



Practitioner Advisory Group

AGENDA ITEM: PAGFG01-01

2 May 2024 – Online

Section 1 Non-profit organisations – Feedback from ED1

Summary	This paper provides the PAG with an overview of key areas of feedback relating to the broad characteristics of NPOs following the consultation feedback as part of Exposure Draft 1.
Purpose/Objective of the paper	The paper provides PAG with a summary of the responses to the specific matters for comment for Section 1 <i>Non-profit organisations</i> that were included in INPAG Exposure Draft 1. It includes respondents views on those issues for consideration in the development of the final guidance. It seeks PAG views on the specific areas and the overall final guidance ahead of review by TAG.
Other supporting items	N/A
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Actions for this meeting	Comment on: <ul style="list-style-type: none">(i) the issues associated with the primary objective of providing benefits to the public;(ii) the concerns on the exclusion of public sector entities;(iii) the use of indicators that an entity might be an NPO; and(iv) the approach to the use of illustrative examples.



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Section 1 Non-profit organisations – Feedback from ED1

1. Introduction

- 1.1 This paper:
- Provides a summary and high level analysis of the consultation responses to the Specific Matters for Comment (SMC) relating to Section 1 Non-profit Organisations included in Annex A.
 - Seeks PAG's advice on a number of the issues raised by the consultation responses.

2. Exposure Draft 1 – issues for comment and feedback

- 2.1 Key to the use of INPAG is identifying those entities that are NPOs. Section 1 is focused on the characteristics of NPOs as a route to identifying which entities should apply INPAG. Overall respondents were supportive of the approach, but there was some disagreement about the details in the proposals.
- 2.2 The Exposure Draft included 2 Significant Matters for Comment (SMCs). The first question sought feedback on the description of the broad characteristics and whether these characteristics would include all entities that might be NPOs. 55% of those that responded agreed with the proposals with 10% disagreeing. The remaining 35% neither agreed nor disagreed. In this latter group almost all agreed with the approach, with concerns focused on how the characteristics were expressed.
- 2.3 The key issues emerging from this feedback centred on the guidance for the characteristics of an NPO. The three broad characteristics proposed were:
- they have the primary objective of providing a benefit to the public;
 - they direct surpluses for the benefit of the public; and
 - they are not government or public sector entities that should prepare general purpose financial reports under public sector financial reporting standards.
- 2.4 The key points related to:
- the primary objective of providing benefit to the public;
 - the use of INPAG by public sector entities;
 - the use of indicators to support the application of the broad characteristics; and
 - guidance through illustrative examples.



- 2.5 The second question sought feedback on whether between Section 1 and the Preface it was clear which entities are intended to benefit from the use of INPAG. 68% of those that responded agreed with the proposals with 10% disagreeing. As with the first question there was a significant, but lower proportion (23%) that neither agreed nor disagreed. Many of the points raised related to the feedback to SMC 2(a).
- 2.6 A snapshot of the outcomes is presented in Annex A. A focus group will be established to further explore the range of views expressed in the feedback and survey responses.
- 2.7 The respondents to the survey for ED1 showed high levels of support for the characteristic that 'an NPO must have a primary objective of providing a benefit to the public'. However, more than 30% of respondents were of the view that the 'providing a benefit to the public' would not capture all NPOs.
- 2.8 A significant portion of the respondents stated that they would find the application of the concept of 'benefit to the public' somewhat challenging in determining whether an entity qualifies as an NPO and this is reflected in the comments received through the formal comment letters. See Annex Aii for further details.

3. Primary objective of providing benefit to the public

- 3.1 Respondents to ED1 SMCs who agreed with the broad characteristics sought clarification or more guidance on what was meant by providing benefit to the public and similarly what was meant by the concept of private benefit discussed in G1.3.
- 3.2 Respondents that commented on the term providing benefit to the public had two key concerns. The first was whether this term was sufficiently specific and could be easily applied to a target group, and the second was whether the term was the most appropriate.
- 3.3 Several respondents expressed concerns regarding the specificity of the term providing benefit to the public. This was particularly with regard to smaller groups rather than the general public and they questioned its relevance for a specific target group aligned with the objectives of an NPO. One respondent underscored the necessity for clarity, particularly in accommodating organisations that serve specific segments of the population, such as those assisting women.
- 3.4 Another respondent highlighted the significance of customising initiatives to cater to target audiences with varying societal perspectives and values. This respondent illustrated their point with two examples:
 - an NPO opposing abortion while another supporting it, and
 - an NPO advocating for the release of drug addicts from prisons while another advocating for their penalisation for property crimes.



