Disclosure regimes for not for profit bodies

Catholic Health Australia

29 August 2008

Table of Contents

For further details contact:

Martin Laverty
Chief Executive Officer
Catholic Health Australia
Address: Level 1, Rowland House, 10 Thesiger Court, Deakin, ACT, 2600
Email: martinl@cha.org.au
Phone: 02 6260 5980
Website: www.cha.org.au

Executive Summary

Existing reporting and disclosure regimes for not for profit bodies in Australia do not at present provide an informed understanding of the real value of the contribution made to the Australian community by not for profit bodies.

The Catholic Church in Australia operates 550 aged care services, 54 private hospitals, and 21 public hospitals. When combined, these services make up about 13% of the total health and aged care community within Australia. The Catholic Church is in fact the largest provider of health and aged care services outside of government, yet current reporting and disclosure regimes do not result in an informed understanding of the real value of the contribution made to the Australian community by these not for profit health and aged care services.

The Catholic Church's role in health and aged care services is to provide care to any person in need. The Church believes that a person may be at their most vulnerable when they become sick or face the natural but challenging stages of ageing. In response, the Catholic Church in Australia has for more than 175 years provided services to the sick and the frail to care for those in need, regardless of their role or place in secular society. In particular, health and aged services have an express purpose of meeting the needs of those living in socioeconomic disadvantage.

All Catholic health and aged care services are operated as not for profit bodies. Where surpluses in operations are achieved, these surpluses are reinvested in service operations, capital expenditure within services, or applied to social outreach to offer health and aged care services not otherwise funded by government. Church owned services certainly benefit from Commonwealth, State, and Territory Government grants and operational subsides, but similarly the not for profit nature of Catholic health and aged care services results in additional monetary and non-monetary contributions being made to the care of Australians from Church and donated funds or *pro bono* work contributions of volunteers and religious members. The short comings of current reporting and disclosure regimes mean that these voluntary financial and *pro bono* contributions in health and aged care are not consistently reported because of the absence of a commonly accepted standard to recognize community contribution.

Catholic Health Australia is the peak representative body for Catholic health and aged care operators in Australia. The members of Catholic Health Australia do one of two things – operate not for profit hospitals or aged care services. Despite these two clear purposes of the members of Catholic Health Australia, there are a multitude of methods by which Catholic Health Australia members voluntarily or compulsorily disclose or report their activities.

Nearly all Catholic health and aged services are governed as companies limited by guarantee or associations operated in compliance with differing jurisdictional requirements. This framework of reporting is inconsistent across the nation, and does not result in useful community understanding of the true contribution of the not for profit sector in health and aged care.

Understanding the actual governance structures of Church services is complex. Many services have evolved over decades, and in some cases, centuries. Many remain owned by members of religious orders, while others have adopted more secular ownership structures. Common to all is their commitment to the principles of Catholic social teachings demonstrated through a focus on the common good, distributive justice, and a preferential option for the poor. Catholic Health Australia recommends that these three principles of the common good, distributive justice, and a preferential option for the poor are the basis of most charitable and not for profit purpose in Australia, and should be principles to drive reporting and disclosure reform.

There is a case for the streamlining of reporting and disclosure for not for profit bodies in Australia. Yet reform for reform's sake should not be undertaken - reform should only be pursued when the not for profit sector agrees on the benefits of reform. An understanding of the true contribution made to community by not for profit bodies would be a benefit many would rally behind.

The not for profit sector is not homogenous. Reform of reporting or disclosure must address its inherent differences. Reform should also respond to the shift of for profit entities into services that were the traditional domain of the not for profit sector, particularly in private health and aged care services. Not for profit bodies acting in the common good deserve continuing special treatment in comparison to for profit bodies who return surpluses to shareholders instead of the common good.

The key recommendations of Catholic Health Australia to this Inquiry are:

1) That a contemporary review of the 27 recommendations of the report of the 2001 Senate Inquiry into the definition of charities be undertaken with a view to their implementation;
2) That existing reporting of not for profit bodies be consolidated into a single nationally consistent framework;
3) That the new national reporting framework be underpinned by a sector endorsed accounting standard designed to cater to the differing needs of not for profit bodies, and able to be used in reporting to government on acquittal of government grants and subsidies;
4) That the new national reporting framework include a sector endorsed standard able to quantify community benefit of not for profit activities;
5) That reform result in no burden on not for profit bodies, with the Commonwealth making available funding incentives to enable all not for profit bodies to participate in a new reporting framework;
6) That existing special treatment of not for profit bodies continue in acknowledgment of their contribution to the common good.

