



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.

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Personal Submission: *The opinions expressed are the personal views of the author.*

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Response to Options Paper:

Charities rightly command overwhelming support from the general public. Many depend almost entirely on donations and volunteers from the community. Governments provide tax concessions to charities that recognise their unique role in society. The thing that distinguishes charities from other bodies is that they are established and run for the benefit of the public. The public have a legitimate desire to find out information about charities, to be able to check an organisation's bona fides and to see that it is effectively regulated.

The establishment and maintenance of a free public register of charities by the Australian Charities and Not-for-profits Commission (ACNC) through mandatory reporting is one of its most significant achievements.

Transparency and Accountability

In his paper "*An Examination of Tax Deductible Donations Made By Individual Australian Taxpayers in 2011 – 12*", Professor Myles McGregor-Lowndes of the Australian Centre for Philanthropy and Nonprofit Studies, QUT, found that in 2011-12, **4.54 million Australian taxpayers (or 35.62% of the Australian taxpaying population)** made and claimed tax-deductible donations. The total amount donated and claimed as tax-deductible donations in 2011-12 was **\$2.24 billion**.

The recent release of information by ABS '*Non-Profit Institutions Satellite Account 2012-13*' confirms the considerable economic significance of the NFP sector, with NFP institutions having contributed close to \$55 billion to Australia's economy in 2012-13, an increase of \$22 billion on 2006-07. NFP institutions received income of \$107.5 billion and employed just over one million people during 2012-13. In 2012 -2013, **Governments contributed a combined total of some \$40.9 billion to NFP institutions**. This means charities are managing a significant amount of public money on behalf of the community. It is therefore surprising anyone questions the need for scrutiny and transparency. Public funding should require accountability and also protect public trust and confidence in charities.

The Charities Register

Prior to the establishment of the ACNC there was no national register of charities in Australia. ASIC had information, for a fee, on some 6,000 charities that are companies limited by guarantee. Some states such as Victoria had online lists of incorporated associations but many did not. Information on trusts and unincorporated charities was often impossible to find.

The ACNC's free public Charities Register is a searchable database that contains the names of over 60,000 registered charities in Australia, and includes details of their activities, areas of operation, location and size of the organisation, making available a reliable source of information about the sector for the very first time. In addition, some 42,000 charities have lodged their first Annual Information Statement. This is the first time the public will have free access to financial information, governing documents and responsible person details of registered charities, in one register, in a searchable format.

By the mandatory provision of information to the ACNC for this public register, charities are effectively providing information to the community, to their funders, to potential funders and supporters, to their members and to the people they help. The register is designed to enable the public to find charities that they can support with confidence.

Internationally, Canada, UK and USA have required the mandatory provision of information by charities for public registers for decades. New Zealand introduced similar mandatory reporting under their Charities Act 2005. Singapore introduced a similar register in 2006 and Ireland is establishing its register later this year.

In 2008 the Senate Standing Committee on Economics "*Inquiry into Disclosure Regimes for Charities and Not for Profit Organisations*" was sparked by a CHOICE Magazine article on concern about the lack of information on how donations are used. In 2010, a national register was a key recommendation in the Productivity Commission Report "*Contribution of the Not for Profit Sector*". In 2013, the ACNC commissioned an independent research body ChantLink to survey the public's views about charities. This survey found that 77% of participants believed a public register of charities to be "very important".

Self-reporting and Self-regulation

Self-reporting or voluntary reporting, as proposed in the Options Paper, will not, by definition, achieve the objective of accountability for tax concessions, as those charities that want to hide from accountability will simply choose not to report. As a result it is not possible for a self-reporting or voluntary regime to sustain public trust and confidence in charities, nor will any charity 'shams' or other wrongdoing be picked up, as it will under a mandatory regime. The voluntary provision of data cannot deliver comprehensive sector-wide oversight. Without an element of mandatory reporting you cannot have an accurate register - rather you have a partial list that goes out of date quickly.

Decentralised reporting does not provide a quick easy consolidated way for the public to access information on charities. The proposal that charities will be required to maintain a publicly accessible website that features required information will place an additional burden on small charities. One of the benefits of a centralised register is a free public presence for the significant number of small charities that do not have the resources to maintain a website. ACNC information on estimates (as providing a website to ACNC for the Charity Register is voluntary) of small and medium charities with websites reveal the following:

| Charities on ACNC's Charity Register | No. on Register | No. on Register with Website | % on Register with Website |
|--------------------------------------|-----------------|------------------------------|----------------------------|
| 'Small' Charities | 28,430 | 1,824 | 6.4% |
| 'Medium' Charities | 6,479 | 734 | 11.3% |
| Total 'Small' & 'Medium' Charities | 34,909 | 2,558 | 7.3% |

Research

The Charities Register also has an important role to play in the provision of information and data, critical to the development of good social policy. New search technology is allowing a more creative use of comparative information. Using this data for predictive purposes will assist measurement, evaluation and a greater understanding of social impact. Illuminating trends, gaps, and innovation will encourage all parts of civil society and government to build on each other's ideas, facilitating learning and collaboration, to increase impact for the benefit of the community.

Information about the sector can inform policy development and government decision-making especially in areas such as funding and service delivery. In particular, geographic mapping using sophisticated data visualisation tools will help facilitate gap analysis as "place" becomes increasingly recognised as a critical element in addressing many social problems, while heat maps can be used to identify areas of unmet need.

Watchdog for the Sector

For the ACNC acting in the public's interest ensures that: charities know what they have to do; the public know what charities do; and charities are held to account.

The Charity Register is becoming a key focal point for members of the public with a concern about a charity. Visits to the Register are increasing with total visits to the register reaching more than 436,000 by early August 2014. Enhanced register searches and responsible person searches increased nearly 300% in the fourth quarter of the 2013-2014 year over the third quarter. This excellent free community database has increased transparency of the sector and is proving to be a valuable resource for the independent watchdog for the sector, the ACNC.

While the overwhelming majority of registered Australian charities are honest, professional and deserve public support, the ACNC has dealt with more than 900 complaints in the last 18 months, with 216 concerns raised in the fourth quarter of 2013-2014. The ACNC has revealed that from their high priority compliance cases, just over the last four months, the assets of those charities totalled in excess of \$68 million. This has included protecting monies from going offshore. The potential loss of assets to the sector, and damage to public's trust and confidence in charities, is significant if assets of this value are at risk. In addition, just in the last few months, the ACNC was made aware of several for-profit companies imitating charities to solicit donations from the public. With names similar to the names of well-known charities, these organisations may sound and behave like charities, but in fact they are not registered charities and they may not have state fundraising licences. The ACNC has partnered with leading charities to publicise these unethical practices.

Retaining the free public ACNC Charities Register is critical:

- It assists the general public, funders and other users to make better informed decisions about charities they may wish to support financially, volunteer for, or whose services they may wish to use.
- It is an important data resource for use in the development of sound public policy
- As a central database it provides an opportunity to significantly reduce duplication and red-tape
- It is a critical resource supporting the ACNC regulatory and 'watchdog' activities.