



# 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):** Steve Davidson

If submitting on behalf of a company or organisation

**Name of organisation:** N/A

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

**State/Territory:** NSW

**Contact email address:**

### **Response to Options Paper:**

I am an arts administrator and have worked in the not for profit sector for 20 years. I am the Corporate Services Manager for Australian Chamber Orchestra and am also on the boards of The Song Company and Aurora New Music Inc. I am aware of the responses to the options paper that have been made by Australian Major Performing Arts Group and Australian Chamber Orchestra and am fully supportive of their submissions. This submission is made on my own account and the views expressed are my own and are not necessarily shared by the organisations with which I am involved.

In my view, the best outcome for both the charity sector and for government would be to have a separate, independent regulatory and sector support agency such as the ACNC to oversight the charities sector. The sector is a very significant contributor to the economy and national employment, providing social, community, cultural and health services - generally services that the government is unable or unwilling to provide; at the very least, there should be recognition that their service delivery reduces the burden on government. Hence, the organisations providing them should be exempt from tax and permitted to raise tax deductible donations from the public.

I agree with the idea of a "rebuttable presumption of virtue", but I don't agree with how this is interpreted in the options paper. What it should mean is that organisations applying for charitable status should have it automatically granted along with DGR and tax exempt status, and the ATO should have the right to appeal to an independent review panel if they believe they have enough evidence that the organisation is not a bona fide charity. I recognise that this turns the "rebuttable presumption" premise on its head and is unlikely to ever come about.

I believe that there should be a new form of incorporated organisation for charities. Currently, charitable organisations have to adopt one of the incorporation forms available under the corporations legislation or register under the state based associations' legislation as an incorporated or unincorporated association. This hodge-podge means that some charities are incorporated as companies limited by guarantee, which are complex and expensive to administer, some are unlisted public companies, and some are proprietary companies; yet others are incorporated associations. The general public who make contributions to these organisations don't necessarily know what type of organisation they are donating to. Surely the best solution would be to legislate for a new form of charitable incorporated organisation registered under charities legislation and administered by the charities regulator. I recognise that this is also most likely a "step too far" and unlikely ever to occur.

The government is trying to pretend that the ACNC has added to the compliance burden of charities. This is not correct. Most of my colleagues agree that the best outcome for charities in future would be to retain and build on the ACNC as a central regulator and to work to reduce the compliance burden on charities by progressively moving all other commonwealth and state government charity functions to within this agency, either by the states ceding their powers to the commonwealth (as was done with corporations law), or through uniform regulation (as with WHS laws).

I do not accept that the current government has a mandate to abolish the ACNC. I doubt whether 1 liberal voter in 10 has any idea what ACNC is, much less any idea that it's abolition was part of the election manifesto.