



Australia's Charities and Not-for-profits

Written Submission

The Options Paper, Australia's Charities and Not-for-profits sets out proposed replacement arrangements for charities in Australia. The paper outlines policy directions proposed by the Government to introduce effective replacement arrangements that reduce the burden of regulation on the civil society sector.

The paper is being released to seek feedback from charities and interested parties on the proposed replacement options. Comments and feedback will inform development of the replacement arrangements. A summary of written submissions will be provided on the Department's website in September 2014.

Please use this submission template to provide your feedback on the proposed replacement arrangements for charities in Australia.

Completed submissions are to be sent by 20 August 2014 to:

consultationwithcharities@dss.gov.au (preferred method) OR

Civil Society and Programme Delivery Policy Branch

Department of Social Services PO BOX 7576

Canberra Business Centre, ACT 2610

Submissions received after 20 August may not be considered.

Unless otherwise stated, the information and feedback you provide may be used for publishing purposes. Please state if you do not wish for your comments to be published.

Instructions for completing the Submission Template

- Download and save a copy of the template to your computer.
- Refer to the *Options Paper, Australia's Charities and Not-for-profits* for context and discussion questions.
- You do not need to respond to all of the questions.
- Please keep your answers relevant to the topic being addressed, we ask that submissions be limited to two pages.

Name (first and surname): Mr David Thompson AM

If submitting on behalf of a company or organisation

Name of organisation: Jobs Australia Ltd

Stakeholder category (e.g. service provider, client, peak body, academic): peak body

State/Territory: Victoria

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Response to Options Paper:

General comments:

Jobs Australia strongly supported the establishment of the Australian Charities and Not-for-profits Commission (ACNC), on the basis that it solved a series of legitimate regulatory problems. Jobs Australia is open to proposals to abolish the ACNC and replace it with alternative arrangements, but the replacement arrangements still need to address the pre-ACNC problems. The proposals listed in the options paper simply do not do that; they leave a number of problems unresolved. The simplest and easiest way for government to address its concerns with the ACNC while still addressing the problems that existed before its creation would be to reform the ACNC itself, rather than abolish it. Jobs Australia does not believe a case for the abolition of the ACNC has been made out.

Jobs Australia accepts that retaining the ACNC in some form is not an option that the Minister will consider, largely because the Minister committed to its abolition prior to the election. Jobs Australia wishes to point out, however, that the rest of this response will be providing feedback on a policy response that we consider to be less than ideal.

1. Proposed new reporting arrangements

Question	Response
<i>What changes would your organisation need to make to meet the new requirements?</i>	Jobs Australia maintains a website with most of the information suggested. Some changes to financial reporting may be required.
<i>Do you believe that these proposed requirements will be less time consuming than current requirements?</i> <i>Do you foresee any impediments to charities complying with these requirements?</i>	The proposal to require charities to maintain a publicly accessible website is onerous and difficult to enforce. Many charities do not have websites – for example, many very small charities and some philanthropic trusts. Enforcement would be difficult and resource intensive. This part of the proposal seems more onerous – and more resource intensive to check – than the existing arrangements whereby organisations submit basic information to one central website. It will add significant new red tape and cost for many organisations – contrary to the Government's promises
<i>Do you believe these</i>	It is not clear whether the self-reporting arrangements are completely

<p>requirements will provide transparency? If not, what changes would you make?</p>	<p>voluntary or not. If so, then there is no need for exemptions (as the organisations that would be exempt can just choose not to report). But the bigger issue is that this will not improve transparency and accountability: those organisations that do not wish to be accountable will simply not report or make it relatively difficult for information to be found on their web-sites. It is essential that there be some minimum reporting requirements.</p>
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2. Determining Charitable Status:

Question	Response
<p>Which of these options to you believe best guarantees the independence of the decision making process?</p> <p>Are there any other considerations that should be taken into account when these functions are undertaken?</p>	<p>Neither option guarantees independence. In both cases, the process itself still sits within an agency for collecting as much taxation revenue as possible. Jobs Australia suggests considering a truly independent body (statutorily independent both of government and the ATO), for the purpose of assessing charitable status.</p> <p>If Government wishes to exclude all options other than those presented in the Options Paper, then we would suggest adopting both rather than one or the other.</p> <p>If that is not possible either, then Option Two at least provides some independence in the initial assessment process and independent review by the AAT. This would be preferable to Option One, which merely adds an extra layer of independent review.</p> <p>Whichever option is ultimately pursued, there needs to be some consideration of compliance support arrangements for charities and non-profits. A separate unit within the ATO could, for example, include support services such as guidance, training / education, and advice – to support organisations to navigate the often complex legal and taxation issues that arise.</p>

3. Proportionate Compliance Framework:

Question	Response
<p>Are there any reasons why this approach may not work?</p> <p>Do you foresee any risks in this approach?</p>	<p>This approach appears to discard the graduated approach in the current ACNC arrangements, and return to a more 'black and white' approach under the ATO. The graduated approach allowed for a range of interventions – warnings, undertakings, injunctions – whereas the ATO's approach has only two levels: informal advice and revocation of concessions. Should the regulatory functions be returned to the ATO, Government should consider adopting the ACNC's graduated approach to enforcement.</p>

4. Transitional arrangements:

Question	Response
<p>What other</p>	<p>Given that we are now well into the current financial year, Jobs Australia</p>

<i>transitional arrangements might be required?</i>	believes the transition timelines will need to extend beyond 1 July 2015.
<i>Are there things the Department could undertake to assist charities with this transition?</i>	If websites are to be mandated as per Part 1 of the Options Paper, then Government may need to provide some support for those organisations that do not currently have a website.
<i>What factors should be considered in relation to the timing of the new arrangements?</i>	Charities and non-profits will already have undertaken work to ensure their compliance with the ACNC requirements for this financial year. That work should not go to waste.