



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:

Anne Hampshire, Head of Research and Advocacy, on behalf of The Smith Family, a national charity and not-for-profit organisation providing long-term support to children and young people in need to stay engaged in education. The Smith Family's national office is in Sydney, NSW. Contact email address: Anne.Hampshire@thesmithfamily.com.au

Response to Options Paper:

The Smith Family, like many other non-government organisations, has been actively involved in a range of consultation processes regarding sector reform over a number of years. Through these processes, The Smith Family has consistently advocated for a small number of key principles:

1. Transparency and public accountability.
2. Certainty, consistency and workable compliance regimes.
3. Maximising the contribution of the charities and not-for-profit sector to the community.
4. The clear separation of the roles of determiner of charitable status and collector of government revenue.

We believe these principles should continue to underpin sector developments and reform, in the interests of: the individuals, families and communities the sector is established to support; current and potential donors/funders of the sector, including government; and the sector itself.

Determining charitable status

We recognise that the Government has been consistent in indicating its intention to repeal the ACNC Bill and are cognisant that this would result in the need to identify an agency to determine charitable status. We note that the Options Paper indicates the Government intends returning this function to the Australian Taxation Office (ATO) and that there are two suggestions for 'ensuring independence in the decision making process'. The Smith Family continues to hold the view, that it is problematic for the ATO to be both a determiner of charitable status and collector of government revenue, and that this is not in the best interests of transparency and public accountability. The two options proposed appear to be part of an 'appeal' process which would necessitate more time and resources on the part of all involved, rather than achieving the goal of building independence into the determination decision. This is likely to add another layer of red tape. Of the two options proposed, an 'independent panel' is likely to be preferable, but its effectiveness and suitability will in part depend on the 'terms of reference' of the panel and the level of authority that it would have. Understandably, these have not yet been developed.

Reporting arrangements and a loss of a clearinghouse function

The proposed requirement for organisations to provide information via a publicly accessible website is not onerous. However, it comes at the expense of the public clearinghouse function that has recently been implemented through the Australian Charities and Not-for-profits Commission. The Smith Family believes a clearinghouse function can very positively contribute both to increased transparency and accountability, as well as maximising the contribution the sector can make to the community. The anticipated loss of the clearinghouse function will mean there is no one-stop shop which is accessible to current and potential donors/funders interested in supporting the sector, nor can sector organisations get easy visibility of other organisations operating in their area (either in the same geographical area or having a similar purpose). This loss shifts the onus back onto donors to search for information on organisations they might support. Without a database function, this approach is unquestionably less robust and comprehensive than a clearinghouse. It also disadvantages organisations which are less well known and does not help to address the duplication of services which at times negatively impacts on the efficiency and effectiveness of the sector. It also means that the opportunity to easily aggregate a range of data from the sector is lost. At a time when web-based one-stop shops are being increasingly used to streamline information dissemination and promote user engagement, and there is a stronger interest in data on the sector, the loss of this clearinghouse function would be very regrettable. The Smith Family urges the Commonwealth to consider how this function can be provided.

Public capacity to raise concerns re charities and NFPs

The Smith Family notes the proposed Compliance Framework identified in the Options Paper but is unclear what the proposed pathway is for members of the public wanting to raise concerns regarding charities and NFPs. We see identifying a process which is simple to use and access and well understood by the public, as an important part of ensuring trust and confidence in the sector.

Reducing red tape – harmonising fundraising requirements across jurisdictions

The Smith Family acknowledges the Commonwealth's strong focus on reducing red tape. We have particularly welcomed for example, the introduction of five year funding grants to initiatives such as *Communities for Children*, given it brings with it a range of benefits including reducing red tape.

As a national organisation operating in all states and territories, one of the areas where we would welcome efforts to reduce red tape is eliminating the need to separately register as a fund-raising organisation in all states and the ACT. The Smith Family notes that there have been positive steps recently taken by two jurisdictions to harmonise reporting with the Commonwealth and as a consequence reduce red tape and the compliance burden faced by charities. The Smith Family very much hopes that this momentum will not be lost under the new arrangements that the Commonwealth is proposing. To the contrary, The Smith Family would strongly urge the Commonwealth to move forward on working with all states and territories to harmonise fundraising registration and reporting requirements, as part of its clear policy of reducing red tape. This would be a significant benefit to the many charities and not-for-profits which operate in more than one jurisdiction.