Catholic Health Australia welcomes the opportunity to contribute to the work of the Inquiry. At the time of making this submission, Catholic Health Australia is investigating the use of community benefit assessment frameworks in use in

health care systems in the United States. Catholic Health Australia is willing to provide further evidence on community benefit assessment or any other item raised in this submission to assist the work of this Inquiry.

The Role of the Catholic Church in health and aged care

Catholic Health Australia is a national peak membership organisation representing Catholic health and aged care providers who are deeply committed to the healing ministry of Jesus Christ.

Catholic providers comprise the largest non-government grouping of health and aged care services in Australia. Within the CHA membership there are service providers who manage:

- 9,500 beds across 21 public and 54 private health care facilities;
- 550 aged care services comprising 19,000 residential aged care beds, 6,000 retirement units, and 14,000 aged care or community care packages.

It is important to note that these services, which represent more than 13% of health and aged care services in Australia, are operated by different bodies of the Catholic Church. Some are operated by religious congregations, others by Trustees on behalf of various Church bodies such as Parishes or Dioceses, and others are associations or companies established by Catholic lay people. It is not possible to look at the Catholic health and aged care sector and see it as one group owned by one body.

The key purposes of CHA as the peak membership body for each of these entities is to:

- Take a leadership role in supporting and strengthening its membership to develop individually and collaboratively to ensure the healing ministry flourishes as an integral part of the mission of the Catholic Church in Australia;
- Promote a just system of health and aged care delivery that has at its heart an imperative for those who are poor and marginalized;
- Provide a unified public voice for the members on matters of common interest;
- Facilitate a focus on continuing the role of Catholic social teaching in health and aged care facilities by fostering development of Catholic identity.

Each Catholic health and aged care body to some extent rely on public funding to carry out its work, by way of donated income or direct government funding. It is important to note in many instances, these Catholic bodies operate health or aged care services on behalf of governments often with insufficient government financing. In these cases, Catholic health and aged care services effectively subsidise government in the delivery of health and aged care services by providing capital and operational funding for services that are the proper responsibility of government. Current reporting does not properly capture the extent to which government underfunds services. Nor does it capture the community benefit provided by the operation of these health and aged care services.

Current disclosure and reporting requirements in health and aged care

Catholic Health Australia consulted with its member health care and aged care operators to gather evidence for this Inquiry on the range of reporting requirements that non-government providers of health and aged care are currently required to meet. There are four key methods in which Catholic health and aged care bodies are currently required to report their activities.

1) Company or association reporting

Nearly all of the 21 public hospitals, 54 private hospitals, and 550 aged care services operated as not for profit bodies by Catholic organisations in Australia fall into one of two categories. They are either a company limited by guarantee or an incorporated association. As such, these health and aged care services report on their activities in compliance with existing company or association law. Most members express a satisfaction with these current arrangements, and any reform or change of these arrangements would need to be driven by an incentive or reason to do so.

2) Public funding reporting

In addition, public health services have reporting obligations on their management of State and Territory funding to State and Territory Governments. Activity in private hospitals is reported to and publicly accessible through the Private Health Insurance Administration Council. Accountability for expenditure of Commonwealth funds in aged care is also required by the Commonwealth. This reporting is burdensome, particularly when reporting for chartable operations is required by different government departments or different governments.

3) Standards and safety reporting

All hospitals and aged care facilities are required to meet safety and quality accreditation standards. These standards are monitored by differing bodies. Compliance with operational standards is mandatory, and breach can result in significant penalties. Additionally, differing bodies oversee consumer complaints about both public and private health care services. Finally, Ministers of Health and Aged Care exercise political power over health and aged care facilities. Each of these differing standards, regulatory, and political layers of oversight demonstrate health and aged care services are subject to substantial reporting and monitoring requirements over and above other charitable bodies.

