



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.

Name (first and surname): Roland Manderson

If submitting on behalf of a company or organisation

Name of organisation: Anglicare Australia

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

State/Territory: Australia

Contact email address: roland.manderson@anglicare.asn.au

Response to Australia's Charities and Not-for-profits Options Paper

Anglicare Australia has provided brief comments in response to the specific questions regarding the proposed arrangements replacing the Australian Charities and Not-for-profits Commission (ACNC) below. (Two pages, as requested.) As the Department would be well aware, Anglicare Australia along with many not-for-profit organisations sees a real value in the functions currently carried out by the ACNC, and believes the opportunities for increased efficiency, transparency and insight which would be lost in its abolition are substantial if not replaced.

1. Proposed New Reporting Arrangements

- **Do you believe that these proposed requirements will be less time consuming than current requirements?**
- **What changes would your organisation need to make to meet the new requirements?**
- **Do you foresee any impediments to charities complying with these requirements?**
- **Do you believe these requirements will provide transparency? If not, what changes would you make?**

Questions regarding the burden of compliance that would come with the government's proposed approach will affect the various organisations to varying degrees. In itself, the shift away from the ACNC to this proposed form of self-reporting will not advantage the Anglicare Australia network, may create more work for some members. And, of course, change of this scale makes work in itself. Furthermore, the loss of functionality that comes with the abandonment of the Charities Register and the Charity Passport as it evolves will be detrimental.

The potential for increased efficiency and stronger relationships with government that was captured by aspects of the ACNC's responsibilities was significant, and Anglicare Australia urges government to find some (other) way to pursue the simplification and efficacy (as captured by the Charity passport) which underpins that approach.

In the interest of reasonable transparency, Anglicare Australia points to the advantages of a publicly accessible list of all charities and other not for profit organisations with Deductible Gift Recipient (DGR) status, with links to their websites. The notion of accountability, which drives the self-reporting regime, is undone if the reporting organisations are not known or discoverable to the public.

Another key advantage to such a list would be that the regulator could easily contact the charities to remind them of reporting requirements. That would be particularly helpful to smaller organisations that are in receipt of some government funds but lack the administrative infrastructure that is par for the course among businesses and larger service providers.

The proposed requirement for relevant organisations to make public all government funding they receive may be an increased burden for some organisations, although – depending on format – a reasonable one. Similarly, given donations to organisations with DGR status is a sacrifice of government revenue, it would make sense to require the public reporting of total donations too.

There is a risk too that by assuming public reporting in one sphere equates with public reporting in another much of that transparency will be lost. ASIC for example requires the payment of a fee to access relevant information, while reports to government departments can prove to be quite inaccessible in effect. Anglicare Australia suggests that organisations which are publically accountable to other bodies be also required to make those same reports available on their websites.

Finally it would be reassuring if the Commonwealth Government retained ownership of the "report once and use often" project, ensuring that it was picked up across all Commonwealth departments in the first instance, and at the very least remained accessible to agencies of other levels of government.

2 Determining Charitable and DGR status

Which of these options do you believe best guarantees the independence of the decision making process?

Independence would best be guaranteed by ensuring that the decision, IN THE FIRST INSTANCE, is made by a body that is not a part of the Australian Tax Office.

Thereafter, an independent panel, as described at Option One, might be the better process to resolve matters when an applicant objects to a decision on status.

Are there any other considerations that should be taken into account when these functions are undertaken?

The existing statutory definition of charity, the Charities Act, offers some clarity and hence assistance in this decision making process.

3 Proportionate Compliance Framework

Are there any reasons why this approach may not work?

The proposed approach will make compliance more difficult to ascertain. A simple register allows for consistent compliance requirements and transparency. Proportionate compliance requirements, however, are supported.

There is an administrative burden for organisations that are registered, or which operate, in a number of jurisdictions which the ACNC – through its brief and program – was addressing. Unfortunately, the approach of this options paper will entrench the unhelpful complexity which comes with multi-jurisdictional arrangements.

Do you foresee any risks in this approach?

The legislation which set up the ACNC plays particular regard to the diversity of the Not-for-Profit sector, and the value of advocacy as a charitable purpose. The proposed new arrangements are one sided and give the ATO enormous power in ensuring an organisation is pursuing its purposes, without providing the protections captured in the ACNC Act and regulations.

The other risk is a wider one. The proposed arrangements are a large step away from the collection of data that when aggregated will provide valuable insight into the services, needs and trends within our society, and provide the ground for evidence-based policy.

We need to understand the impact of the continual public investment we make in community services through both tax concessions and direct government funding. The ACNC was putting in place a fairly simple process to ensure we gathered the most useful data. That was both an efficient and far sighted approach. In its absence, setting a common format for all reporting to government agencies would at least allow for collection of information, and useful analysis over time.

4 Transitional Arrangements

What other transitional arrangements might be required?

Anglicare Australia has no specific comments to this section. Please see answer to questions above which indicate the retention of some aspects of the current approach to transparency, compliance requirements and information management which, if adopted, may have some impact on transition.

END