- 3.5 Respondents offered diverse perspectives on the suitability of the term 'benefit to the public' within the context of NPOs. Some advocated for broader and more inclusive terminology, such as "serving public interest" or "delivering social good", emphasising the overarching aim of societal benefit. Others suggested specific modifications, such as replacing "benefit" with "social impact" or specifying it as "non-exchange benefit" to better capture the unique role of NPOs. One respondent proposed the term "providing welfare to the community", highlighting the role of NPOs as substitutes for absent governmental functions in some jurisdictions.
- 3.6 Respondents suggested that the description of the characteristics of the primary objective of providing benefit to the public should be refined to avoid ambiguity, focusing on the absence of profit motives rather than the provision of benefit to the public. One respondent questioned whether traditional definitions of "benefit" adequately encompassed the services provided by entities like churches, or if the term "service" would be more appropriate.

Question 1: What are PAG members' views on the use of the term providing benefit to the public and whether any of the alternatives provide a better description of the primary objective?

Question 2: Do PAG members consider that there is a need to augment paragraph G1.3 ie the primary objective of providing benefit to the public or would some of these issues be better addressed in other sections of INPAG, for example, the basis of conclusions?

- 3.7 There was significant feedback about the use of the term of "private benefit(s)". The proposals acknowledged that members of an NPO might receive private benefits, including distribution of surpluses, but this should be incidental to the NPO's primary objective of providing a benefit to the public. Feedback covered the extent to which private benefits could be received and still be an NPO and significantly whether membership organisations should be considered NPOs.
- 3.8 Two respondents queried what was meant by "incidental" and how much private benefit could be received to tip the balance to no longer being incidental to the primary objective. Four respondents were of the view that if surpluses are distributed to members, then such entities should not be considered to be NPOs. They were of the view that this possibility should be removed from the guidance.
- 3.9 Two respondents queried what was meant by "private benefits", noting that what might be perceived as a private benefit by one group or individual might not be perceived in the same way by another group. Clarification was also sought on whether the provision of goods and services to members was the same as the distribution of surpluses in considering private benefits. Another respondent was of the view that where the provision of goods and services is in furtherance of the NPO's objectives, such private benefits should not prejudice an entity being an NPO.



- 3.10 Seven respondents commented specifically on membership organisations, with most providing feedback that it was not clear whether INPAG could be applied to closed membership organisations. This lack of clarity centred on whether an entity would qualify as an NPO because as a closed membership organisation, all of the benefits would go to the members. Some of these respondents were of the view that INPAG might be useful to some organisations such as sports clubs and associations.
- 3.11 Another respondent suggested that local legal frameworks could be used as a consideration in an entity being an NPO. If used, this might address the significance of private benefits, at least locally, in determining whether an entity is an NPO. This would be on the basis that the local legal framework has determined an appropriate classification of entities, which could be relevant in the use of INPAG. Such an approach would, however, risk a move away from the principle that NPOs are entities that provide a public benefit.
- 3.12 One respondent noted a potential conflict with IFRS. The preface to IFRS Standards specifies that organisations that 'provide dividends or other economic benefits directly and proportionately to their owners, members or participants', such as mutual cooperative entities, are profit-oriented entities. It suggests that entities which provide goods and services 'directly and proportionately' to their members are for-profit entities.

Question 3: What are PAG members' views on what is included in the scope of private benefits?

Question 4: What are PAG members' views on the point at which the amount of private benefit distributed are no longer consistent with an entity being an NPO?

Question 5: Do you consider that there are implications for membership organisations such as sports clubs? Can closed membership organisations be NPOs?