4) Catholic Social Teachings

> As bodies of the Catholic Church, differing processes of governance are relied on to oversee the provision of health and aged care services in compliance with principles of Catholic Social Teaching. Boards of Trustees, Boards of Directors, Committees of Governance, Public Juridic Persons and informal oversight by members religious orders, Priests, and Bishops occurs within health and aged care services. These layers of *pro bono* governance are important instruments in ensuring services are operated effectively and meeting requirements of Catholic Social Teachings.

Despite these four methods of reporting and disclosure, there is no commonly agreed standard by which community contribution or benefit is able to be reported to the Australian public.

A Catholic Health Australia survey of its membership was undertaken to gather a series of illustrations of current reporting requirements. To assist the Inquiry in understanding the operation and scale of Catholic health and aged care services and their reporting obligations, examples of these illustrations are provided below.

Illustration One	
Catholic Health Care - Hawkesbury District Health Service	
What and where is the service	Hawkesbury District Health Service (HDHS) is a 127-bed private hospital that provides public health services on behalf of the Sydney West Area Health Service.
How many people does the service help, and in what different ways	In 2007 there were 9,972 admissions, 37,689 patient bed days, 4,989 operations, 861 births, 26,242 emergency and after hours GP attendances and 42,821 community & allied health occasions of service.
Who owns the service, and what is its scale	The founding sponsors were the Sisters of Charity, the Sisters of St Joseph, the Sisters of Mercy (Singleton), the Little Company of Mary, the St John of God Sisters and the St John of God Brothers. It is today owned and managed by Catholic Health Care - a not-for-profit provider of aged, community and healthcare services in New South Wales and south-east Queensland, which was founded in 1994.
What type of structure does the service have	A three-tiered governance and management structure comprising 16 member organisations and their representatives, trustees and a board of independent directors. It is ultimately owned and governed by a Public Juridic Person (PJP) as Trustee, with three separate bodies corporate. The Hawkesbury District Health Service Limited and Catholic Health Care Limited are governed by the Trustees of Catholic Health Care Services (NSW/ACT). As a PJP entity, Catholic Healthcare is authorised by the Roman Catholic Church to act in the name of the Church. As a PJP, Catholic Healthcare has the equivalent standing of a religious congregation, Parish or Diocese.
What is the benefit to the community in services provided	In addition to hospital services the HDHS offers: Dental services; Physiotherapy; Occupational therapy; Podiatry; Hearing clinic; Speech therapy; Aged care assessment; Community nursing services; Women's health services; Family and child health

	services; Counselling services and Mental health services.
What reporting obligations does it currently have	It reports to NSW Health comprising of both monthly and annual financial reporting to the Area Health service in NSW. Some programs run by the public hospitals require specific reporting around them; some activities conducted by the Hospital are funded by non State Government sources and have financial and other reporting requirements eg NHMRC grants. The three bodies corporate are companies limited by guarantee and report to the Australian Securities and Investment Commission.

Illustration Two	
Southern Cross Care Tasmania	
What and where is the service	A Tasmanian Aged Care provider covering the South, North and North West of Tasmania. It commenced operating in Tasmania in 1973.
How many people does the service help, and in what different ways	Southern Cross Care (Tas) Inc provides care, accommodation and support for more than 1,500 Tasmanians; operates 7 residential aged care facilities and 9 retirement villages. It also operates in excess of 300 Department of Veteran's Affairs packages, an in-home Diversional Therapy Services Program and Dementia respite Program. It is also an RTO with 2 campuses.
Who owns the service, and what is its scale	Southern Cross Care was founded and sponsored by the Knights of the Southern Cross in 1970 and is incorporated under the Association Incorporation Act 1964 (Tasmania).
What type of structure does the service have	It is an incorporated entity with its governance through a Board comprising Directors, the majority of whom are members of the Knights of the Southern Cross.
What is the benefit to the community in services provided	Provision of excellent standards of care and support for residents and clients. Has also become one of Tasmania's largest and most successful businesses.
What reporting obligations does it currently have	Produces financial statements and an independent audit report to the members of the Southern Cross Care (Tas) Inc Group and its controlled entities. The Department of Health and Ageing receives general purpose financial statements, Prudential Compliance statements and specific reporting for Accommodation Bonds/ pre 1997 entry contributions under the Aged Care Act. Residents and prospective residents are also entitled to this information. Retirement villages whilst governed by State legislation also require provision of financial statements to the appropriate Department and residents.

