

Response to questions by Mr Charles McClintock

While the questions below were addressed by Mr Charles McClintock to Mr Joseph Orland, they are questions that are the responsibility of the Board of RDA (NSW) to address. The questions will, therefore, be answered by the Board.

It is understood that the questions submitted were Mr McClintock's own initiative and do not necessarily constitute an official request by the Centre.

CHARLES MCCLINTOCK. WAGGA.

Questions for the Board at the 2022 RDA (NSW) AGM

Question 1. To Mr Joseph Orland

ACNC principal of governance number 2 – Accountability to Members states that Charities must be open and accountable to their members.

This standard requires charities to:

- take reasonable steps to be accountable to their members, and
- allow their members adequate opportunities to raise concerns about how the charity is run.

Given this principal what is the Board trying to hide by not releasing the Partners for Purpose report to members despite multiple requests?

While there are two questions which have been raised that are said to be referenced to the same principle, namely ACNC Governance Standard 2, they will be treated separately.

QUESTION 1:

ACNC principal of governance number 2 – Accountability to Members states that Charities must be open and accountable to their members.

This standard requires charities to:

- take reasonable steps to be accountable to their members, and
- allow their members adequate opportunities to raise concerns about how the charity is run.

The ACNC Governance Standard 2 applies to all charities which have members. In the RDA (NSW) context, this applies to RDA (NSW) and to each RDA (NSW) Centre (referred to in the Standard and in the RDA (NSW) Constitution as "Member").

It is admitted that the Standard requires charities to:

- "take reasonable steps to be accountable to their members, and

- allow their members adequate opportunities to raise concerns about how the charity is run”

However, these concepts must be seen in the context of the whole document when read in conjunction with the RDA (NSW) Constitution and the Corporations Act 2001.

There are “common steps” that can be taken by RDA (NSW) and each of its Centres in order to meet those Standards. For RDA (NSW) and the larger Centres, there are more that is expected, but it also depends on the particular circumstances. The suggestions contained in the Standard are:

“Common steps your charity can take to meet this standard are to:

- organise a meeting at least annually with members (such as an annual general meeting) with opportunities for members to ask questions and vote on resolutions
- provide information to members on the charity’s activities and finances, and
- have clear processes for appointing [Responsible People](#) (such as board or committee members). This can include setting out the process in [the charity's governing document](#) (such as constitution, rules or trust deed).

The above steps are examples of common or minimum requirements only, and are in addition to what your charity is required to report to the ACNC. For example, even though a small charity does not have to submit a financial statement to the ACNC, its members should be able to ask for some financial information.

A larger charity with many clients and a significant reach may need to do more to meet this standard. For example, it may be appropriate to have more formal rules and processes on things such as:

- providing formal written notice of meetings and set periods of notice prior to meetings being held
- how items can be added to meetings for discussion or voting on (possibly requiring notice to be given before the meeting)
- providing an annual report to members, explaining your charity’s financial position, and
- nominating, appointing or electing Responsible People.

The steps that are reasonable depend on a charity’s specific circumstances.”

The Board submits that it fully complies with each of these requirements as suggested by the ACNC as well as with the requirements of the RDA (NSW) Constitution and the Corporations Act 2001.

It is reasonable to expect the Board of RDA (NSW) to listen to requests from Centres. The Board does that.

However, the Standards do not take away from the Board the responsibility of managing RDA (NSW) for all Centres. Under both the Constitution and the Corporations Act, this responsibility rests solely with the Board.

One of the major obligations that the Board has, under both the Constitution and the Corporations Act is to treat all Centres equally, without any discrimination.

What the Board understands is that some of the larger Centres require changes to be made to the Policies and the structure of RDA (NSW).

While there may be a benefit that can be gained by the larger Centres from these proposals, there is no direct detriment to those Centres if what is understood as being proposed is not introduced.

On the other hand, the Board is also aware, from the information available, that the smaller Centres will be disadvantaged if what is being proposed is introduced.

It is the Board's view that it will be a breach of the Board's legal and ethical obligations to impose a detriment on the smaller Centres in order to do what some of the larger Centres have been requesting.

The Board must, at all times, work in the best interests of RDA (NSW) and its Centres. But that does not mean that it must do the wishes of some Centres if there is a reasonable possibility that such actions could discriminate against, or cause problems, for other Centres.

The Board is required, at all times, to act in the best interests of RDA (NSW) as a whole. Naturally, some things could be done differently. But that does not mean that what the Board is doing is wrong or not for the benefit of RDA (NSW) and its Centres as a whole.

In short, the Board's Policies are:

- compliant with the rules and law,
- consistent with the Constitution,
- made as provided under the Constitution and the Corporations Act,
- are in keeping with the nature, scope and size of RDA (NSW)'s operations and
- meet the requirements of the ACNC's Standard 2.

A copy of the ACNC Standard 2 is attached for reference. That document contains some examples of how charities can either meet or fail the provisions of the ACNC Standard 2.

QUESTION 2:

Given this principal what is the Board trying to hide by not releasing the Partners for Purpose report to members despite multiple requests?