4. INPAG and public sector entities

- 4.1 Six respondents questioned the intention of the third characteristic of NPOs, which is that they are not an NPO if they are a public sector entity. While there was a general understanding that the intention of this characteristic was not to overlap with the reporting requirements under IPSAS, the feedback was that this might not be the most appropriate outcome for some entities.
- 4.2 It was noted that some government-controlled entities operate as arm's length organisations from government and may have a prescribed reporting framework that is different to IPSAS. Two respondents flagged that the focus should be on the entities that INPAG is intended to be suitable for in terms of the nature of its activities or how it is operated rather than focusing only on public sector reporting requirements as a defining characteristic.



- 4.3 It was suggested that the third characteristic (see 2.3 above) should be amended to allow government or public sector entities that prepare general-purpose financial reports to use other specified reporting frameworks in addition to public sector financial reporting standards. However, care needs to be taken to ensure that INPAG does not over-step its remit, which this suggestion might imply. This feedback is helpful in further considerations about whether INPAG could be useful for some government-controlled entities.
- 4.4 A further point was raised about being clear about what is meant by 'public sector or government entities', particularly as governments do not have a profit motive. One respondent cited situations where an entity carries out activities on behalf of a government in response to national incidents e.g. natural disasters and it may not be clear whether the entity is considered to be part of government in this capacity.

Question 6: What are PAG members' views on the existence of NPOs that work within the public sector and the guidance that they should follow?

5. Use of indicators that an entity might be an NPO

- 5.1 Three respondents recognised the usefulness of the indicators used to assist entities in determining their NPO status and proposed areas for improvement, while only one respondent expressed concerns. This respondent suggested the removal of the indicators suggesting that as currently drafted they had the potential to create uncertainty.
- 5.2 One of the respondents who supported the use of indicators suggested the need for additional indicators which could be tailored to address the nuances of more complex NPOs, which may not be adequately addressed by the broad characteristics. However, specific examples were not provided by the respondent to illustrate these nuanced situations.
- 5.3 Another respondent supported the overall approach of using indicators but recommended specific enhancements. They proposed that the first indicator be further refined to read: "An absence of individuals, or groups of individuals, with rights, directly or indirectly, to financial returns from surpluses." Meanwhile, another respondent proposed integrating the indicator requiring assets to be transferred to a similar entity into the set of broad characteristics.

Question 7: What are PAG member's views on the usefulness of indicators to assist entities in assessing whether they are an NPO? Do PAG members consider augmentations or more tailored indicators should be used for example for more complex NPOs or should this be addressed through implementation guidance?



6. Illustrative examples

- 6.1 Five respondents raised questions about whether more guidance should be provided to assist NPOs by providing defined classes or categories of entities that would be NPOs.
- 6.2 Three respondents said that they would like to see the guidance refer to types of activities (classification families) which would form an entity's institutional objects. Such classification would characterise an NPO. The following examples were provided:
- the provision of mental, physical or social needs of persons or families;
 - the rendering of charity to persons or families in distress;
 - the prevention of social distress or destitution of persons or families;
 - the provision of assistance in, or promotion of, activities aimed at uplifting the standard of living of persons or families;
 - the provision of funds for legal aid; the prevention of cruelty to, or the promotion of the welfare of, animals;
 - welfare to the community;
 - all NGOs.

However, while these are useful examples, this list is not exhaustive, does not cover the breadth of NPO activities and would not be sufficient to identify NPOs.

- 6.3 In developing INPAG it was decided to take a characteristics based approach to identifying NPOs, because given the diversity of NPOs it would be practically difficult to develop a single definition that would cover all types of NPOs. The Secretariat remain of this view.
- 6.4 Two respondents suggested that a decision tree be added to help entities locate themselves and identify whether they are an NPO. In both cases the respondents saw such guidance linking to classification families as suggested in 6.2 above. Further illustrative examples could be added to the Implementation Guidance.

Question 8: Do PAG members have any views on whether further forms of guidance would be useful to entities to assist with their decisions on whether INPAG would apply to them?

