



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

Submitted by: Paul Ronalds, CEO, Save the Children Australia

On behalf of: **Save the Children Australia (SCA)**. SCA is a leading independent emergency relief and development organisation for children. Established in 1919, Save the Children now works in 120 countries around the world, and SCA has offices in every Australian state and territory. SCA currently provides education and child protection programs for disadvantaged children at more than 100 sites around the country. SCA is a Public Benevolent Institution with registration and reporting responsibilities to the Australian Charities and Not-for-profits Commission (**ACNC**).

State: Victoria

Contact email: paul.ronalds@savethechildren.org.au

Response to Options Paper:

Support for retention of the ACNC

Prior to the establishment of the ACNC in December 2012, Australian not-for-profit organisations were subject to a multitude of regulators, including the Australian Securities and Investment Commission (**ASIC**), the Australian Taxation Office (**ATO**), etc. The ACNC was created following extensive inquiries and sector consultation over fifteen years, including six parliamentary inquiries (under both Coalition and Labor Governments). Those inquiries recognised the inefficiencies of multiple layers of regulation, concluded that the ATO should *not* be the de facto regulator for the Not-for-Profit (**NFP**) sector and recommended a dedicated and independent 'one stop shop' regulator.

From SCA's perspective, the ACNC has not added a substantial regulatory burden to our financial reporting requirements. In fact, the ACNC is effectively working towards making life easier for the NFP sector. If the work of the ACNC progresses it will significantly reduce red tape and improve transparency and data collection for the NFP sector.

SCA supports the powers and functions of the ACNC, and we are of the view that the ACNC is working effectively. ***SCA strongly recommends that the ACNC be retained.***

In addition, SCA is a member of the Community Council for Australia and endorses the matters raised in its submission.

Priorities for reduction of red tape and promotion of effectiveness

Whether the ACNC is retained or alternative arrangements are put in place, SCA highlights the following priority areas to be maintained or progressed in order to reduce red tape and duplication and promote the effectiveness of the NFP sector:

- ***Central register for NFPs and charities*** - This should be maintained as a free and searchable public register so that anyone can look up information about registered charities.
- ***Provision of advice to charities and NFPs*** – Ensure that information, guidance and other support regarding NFP regulatory obligations and compliance is easily accessible and available.
- ***Charity passport*** – Continue the work being undertaken with state and territory governments (as well as government agencies) to develop a 'report-once, use-often' reporting framework for charities. This is the 'charity passport' that will provide a central electronic repository to share and use information collected from registered charities, including: Annual Information Statements (including financial reports for medium and large charities) updates such as new contact details or changes to an NFPs governing rules. Once the charity passport is in place, charities will report once to the relevant body and then other authorised government agencies will access that information from the central electronic source.
- ***Harmonisation of state and territory fundraising laws*** – Progress work towards harmonisation of state and territory fundraising laws. Each state requires different forms to be completed, to different deadlines, with no single application form for accessing concessions (e.g. stamp duty etc.). It costs SCA the equivalent of two weeks of time for a senior member of the finance team, and our senior counsel, to comply with the 8 different sets of regulations.

- **Co-ordination between agencies** – Take steps to ensure greater co-ordination between the multiple agencies and/or multiple jurisdictions involved in one community. It takes SCA, on average, approximately a week to complete each report for the different levels of funding, via different agencies, every six months. That is time and cost taken away from delivering the project. DSS has flagged that it is going to streamline its own reporting i.e. one report for all activities. It should be done across all Commonwealth and state/territory agencies.
- **Improving contracting practices** – Continue work towards streamlining of funding arrangements including use of simpler low-risk grant agreements.

Current funding arrangements remain costly to both the NFP sector and Government yet do not address long-term problems or provide suitable evidence upon which to base future policy decisions. It is hard to get data, but SCA alone recently invested around 1,000 hours of staff time in responding to DSS tenders and we understand that up to 6,000 applications may have been received by the Department. This is an incredible investment by the NFP sector and it is not at all clear how DSS will be able to effectively judge the quality of applications. For example, SCA included the cost of monitoring and analysis of results in its applications, adding between 1% and 5% to the cost – we know that robust monitoring and evaluation is critical to ensure quality outcomes but will we be at a disadvantage to ‘low cost’ applications?

SCA recommends the introduction of a **pre-qualification database** of information submitted by providers for Commonwealth tenders. Currently, each tender asks us for the same info (e.g. financials, governance structure). A centralised pre-qualification process would enable an NFP to be registered in the system with all the standard information provided in advance. Each agency could access that information and, when a tender came out, all the NFP would need to provide would be the information to specifically address the tender. This is a standard private sector practice. It speeds up tender processes, including assessment and greatly cuts down on paperwork.

Engaging in public policy discussion is a cost effective way for NFPs to seek to contribute to solutions to social problems. Many of the most effective NFPs undertake both service delivery and public policy related activities which include awareness raising and education. The introduction of the Freedom to Advocate Act (2013) (FAA) to prohibit the use of gag clauses in grant agreements with the NFP sector is an example of an initiative introduced to help preserve the space for NFPs to engage in public policy discussion. SCA has on multiple occasions needed to remind Commonwealth Departments that clauses in grant agreements purporting to restrict or prevent SCA from legitimate public comment are void under the FAA. It would assist the efficiency in concluding the terms of grant agreements if NFPs were not placed in position where they needed to effectively ‘re-negotiate’ rights already protected under Commonwealth legislation. SCA recommends that steps are taken to ensure that staff in Commonwealth Departments involved in contract preparation are aware of the requirements of the FAA.

- **Reducing the number of one-year grant agreements** - Issues that most grant programs aim to address are long-term entrenched problems. However, funding which is provided to NFP organisations to deliver services that address these problems is often provided through short-term rolling grants, even though a large number of organisations that currently receive funding to deliver these programs have been doing so for many years.

It is not uncommon for organisations to be given less than one month notice as to whether funding will be extended. On the other hand, organisations are required to give up to three months’ notice to staff to terminate their employment. This creates uncertainty within the NFP workforce resulting in staff moving to find more secure employment. As many of the programs that these organisations are funded through are ongoing programs, there should be no need for this delay. The primary reason for delays in notifying the organisations if the funding will be extended is a breakdown in processes. That is, either a delay in the advice from the departments to the Minister, or a delay in the decision and/or announcement by the Minister.

- **Centralised National Working with Children Checks** - This is on the agenda of the new Law, Crime and Community Safety Council run by the Attorneys-General and Ministers for Police. It costs \$110 for Victoria and \$80 for NSW. For an organisation with several workers who need multijurisdictional checks, this can become substantial. There should be one central check.