The Board denies the insinuation that it is “trying to hide” anything “by not releasing the Partners for Purpose report to members”.

The Partners for Purpose report was intended to be a guide to assist the Board in planning for the future of RDA (NSW). After many teleconference meetings between the members of the Partners for Purpose team and representatives of the Board, a draft of the report was sent to the Board for review.

The Board reviewed the report in question and noted that it was based on some incorrect assumptions and details. The report also ventured into areas that were not formally discussed with the Board and were irrelevant to the brief that had been given to the company.

The Directors pointed out the errors and asked for the draft report to be adjusted to use the correct details to enable the report to be potentially adopted.

When the next draft version of the report was submitted to the Board for review, it was noted that the incorrect information on which many of the findings of the report were based had not been changed. The Board again requested that the document be amended to correct the errors.

The Directors were advised that there was no more time in which the report could be amended as the report was required to be finished by a due date and, as a result, no changes could be made.

While the Board accepts that Partners for Purpose had produced a very good report, and had features which can be implemented, there were other parts which were not relevant to RDA (NSW)’s structure.

Having said that, the Board notes that there will be parts of the P4P report which will be used in a mini-strategic review which will be coordinated by the Director whose portfolio is Marketing/Strategic Planning, Ed Binney.

In order to undertake that review, the Board will seek input from Members and RRs to help ensure that the Strategic Plan is kept up to date.

ACNC Standard 2

Governance Standard 2 only applies to charities with members. For example, incorporated associations, companies and unincorporated associations.

Other structures, such as trusts, do not have members.

This standard requires charities to:

- take reasonable steps to be accountable to their members, and
- allow their members adequate opportunities to raise concerns about how the charity is run.

Being accountable includes letting the members know about the charity's activities and what the results of those activities are. It also includes allowing members to raise concerns and ask questions about how a charity is run.

Purpose of this standard

A charity's members are its 'owners' and form an important part of any charity. Members are entitled to know how a charity is acting and using its resources (finances and any assets) on their behalf.

This standard helps a charity's members to understand the charity's operations and also to raise any questions or concerns they may have about the way it is run. For example, members may want to know about the charity's financial position, or what a charity is focusing its future work on.

Charities must be open and accountable to their members. This standard helps members to understand their charity's operations and raise questions about its governance. It provides an important level of accountability for those who operate the charity.

Ways to meet this standard

Common steps your charity can take to meet this standard are to:

- organise a meeting at least annually with members (such as an annual general meeting) with opportunities for members to ask questions and vote on resolutions
- provide information to members on the charity's activities and finances, and

- have clear processes for appointing [Responsible People](#) (such as board or committee members). This can include setting out the process in [the charity's governing document](#) (such as constitution, rules or trust deed).

The above steps are examples of common or minimum requirements only, and are in addition to what your charity is required to report to the ACNC. For example, even though a small charity does not have to submit a financial statement to the ACNC, its members should be able to ask for some financial information.

A larger charity with many clients and a significant reach may need to do more to meet this standard. For example, it may be appropriate to have more formal rules and processes on things such as:

- providing formal written notice of meetings and set periods of notice prior to meetings being held
- how items can be added to meetings for discussion or voting on (possibly requiring notice to be given before the meeting)
- providing an annual report to members, explaining your charity's financial position, and
- nominating, appointing or electing Responsible People.

The steps that are reasonable depend on a charity's specific circumstances.

Charities that are required by law to hold meetings and involve members

If your charity is an Indigenous corporation, an incorporated association or a co-operative and already meets its responsibilities to hold meetings and be accountable to its members under its incorporating legislation, it will be taken to meet this Standard.

For companies registered under the Corporations Act, the obligations relating to member meetings under this Act no longer apply.

If your charity is a company, read more about the changes for [charities registered with ASIC and ACNC](#).

Examples

The Western Community Health Centre provides health services to disadvantaged people.

It is an incorporated association in Western Australia. As required under its state incorporated associations' legislation, the centre holds an annual general meeting at which copies of its financial statements are provided to members. The Treasurer provides a short report to the meeting and answers questions.

It has provided a copy of its rules to the ACNC and these rules require the Centre to hold an election to choose new board members.

The charity meets this standard.

The Parkwest Cat Home is a small charity that operates a shelter for unwanted cats.

The shelter is a company limited by guarantee with 30 members, mostly volunteers and donors. They decide to follow the same meeting procedures as before under Corporations Act, and allow meetings to be called with only 14 days' notice. They continue to provide members with a short annual report including financial information.

The members know that existing board members can appoint new board members to fill any vacancies.

The Parkwest Cat Shelter meets this standard.

Rainbow House is a **company limited by guarantee**. Despite the meeting obligations being removed from the Corporations Act after 1 July 2013, Rainbow House decides to keep its meeting processes the way they are, which include presenting an annual report and financial report, and holding an election for directors at an annual general meeting.

Because these processes meet the requirements of the Corporations Act, the charity meets this standard.

The Lakes District Association does not hold any regular meetings with its members or provide any other regular information to its members, despite its rules requiring it to do so.

The charity does not meet the standard.