



ALLIANCE

26 August 2008

Committee Secretary
Senate Economics Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Per email: economics.sen@aph.gov.au

Inquiry into the Disclosure Regimes for Charities and Not-for-Profit Organisations.

Please accept this submission from The Alliance on the Inquiry into the Disclosure Regimes for Charities and Not-for-Profit Organisations.

The Alliance is a national federation of four not-for-profit community and residential care providers in Australia, comprising:

Blue Care (Qld)	Royal District Nursing Service (Vic)
Royal District Nursing Service of SA	Silver Chain (WA)

Our organisations have been working together in an alliance since July 2000. We:

- Meet the needs of the community in a wide range of health, community and residential care programs.
- Are focussed on client need and evidence based service models.
- Conduct and share research that is focussed on achieving better outcomes for clients.
- See about 200,000 clients and provide over 4.9 million direct hours of care in the community a year.
- Operate 1,185 independent living units and 5,113 residential care beds.
- Employ around 14,000 staff.

[Note: Figures accurate as at Dec 2007]

Because of our positive impact on people's lives we receive considerable support from the community. This may be in the form of giving time and expertise as volunteers and as board members and/or funds in the form of donations and sponsorships.

As not-for-profit charitable organisations we have a keen interest in the outcome of this Senate inquiry. In particular we are keen to ensure that any changes to the legislation improves transparency, creates legislative uniformity and does not inadvertently increase the administrative burden on our organisations.

The Alliance would be pleased to provide any additional information to assist the committee in this inquiry.

Yours Sincerely



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Submission to

Inquiry into the Disclosure Regimes for Charities and Not-for-Profit Organisations.

GENERAL COMMENTS

The not-for-profit sector is of enormous social and community significance and should be acknowledged as being of similar importance to Australian society as many parts of the for-profit business sector.

The legislation and incorporation of not-for-profit organisations is complex, inconsistent and confusing across Australia and a single regulatory body for this sector would do much to reduce this confusion. Thus we support:

- The establishment of a single national regulator with an improved disclosure regime.
- A simple system of regulation and registration with the national regulator making decisions about charitable status.
- Regulation that is sensitive to the size of not-for-profit organisations, with disclosure and reporting requirements that are proportional to size and impact of the organisations' activities.
- A national regulator that is independent of government, standing alone with strong links to relevant government agencies.
- A national regulator with an enforcement role as well as a key role in sector education and development. In regards to the latter, this should be achieved by working collaboratively with the sector and other key peak bodies.

It is essential that a national regulator recognise that charities and not-for-profit organisations must increasingly generate income from a range of sources and that the way in which regulation occurs must not inhibit or endanger their charitable and not-for-profit status. We want to continue to:

- Be transparent and accountable for our funding from government and donations, but not be forced to disclose financial or other sensitive information that might benefit for-profit commercial interests.
- Retain the benefits of charitable, tax-exempt status so we can continue to provide low cost, quality services with staff who can access salary sacrifice benefits.

TRANSPARENCY AND ACCOUNTABILITY

We agree on the need for transparency and accountability, but wish to point out that many not-for-profit organizations already meet this "test". It would be inappropriate to assume we all fail in transparency and accountability.

Fundraising transparency

We understand the comments in 'Choice' magazine about the difficulty in making comparisons across the sector on effectiveness of charitable activities. Given the size and diversity of the activities and objectives of the 40,976 not-for-profit organisations in Australia (reported by the Australian Bureau of Statistics) this is not easily addressed.

A standardised reporting format on fundraising activities would go a considerable way towards addressing the issues. Organisations receiving donations should be required to report on the percentage of the funds going directly to their cause and in organisations with multiple fundraising projects, this level of reporting should be by project. This level and methodology of reporting could be specified within the annual report.

We believe that improved disclosure regimes may increase confidence in, and funding to, the sector.

Organisational accountability

We challenge the implication that 'poor accountability' is the rule rather than the exception within the sector. We suggest that the level of accountability is comparable to other sectors and not of special significance in the not-for-profit sector. The study mentioned in the briefing paper (published in 2007 by the Social Economy Executive Education Network, of leadership and management in the social economy) relates much wider than the not-for-profit sector, referring to all entities with a social objective.