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Annex A(i) – Summary of Feedback Responses to SMCs for Section 1 NPOs

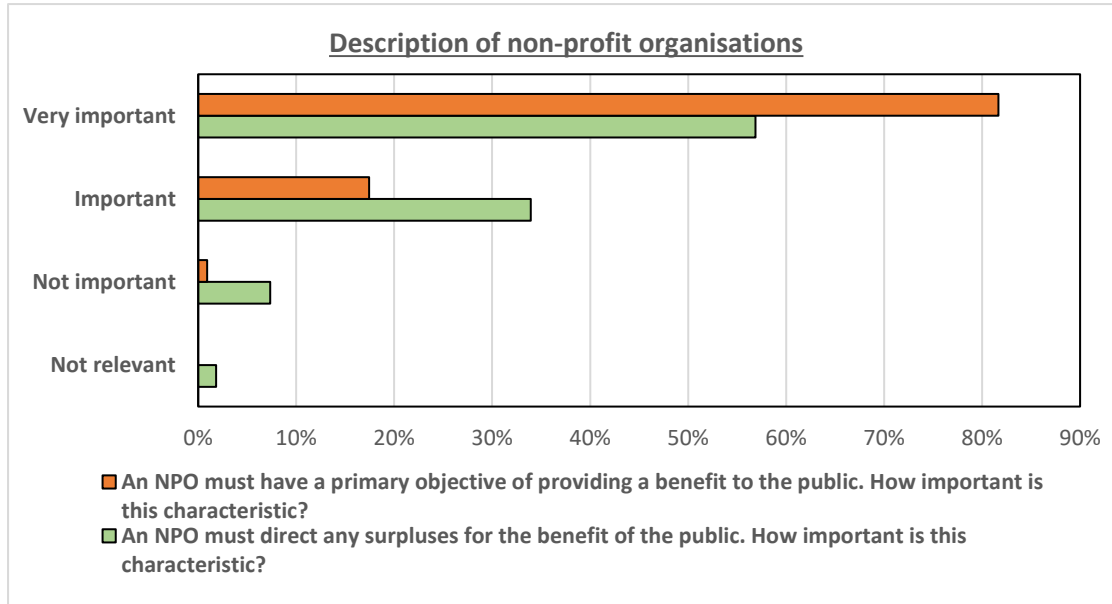
SMC 2(a) Do you agree with the description of the broad characteristics of NPOs? Does the term 'providing a benefit to the public' include all entities that might be NPOs? If not, what would you propose and why?	Response	Number	% of those who responded (total 63)
	Agree	35	55%
	Disagree	6	10%
	Neither agree nor disagree	22	35%
	No Response	6	-
	Totals	69	100%

SMC 2(b) Does Section 1, together with the Preface, provide clear guidance on which NPOs are intended to benefit from the use of INPAG? If not, what would be more useful?	Response	Number	% of those who responded (total 62)
	Agree	42	68%
	Disagree	6	10%
	Neither agree nor disagree	14	23%
	No Response	7	-
	Totals	69	100%



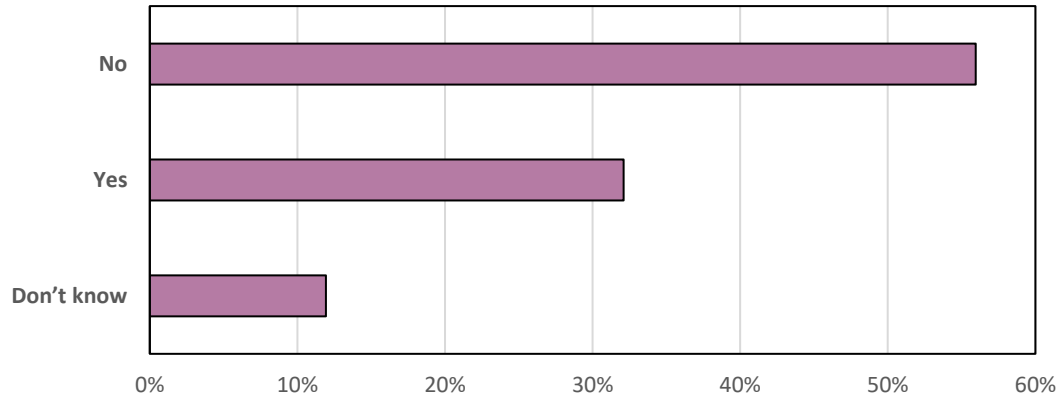
Annex Aii Results of Survey for ED1 Section 1 NPOs

Total responses: 109





Does the term 'providing a benefit to the public' exclude any entities that might be NPOs?



How difficult will it be to apply the concept of 'benefit to the public' when determining whether an entity is an NPO?

