

NFP LEGAL LANDSCAPE

Australian Not-For-Profits Speak

Snapshot findings

April 2011

Background

In early 2011, Makinson & d'Apice commissioned independent researchers and management consultants to conduct an Australia-wide study of the legal landscape before NFPs and the third sector.

Study sample

A broadly representative sample of 250 responses were received from NFPs across Australia, with 70% from NSW and Victoria.

Largest constituents in the sample were NFPs active in:

- education
- people with disabilities
- professional associations
- children's issues.

Respondents were strongly skewed to *CEO, Executive* or *Manager* levels. 85% did not employ an internal lawyer or an in-house counsel. Many respondents provided extensive commentary.

Their income:

- 66% of organisations had DGR status
- 50% had income over \$3 million annually
- just over one third of respondents had an income of under \$500,000; and 19% had an income of \$1 million to \$3 million.

Largest sources of funding were:

- government grants and submissions
- government contracts and programmes
- membership fees
- public donations
- direct fundraising.

Self assessed strengths and weaknesses

- Around 50% rated their organisations ability to *attract and manage bequests* as *very weak* and *fundraise* as *weak* or *very weak*.
- One third stated *management of property legal issues* was *weak* or *very weak*.
- 75% rated their governance as *strong* or *very strong*
60% rated their business management as *strong* or *very strong*.

Most rated their NFP as "somewhat sophisticated", or "sophisticated" in business terms, compared with five years ago when two thirds rated their NFP as "very unsophisticated" or "unsophisticated", indicating rapid progress in this area.

Legal issues

More than 90% agreed that the legal and operating environment was increasingly complex with areas needing attention spanning:

- planning and funding
- bequests
- governance
- board matters
- business management.

Respondents ranked these attributes of external lawyers as important:

- act with integrity
- good communication
- specialists in Not-For-Profit and charity legal work
- knowledge of regulatory framework
- long standing service to NFP sector.

A large number of respondents provided extensive commentary regarding external lawyers centring on:

- cost
- lack of NFP knowledge or understanding
- communication issues around briefing of lawyers and timeliness
- quality and appropriateness of advice
- pro bono issues.

National Not-For-Profit Regulator

Just under half of respondents were unaware of the proposed National Not-For-Profit Regulator.

Of those who were aware of the proposal:

- 58% believed that it would be a positive step
- 38% were neutral
- 4% saw it as a negative move.

The survey results will be analysed in more detail in upcoming issues of our newsletter, *Balancing Act*.

FOR MORE INFORMATION CONTACT:

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