justice connect
Not-for-profit Law

Not-for-profit Law
Melbourne Office
PO Box 16013
Melbourne VIC 8007
Tel +61 3 8636 4400
Fax +61 3 8636 4455
Sydney Office
PO Box 436
Darlinghurst NSW 1300
Tel +61 2 8599 2100
Fax +61 2 8599 2105

Ms Kris Peach
The Chair
Australian Accounting Standards Board
PO Box 204
Collins Street West VIC 8007

29 April 2016

Dear Ms Peach

Submission - ED 270 Reporting Service Information

Not-for-profit Law (**NFP Law**) is a program of Justice Connect, providing free and low cost legal assistance to not-for-profit (**NFP**) community organisations. Justice Connect is a registered charity and accredited community legal centre.

NFP Law 'helps the helpers' by providing practical legal information, advice and training to NFP community organisations. By helping those involved in running NFPs navigate the full range of legal issues that arise during the lifecycle of their organisation, we save NFPs time and money. This that means there can be a greater focus on achieving their mission, whether that is helping vulnerable people, environmental conservation, or working towards social cohesion. We advocate for an improved legal and regulatory framework for the NFP sector – we focus on effective and appropriate regulation supporting efficient and well run NFPs, while taking into account the impacts on NFPs, especially small-medium NFPs.

We are pleased to make a submission to the Australian Accounting Standards Board regarding Exposure Draft 270 (**ED 270**). In line with our expertise, our submission relates to private sector NFPs (ie, not 'public sector NFPs' – a group of organisations referred to in ED 270).

Background: five years of unprecedented reform for charities and NFPs

The last five years have brought unprecedented regulatory reform for the charity and NFP sector: the Australian Charities and Not-for-profits Commission (**ACNC**) has been established, a new statutory definition of 'charity' introduced, and at the same time workplace health and safety laws and regulation of co-operative structures have been partially harmonised. In addition, several legislative frameworks for incorporated associations have undergone either a wholesale re-write or significant reform, and many state and federal government departments that provide significant funding to the sector have run significant (and often disruptive) recommissioning processes.

NFP Law has observed the impact of these regulatory change on charities and NFPs. There is often confusion and limited resources are further stretched, placing a heavy burden on time poor volunteers. We acknowledge regulatory reform can bring many benefits, including a reduction in red-tape – something NFP Law has consistently advocated for. However change is itself a burden, and should therefore only be pursued where the benefits clearly outweigh the costs, including in volunteer time.

NFP Law's submissions on ED 270

NFP Law broadly accepts the policy intention of ED 270: to provide for reporting on activities, outcomes and impacts by those charities and NFPs required to meet accounting standards in the preparation of annual reporting. We acknowledge that reliable data and reporting on outcomes of NFPs is critical to demonstrating transparency and accountability, and that financial data alone does not provide a complete picture of an organisation's performance. We also acknowledge that data not only assists an organisation to better understand its impact, but also helps to communicate its impact to the public and its stakeholders.

However, in our view the responsibility for communicating an NFP organisation's outcomes (to give 'life' to its financial data) best lies with the organisation, rather than being mandated by the AASB through the proposed standard.

NFP Law raises the following key concerns with ED 270:

- NFP Law does not agree that the principles set out in paragraph 20 of ED 270 should be mandatory. Mandatory reporting of service performance information introduces further regulatory complexity and administrative burden to NFPs already subject to a multitude of reporting obligations (to both government and funders). Mandatory reporting would further stretch already limited resources, and create unnecessary confusion for the sector.
- Although they may fall into a reporting tier above 'small', many Tier 2 organisations have very few employees (if any) and struggle to pay for technical and professional advice. We routinely advise these organisations on a pro bono basis and see first-hand the burden any additional reporting can create. While just a few extra dot points does not seem much to add (see below), it is the cumulative amount of the reporting to a multiplicity of stakeholders and regulators that creates the red tape burden.
- The example provided in Appendix C of ED 270 contemplates a very simple program report. However, we believe reporting will be far more complex and laborious for an organisation with multiple programs and services – from our own perspective there would be more complex reporting as Justice Connect has five services each with discrete objectives, outputs and outcomes. Many services provided by charities and other NFPs are seeking to deal with complex and multifaceted social and environmental problems. Reporting on the contribution of all of an organisation's activities towards solving these complex problems would, for some organisations, be a lengthy and costly undertaking.
- ED 270 notes that companies limited by guarantee must already provide similar information through annual reporting. It is important to note that only a small fraction of NFPs are companies limited by guarantee (around 12,000 from a sector that numbers 600,000 organisations across Australia). Therefore, reporting service performance information will be a new requirement for many organisations affected by the proposed standard.
- The proposed standard will create uncertainty about whether service performance reporting should or should not be included in reviewed/audited materials, and will result in further accounting and auditing costs for organisations that do include their service performance information in their reviewed/audited reports.
- Reporting against the proposed standard will create duplication:
    - ED 270 notes that charities reporting under the ACNC's reporting regime will be required to report against the proposed standard. So far as the standard requires reporting of activities of an organisation, it duplicates information that is already required to be disclosed in the ACNC's Annual Information Statement; and
    - many funders require reporting from charities and other NFPs on their service performance. This reporting is often different for each funder, and does not necessarily follow the same reporting period as an organisation's financial reporting year. The standard duplicates this reporting.

- The type of reporting contemplated by the proposed standard is too broad to generate meaningful cross-sector data. Charities and other NFPs are already reporting their service performance outcomes in a fragmented fashion, and reporting would be more meaningful if linked to a standardised Australian index (see for an example of an index of indicators, the IRIS catalogue of indicators[1]).

- Requiring the reporting of inputs, outcomes and impacts of charities and other NFPs is not consistent with the core business of the AASB. There is a growing and complex body of expertise around reporting on such matters[2] and the process for updating of accounting standards is not suited to the rapid pace of change in this field.

We thank you for the opportunity to make a submission to this consultation. Please contact us if we can assist any further information about these important issues.

Yours sincerely

Sue Woodward, Director, Not-for-profit Law, Justice Connect
sue.woodward@justiceconnect.org.au

Kate Fazio, Manager of Education, Not-for-profit Law, Justice Connect
kate.fazio@justiceconnect.org.au

[1] https://iris.thegiin.org/metrics
[2] Kirsty Muir and Stephen Bennett (2014), *The Compass: Your Guide to Social Impact Measurement* (Sydney: The Centre for Social Impact); Eibhlín Ní Ógáin et al (2012), *Making an Impact: Impact Measurement Among Charities and Social Enterprises in the UK* (London: New Philanthropy Capital); Craig McGarvey (2007), *Participatory Action Research: Involving "All the Players" in Evaluation and Change* (New York: The Foundation Center); Srik Gopalakrishnan (2013), *Next Generation Evaluation: Embracing Complexity, Connectivity, and Change: A Learning Brief* (Boston: FSG Social Impact Advisors).