I guess in terms of what charities need to do right now, now is the opportunity to really have a look at the way you manage your risks around overseas activities, how you send funds overseas, and start to sort of get your house in order if you like, so that when these new standards come in, and to maximise time available for planning, you might want to consider reviewing these proposed standards and consider how they apply within your charities context for operating overseas or sending funds overseas. Because this is a quite a significant change to charities that will be affected by these new standards, we are developing guidance. We're aiming to release that guidance in a couple of months time, probably before the actual standards do come into force when they finish the parliamentary process, but that will help charities to understand what these standards mean and what they need to think about.

Ram: That makes sense. Moving along to another major area of freeform, deductible gift recipient regulation, which not only affects charities, it affects other not-for-profits as well. Where are we with the reforms around DGR status and entities with DGR status? And how do we see those changes progress?

Melville: Sure. So you might recall that the honourable Kelly O'Dwyer made an announcement on the 5th of December 2017. And that was announcing that the government would reform the process for DGRs in terms of eligibility and registration and a range of other things.
And that was really to introduce appropriate oversight and streamline the processes and ensure that there's minimal complexity. So, currently the different registers, which are managed by different government departments, they will all be consolidated into the register that is maintained by the ACNC. There will be a change for all DGR entities will be required to be registered charities with the ACNC unless there is an exemption. So there'll be a simplified registration process for those entities which are not all ready registered charities, and that will be by the 30th of June 2021.

We've all ready talked about the introduction of the External Conduct Standards, which was part of this announcement. And these changes will start to take effect from 1 July 2020. But I do note that this legislation is not yet drafted. Again, as this comes into being, we'll develop appropriate guidance and be in touch with affected entities.

Ram: One of the requirements in the legislation that underpins the ACNC, when it was established back in 2012, was to have an independent review of the ACNC after the fifth anniversary, and we know that that happened. And report was also published by the Independent Review Panel last year, which has now been submitted to government for their response. Where are we with this report, which I believe has a number of recommendations on what should and shouldn't happen with the ACNC, and how do we see this progressing further?

Melville: As you know, we are currently in caretaker mode. So, the government has not yet responded to the review. There were 30 standalone recommendations that were made as well as supplementary, sort of noncontroversial recommendations as well. I expect that this will be something that the next parliament will provide a response on postelection, and depending on the outcome, will depend on the response that's provided. But really it's a metaphor for the next parliament because there won't be any enhancements while we are in caretaker mode in relation to the review, unless it becomes a policy issue.

Ram: Turning to fundraising regulation reform, which is another big ticket item in the not-for-profit sector. What's happening with that, and in particular, the Senate Select Committee report into charitable fundraising in the 21st century was issued... I think I believe it was issued in February. I think there's an expected government response to that as well, because fundraising regulation many people do believe needs to be reformed. And so we're quite keenly looking forward to the government response to that. So can you tell us a little bit about what's happening there?

Melville: Yeah. Well, fundraising came up particularly from many stakeholders throughout the independent ACNC review as been one of the major issues. So there are recommendations in the ACNC review, but the select committee that you're referring to, they did report in February, there were two recommendations. And one of those recommendations was that the Australian government should commit to working with state and territory governments as well as the sector to develop a consistent national model to regulate charitable fundraising over the next couple of years. The Senate Select Committee report that was tabled and finalised in February of this year. Now, today is the 16th of April, and to date, there hasn't been a response from government. But we are in caretaker mode, pending the outcome of the general election in May. And
at this point, there hasn't yet been a response from government. But the understanding that I have from our treasury colleagues is that there will be a response from government within 60 days of the report being tabled.

Ram: Mel, thank you very much for recording this podcast with us today. Did you have any parting words for the listeners and members who are tuned into this podcast?

Melville: Absolutely. So first of all, it’s my pleasure. Thank you very much for the opportunity. I guess there’s a lot of change happening at the moment with the new accounting standards, changes to legislation. I think some of the tools that we've developed and we're making available, there's an opportunity for charities to do a bit of a stock take, a bit of a self‐evaluation of how they're going in terms of complying with the Governance Standards, and managing any issues within their organisations. So I’d encourage professionals to check out some of the resources that we've sort of highlighted, and we've made available during this podcast, and they will help on that journey to making sure that issues are being managed, and the Governance Standards are being complied with. Thank you.

Ram: Thank you, Mel. And equally CPA Australia also has provided a number of resources to members who work in the not-for profit space, and links to the various bits of information that Mel has shared with us today will be made available on the podcast page. And links to resources that CPA Australia has developed will also be made available on the same podcast page for those who are interested. Thank you.

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