Illustration three	
St John Of God	
What and where is the service	Provider of health and community services, with hospitals, pathology and outreach services throughout Australia and in Christchurch, New Zealand. St John of God Health Care has 14 hospitals (with 2,051 beds) in Western Australia, Victoria, New South Wales, and in Christchurch; St John of God Murdoch Community Hospice, in Western Australia; Pathology services in Western Australia and Victoria; St John of God Accord, a major disability support service in Victoria; and a wide range of Social

	Outreach and Advocacy services in Australia, Christchurch and the wider Asia-Pacific region.
How many people does the service help, and in what different ways	The hospitals treat more than 162,500 inpatients and day cases per year, delivered over 8,300 babies in 2006/07 and undertook 1.6 million pathology episodes in 2006/07
Who owns the service, and what is its scale	The Sisters of St John of God established the service, in 1895.
What type of structure does the service have	St John of God Health Care Inc is a wholly owned and controlled entity of St John of God Australia Ltd. St John of God Australia Ltd has the status of being a civil and canon law entity and was established in 2004 to become the sponsor of the ministry until then run solely by the Sisters of St John of God. The Sisters of St John of God remain members of St John of God Australia Ltd, but now share sponsorship of the ministry with various Bishops in whose Dioceses St John of God Health Care Inc operates. St John of God Health Care Inc has a two-tiered system of governance which reflects its role as a Ministry of the Catholic Church. The nine Trustees of St John of God Health Care Inc are non-executive and are appointed by the members of St John of God Australia Ltd to provide a level of governance that has a particular focus on ensuring the fidelity of the group to its underlying Mission and its role as part of the Catholic Church. The Trustees, in turn, appoint St John of God Health Care Inc's Board members who come from diverse backgrounds and who provide direction and guidance to management, oversee the group's performance, ensure adequate internal controls and ensure achievement of Board objectives.
What is the benefit to the community in services provided	Community benefit is broad. For example in 2006/07 SJOG committed $15.25 million to Social Outreach and Advocacy programs targeting poor health and disadvantage within local, national and international communities.
What reporting obligations does it currently have.	Internal Audit & Compliance Committee oversees integrity and quality of financial information, oversees scope and quality of internal and external audit functions and monitors compliance with statutory responsibilities. Grants maybe provided for specific purposes that have acquittal requirements. Donations may be provided for specific purposes, and the donors may require financial reporting as a condition of the donation.

Illustration 4	
Cabrini Health	
What and where is the service	Cabrini Health, located in Victoria, comprises five sites with over 600 beds - two acute care hospitals, a palliative care service and a residential care facility. Services are provided from five separate sites - Malvern, Prahran, Ashwood, Brighton, and Hawthorn.
How many people does the service help, and in what different ways;	In 2006/07 Cabrini had 20,014 emergency presentations, with 6,659 of these presentations admitted to hospital, there were 52,030 operations performed, 63,521 discharges, 36,622 day cases and 16,610 day oncology patient treatments.
Who owns the	The Missionary Sisters of the Sacred Heart of Jesus arrived in

service, and what is its scale	Australia from Italy in 1948, taking over a small private hospital in Malvern, from the Sisters of Mercy. The Sisters remain the owners.
What type of structure does the service have	Cabrini Health has an incorporated governing board which is responsible for activities in Australia. The Board comprises both sisters and lay people. All Board members serve in a non-remunerated capacity.
What is the benefit to the community in services provided	Apart from providing health services to the community Cabrini offers many social outreach programs, including the Cabrini Employment Integration Programme, which offers work opportunities, nurturing and skill development of the long-term unemployed and disadvantaged in the community. It's outreach program comprises 32 partnerships: 18 local, 4 interstate and 10 overseas.
What reporting obligations does it currently have	Annual financial statements are provided, as part of reporting to the governing board.

