



## Launch of Ethics Fellow, Not-for-Profit Sector

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The Centre for Social Impact (CSI) is a partnership between the business schools of the University of New South Wales, the University of Melbourne, Swinburne University of Technology and The University of Western Australia. It brings together the committed hearts and business heads of the philanthropic, not-for-profit, private and government sectors in pursuit of social innovation. It provides socially responsible business management education and research in the common cause of building a stronger civil society for Australia.

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I am honoured to have been appointed as an Ethics Fellow for the Not-for-Profit Sector. It is a joint role of the Centre for Social Impact (CSI) and St James Ethics Centre (SJEC). I admire the work of Peter Shergold and CSI in educating social entrepreneurs and building community capacity in the Not-for-Profit sector. I also respect the role of Simon Longstaff and SJEC in articulating ethical issues in the public domain and promoting corporate responsibility.

This role seeks to assist in building community capacity in the Not-for-Profit sector. As a former CEO I am aware of some of the challenges and dilemmas we face both in our organisations and the sector, as well as the mistakes I have made over the years. Ethics is asking the question: what ought one do? It is a question that was asked by the Greek philosopher Socrates in the 5<sup>th</sup> Century BC as he engaged in the Socratic method of questioning and dialogue on the ethical issues of the day. "What ought one do?" is a question that resonates today. Applied ethics involves a process of reflection, questioning and dialogue on issues and dilemmas that sometimes have no clear resolution.

I will be consulting with leaders in the community, business and government sectors; working with them to identify and articulate ethical issues within the not-for-profit sector; and seeking to promote codes and practices that reflect ethical behaviour.

The role has four aspects:

- Facilitator: of discussions on ethical issues
- Educator: developing training materials and contributing to courses of CSI and SJEC
- Commentator: articulating issues in the media and in conferences and forums
- Consultant: offering confidential advice to Not-for-Profit organisations.

The Not-for-Profit (NFP) sector plays a significant role in Australian society and in the lives of Australian people. There are about 700,000 Not-for-Profit organisations, most of which are small and dependent on volunteers. Of these, 380,000 are incorporated in some form and 41,000 are relatively large, employing 890,000 people and receiving \$76 billion in revenue (1).

I would like to briefly explore four areas that relate to applied ethics in the sector.

## 1. Transparency

Choice magazine surveyed its members regarding charities and found that 81% of respondents did not know what proportion of their donation reached the charity's clients, yet 94% considered it important to have access to that information. Choice compared financial information provided by nine charities and identified that the fundraising ratios (the percentage of donated funds used for administration) are calculated inconsistently across the sector. The problem is that there is no uniform reporting standard for not-for-profit organisations (2).

This was a dilemma I faced over the years. For example, in an appeal for homeless people, some people expect all of their donated funds to go to clients. However for the NFP organisation there are administrative costs in fundraising that need to be met e.g. employing a fundraising and marketing team, composing direct mail letters, producing and running television and radio advertisements. In addition, effective services for homeless people require employment of skilled front-line staff with adequate resources. The organisation also needs research staff to produce advocacy statements on the issue of homelessness so that it can effectively lobby government to improve housing policies. There are different opinions on which of these costs to include in administration. As a result it is difficult to calculate the percentage of donated funds allocated to administration and to clients.

At a sector level, there have been some good initiatives to improve transparency:

The Fundraising Institute of Australia (FIA) has developed Principles and Standards of Fundraising Practice for its members. The principles are high level codes that apply to all fundraisers, while the standards address specific fundraising practices e.g. telemarketing, bequest fundraising and events. The role of the FIA Ethics Committee is to oversee complaints and enforce compliance among members.

PricewaterhouseCoopers (PwC) together with CSI and the Institute of Chartered Accountants Australia have established the PwC Transparency Awards which recognise and encourage improvement in the quality and transparency of reporting in the NFP sector.

## 2. Regulation

With the creation of the Charities Commissions in the United Kingdom and New Zealand, the recent Senate Committee Report "Disclosure Regimes for Charities and Not-for-Profit Organisations" recommended that the Australian Government establish a new, independent, national regulator for the sector (3).

Its functions would include developing and maintaining a register of organisations, providing a descriptive analysis of them, securing compliance with relevant legislation, investigating complaints, advising Not-for-Profits on governance and practice standards and educating the public about the sector. It would be a separate entity from the Australian Securities and Investments Commission (ASIC) and the Australian Taxation Office (ATO).