Illustration 5	
Aged Care: Tasmanian Archdiocese Mary's Grange	
What and where is the service	Mary's Grange is an aged care service established over 50 years ago. It provides permanent and respite care. Mary's Grange also provides Age Care Packages and Independent Living Units.
How many people does the service help, and in what different ways	Mary's Grange provides 74 high care beds and 29 low care beds. The service also runs 20 CACPs, and 20 independent living units.
Who owns the service, and what is its scale	The service was established in 1958 by the MSC Nuns, and was taken over by the Archdiocese of Hobart.
What type of structure does the service have	Mary's Grange is governed by a voluntary board, the members of which are appointed by the Archbishop, and meets on a monthly basis. It is owned by the Trustees of the Archdiocese of Tasmania, who operate within the confines of the State Property Trust Act.
What is the benefit to the community in services provided;	In addition to residential and community aged care there is the Reachout Program, which is a Health & Fitness Program for over 55's that are living independently in the community. Reachout aims to increase the participation of people over 55 in exercise and health promotion activities. It is designed to enable people who live at home to maintain their independence and enhance their quality of life.
What reporting obligations does it currently have.	There is an AGM held in compliance with its status as an Incorporated Association, and the 'members' attend each AGM (ie the Vicar General, the Arch Bishop, Chairman of the Board and the Finance Manager of the Archdiocese of Hobart) and annual financial statements are prepared for this meeting. In addition the Department of Health and Ageing receives General purpose financial statements, Prudential Compliance statements and specific reporting for Accommodation Bonds/ pre 1997 entry contributions under the Aged Care Act. Residents and prospective residents are also entitled to this information.

These illustrations of the reporting obligations of public and private hospitals and aged care services demonstrate differing methods by which

members of Catholic Health Australia are currently required to report on their activities. Ideally, there would be a single national consistent reporting framework. Additionally, a nationally consistent framework would provide a mechanism by which health and aged care bodies could demonstrate to consumers, governments and the broader community the extent to which they contribute to community over and above the value of their government subsidy.

Principles for strengthened disclosure in health and aged care

The Catholic Church seeks to promote efficiency, effectiveness and justice within the not for profit sector in order to ensure that Australia remains a compassionate society, exercising good stewardship over limited resources. Yet there is a well made case for reform, which was made in the 2001 report of the Senate Inquiry into Charitable bodies, the 27 recommendations of which should be reviewed and where appropriate implemented without further delay.

Most not for profit bodies already achieve efficiency and effectiveness, yet there is need for the simplification of the myriad of regulations governing the not for profit sector. The Catholic Church supports an evaluation and just reform of not for profit regulation to bring transparency in reporting on activities, particularly where those activities receive funding from government or the entity is a deductible gift recipient.

The nature of not for profit bodies is such that reform needs to be undertaken slowly and with respect for the diverse nature of the entire not for profit sector. Yet reform is indeed possible, as demonstrated by the introduction of the Goods and Services Tax.

There exist three principles derived from Catholic social teachings which are proposed to inform the role of governments in reporting and disclosure reform of the not for profit sector. Many in other faith based or secular not for profit bodies would support the sentiment of these principles:

1. **<u>The Common Good</u>:** *"It is the proper function of public authorities to arbitrate, in the name of the common good, between various particular interests; but it should make accessible to each what is needed to lead a truly human life: food, clothing, health, work, education, and culture, suitable information, the right to establish a family and so on."* (Catechism of the Catholic Church (English Translation) 1994. Homebush: St Paul para 1908.)

2. **<u>Distributive Justice</u>:** "*Catholic tradition holds that the goods and the burdens of a community are to be distributed on the basis that not all persons can contribute in the same way*" (Pope Leo XIII, 1891, *Rerum novarum,* "On the condition of the working classes", Encyclical Letter, reprinted 1942, St Pauls Editions). Whilst the value of individual merit is recognised, society's burdens should be distributed equitably with regard to an individual's capacity to contribute. Authorities have a responsibility to ensure the tax system, together with other economic mechanisms available to the Governments, are managed in a way that promotes the common good. This is not a matter of welfare or charity, but of justice.

3. **<u>Preferential option for the poor:</u>** The greater the needs of people, the greater the responsibility of authorities and those with a capacity to meet those needs. "*Consideration of justice and equity can at times*

> *demand those in power to pay more attention to the weaker members of society, since these are at a disadvantage when it comes to defending their own rights and asserting their legitimate interests.*" (Pope John XXIII, 1963, *Pacem in terris,* 'Peace on earth,' Encyclical letter. Homebush: St Paul Publication).