Its critics argue that it will lead to a new level of bureaucracy, will be costly to establish and maintain and may impose unfair accountability requirements burdens on small, volunteer-based organisations that are currently outside the regulatory framework.

However there are potential benefits in having a national regulator. It could coordinate legislation affecting the sector across federal, state, territory and local governments. It could provide organisations with streamlined regulation, guidance on governance and practice standards, consistent reporting requirements, access to tax concessions and ease of national operations and fundraising.

The test of the success of any new regulator is that it would lead to greater transparency and accountability in the sector. The issue of a national regulator is on the government agenda and needs to be debated.

### 3. Disclosure

There are a range of legal structures with different disclosure and reporting obligations within the sector. The most common overall is the unincorporated association governed by common law principles which has no reporting obligations.

However in terms of corporate status, the most common are Company Limited by Guarantee and Incorporated Association under relevant state or territory acts. There are also numerous other structures such as trusts, cooperatives and Aboriginal corporations.

Given the complexity of current legal and regulatory obligations, it is challenging to find one specialist legal structure and reporting system that could apply across the sector.

The Senate Committee report recommended that a single, mandatory, specialist legal structure should be adopted for not-for-profit organisations through a referral of state and territory powers. It argued that this will result in the most effective and efficient regulation of the sector. It noted that the disclosure regimes of organisations under the legal structure should be tiered and determined by their annual revenue (4).

NFP organisations in receipt of government funding are often subject to compliance and disclosure obligations that are complex and inefficient. There is unnecessary time and cost spent in meeting compliance requirements. Some government reporting frameworks also limit the capacity of NFP organisations to innovate and achieve outcomes for clients. They offer contracts that focus rigidly on outputs rather than outcomes and include key performance indicators that are not relevant to the work undertaken by the organisation.

Across the sector there is support for the Standard Chart of Accounts (SCOA) developed by the Australian Centre for Philanthropy and Non Profit Studies. This aims to streamline financial accounting and reduce costs and time for not-for-profit organisations and government departments. It is currently being adopted by some state and federal departments.

### 4. Governance

My own experience at Mission Australia convinced me that the Australian Stock Exchange (ASX) Best Practice Corporate Governance Principles provides a very good framework for ethical behaviour. It includes principles relating to management and board responsibilities, ethical decision-making, financial reporting, disclosure, managing risk and remunerating responsibly.

In addition, the Australian Council for International Development (ACFID) has produced a Code of Conduct for its member organisations. It defines standards of governance, management, financial control and reporting. The themes of organisational integrity,

governance, communication with the public, finances, management and personnel practices can be adapted to other organisations.

A recent Stanford Review article on ethics and not-for-profit organisations identified a number of ethical dilemmas for the sector (5).

**Executive remuneration:** Determining the appropriate level of remuneration can be difficult. Take the example of the CEO of a large NFP hospital, university, school or employment organisation which competes with commercial companies in a privatized market such as a health care, education or employment. He/she is managing a complex organisation and has to achieve similar outcomes to his/her colleagues in commercial companies. Is the executive package of the NFP executive similar to his/her commercial colleagues? What are appropriate travel expenses for board and management? How do you balance what appears to be a fair package based on industry benchmarks with a public perception that CEO of NFP organisations should have relatively low remuneration?

The article also discussed conflicts of interest for board members who seek contracts for funding for their own businesses or affiliated companies. It stressed the need for ethical codes and principles of engagement of NFP organisations with government and corporations.

There are many ethical issues that confront CEOs and boards: how do you ensure that your organisation remains true to its mission and gives priority to the people it serves? How do you encourage self help and social enterprise and avoid creating dependency? I am sure that you could enumerate many others which I would like to hear.

In closing, I consider that the global financial crisis has given us the opportunity to pause and reflect on what type of society we want to leave to our children and grandchildren. It also highlights for me the importance of applied ethics in all sectors of the economy. The case for ethics in the not for profit sector is compelling: contributing to the good society, enhancing the reputation of the sector, developing sustainable organisations and offering values-based leadership. I hope that working with you we can make a contribution.

(1) Catherine Baldwin, "Social Sector Reform: An Overview of Current Australian Government Initiatives", The Centre for Social Impact, Background Paper no 2, June 2009

(2) Choice Magazine, "Charities", March 2008

(3) Senate Committee Report, "Disclosure Regimes for Charities and Not-for-Profit Organisations", December 2008

(4) Senate Committee Report, "Disclosure Regimes for Charities and Not-for-Profit Organisations", December 2008

(5) Stanford Social Innovation Review, "Ethics and Non Profits", Summer 2009