A 1998 Australian Catholic Bishops Conference position paper went on to say:

> "*The efficiency, effectiveness and justice of our taxation system are crucial to ensuring that Australia remains both a competitive and compassionate society… Many suggest, for the benefit and prosperity of the whole community, a simplification of the myriad of regulations governing the Australian tax system. The Bishops support the comprehensive evaluation and just reform of the taxation system.*"

On the issue of the potential to tax the not for profit sector, the position paper said:

> "*Taxing public benevolent and charitable services would change fundamentally the character of the community and the charitable sector. These services would be treated no differently from other consumer goods or services when in effect they contribute to the common good of society. They warrant special treatment. They are essential to the development of both human capital and social cohesion. Tax reform should promote the increased provision of such services to all the community, especially those in disadvantage.*"

The prospect of taxing not for profit sector activities is one that concerns many. Whilst not a term of reference of this Inquiry, many within the not for profit community are aware of debate surrounding the potential to levy tax on not for profit entities. Instead of such action, Catholic Health Australia recommends a focus on helping to improve the efficiency of not for profit bodies and their ability to quantify and demonstrate their community contribution or benefit. Improved understanding of community benefit of not for profits would end the discussion of potential taxation as government and community would better understand the true value of the not for profit sector within Australian communities.

The Catholic Health Association of the United States has commenced the formal assessment of community benefit or contribution of not for profit hospitals. These assessments are allowing not for profit hospitals in the United States to report the value and extent of their activities to the wider public in an industry accepted standard. Their framework gives consideration to contributions in health and aged care such as:

- Organisational governance structures that utilise *pro bono* contributions;
- Health programs that respond to needs that are not funded by government;
- Programs focusing on primary prevention of illness that contribute to future cost savings for government funded health services;

- Use of evidenced based links between community health services and clinical care;
- Innovations in new services;
- Capacity building of communities;
- Responsiveness to community needs;
- The shortfall in government funding for health care.

Catholic Health Australia is investigating not for profit community benefit assessment tools for use within Australia's health and aged care system. At the time of the lodgement of this submission, investigation is ongoing. Catholic Health Australia would welcome the opportunity to provide its further findings on community benefit assessment to the Inquiry by way of oral evidence or a subsequent submission.

Incentives for benevolent bodies to reform

Not for profit bodies in Australia are diverse in structure and purpose. Some have evolved from hundreds of years of religious practice and take their governance from foreign origins. Others are contemporary corporate structures and report in the same manner as for profit corporations. If new reporting mechanisms are to be proposed by the Inquiry, the recommendations of this Inquiry should include:

- Recognition of the vast differences that exist between different charitable and not for profit organisations;
- Continuation of existing special treatment to those charitable bodies that deliver services to the community;
- A not for profit body should need to report to only one authority, in a format consistent with standard accounting procedures that have been adopted to meet the particular needs of the not for profit sector;
- Provision of funding incentives for not for profit organisations to strengthen their governance by the establishment of a substantial Commonwealth fund to distribute grants to enable implementation of new governance procedures.
- A no disadvantage test, so that no benevolent group is disadvantaged by any regulatory change. Regulatory change would require provision of change management funding to avoid placing additional burdens on some entities.

The not for profit sector, including Church operated services, face "competition" for government funding from organisations that return profits to shareholders. Over time, this has eroded the capacity of some charities and other not for profit bodies to divert surpluses from funded activities to under-funded activities. Many for profit bodies 'cherry pick' the more lucrative programs leaving it to the not for profit sector to carry additional burdens of servicing programs not considered as being all that financially viable. This leaves many not for profit bodies utilising their own assets and human resources to provide services that are inadequately funded by government. To the extent that not for profit bodies act differently to meet their objectives in pursuit of the common good, they ought to be treated differently from organisations who return surpluses as profits to shareholders.

Competition from the for profit sector underscores the need to better assess and understand the community benefit or contribution made to communities by not for profit bodies. The development of a commonly accepted standard for reporting of community benefit would enable government funders to assess if they could achieve a better return on investment by awarding a grant to not for profit body instead of a for profit body.