We believe that not-for-profit organisations should not be required to meet the same requirements of public listed companies in their reporting. We are not holders of individuals' financial investment. We are accountable to Government and the communities who we serve. Governments which purchase services through not-for-profits, achieve accountability through the reporting and auditing requirements detailed in their contracts.

Reporting to Government however is an area that needs attention. The administrative burden of reporting could be improved considerably by a standardised approach to government contracting and reporting. This could also include consolidated reporting and acquittal for organisations delivering services across multiple contracts. Such measures would have a significant impact and would free up resources to be put into service delivery.

SIMPLIFICATION OF INCORPORATION

Given the existence of multiple ways of incorporating a not-for-profit organization; the range of specialist legislation impacting on certain organisations (e.g. incorporation of trade unions, parent associations) but not others; the complex general legislation relating to the incorporation and management of charitable bodies and associations; and the existence of dual state/federal regimes; clearly there is a need for simplification of incorporation.

The current complexity of compliance incurs risks. For small less experienced organizations there is the problem of simply being not aware of all the requirements. Excessive multiple compliance can divert much needed resources from the core function of the charitable organisation. There is also the disincentive for people to become involved in boards and support their local organisations due to lack of clarity or complexity of compliance issues.

The need for change is particularly important for small agencies not employing staff.

2001 RECOMENDATIONS

We support the majority of the recommendations from the Report of the Inquiry into the Definition of Charities and Related Organisations - June 2001.

It is helpful to have a definition of 'charitable organisation' and the definition at recommendation 13 is appropriate.

Recommendation 4 is not supported. (*That an entity be denied charitable status if it has purposes that are illegal, are contrary to public policy, or promote a political party or a candidate for political office.*)

- We agree that the purpose of a charitable organization should be legal.
- We disagree that charitable status should be denied if a purpose is contrary to public policy. It is important that not-for-profits are allowed to put forward views that can challenge public policy.
- We agree that the purpose of a charitable organization should not be primarily political. However, sometimes it may not be clear if in promoting an approach to an issue we may be perceived as promoting or being aligned with a particular political party on some issues. This should not prevent charitable status.

OTHER MODELS

The two models referred to in the Senate briefing paper, the Charity Commission in England and Wales, and the New Zealand Charities Commission, operate in countries without a federal form of government. They do not have to contend with a dual legislative system.

Some of the guidelines produced by the Charity Commission in England and Wales appear to be very helpful for not-for-profits in the UK and are to be commended. But equally we understand that the Charity Commission in England and Wales has its critics in terms of over regulation of the sector.

An Australian model would need to take our complex levels of government into consideration.

Taking note of previous work on the not-for-profit sector in Victoria

We would like to acknowledge the work that lead to the establishment in June 2008 of the Victorian Office for the Community Sector, which is responsible for leading, coordinating and implementing the policy priorities affecting the not-for-profit sector across Victoria. Its role is in response to extensive consultation and two reviews commissioned by the Victorian Government – the Stronger Community Organisations Project, led by Professor Alan Fels, AO; and the Review of Not-for-Profit Regulation, led by the State Services Authority.

A number of issues have been well identified and described in the submission in May 2007 by the National Roundtable of Nonprofit Organisations to the (Victorian) Review of Not-for-Profit Regulation. Some of the issues we would like to bring to the attention of the Senate Inquiry that were identified in this submission include:

- There is a need to modernise Australian charity tax law with better and more effective regulation of charities than currently exists in Australia.
- Achieving more accessibility, transparency and accountability of sector organisations and better integration and consistency across legal frameworks affecting the sector should serve to enhance and strengthen its contribution to the economy and the community.
- Many non-profit organisations receiving government funding report onerous and often growing levels of compliance and administrative requirements which divert scarce resources away from service provision and which don't necessarily enhance or improve levels of accountability and transparency. They also do not focus sufficiently on performance in terms of achievement of outcomes.

The submission recommended:

- That the degree and level of corporate and other regulation of non-profit organisations should be proportional to their size and risk. This should involve a 'light' regulatory touch for those local organisations which serve only a small membership and low levels of financial turnover, with provision for higher levels of accountability and more stringent reporting for medium and larger organisations which receive more public funds and which provide services to the general public.
- Standardised and consistent forms of service and program contracting across different government agencies and programs, which would enable non-profit provider agencies to streamline and standardise their own administrative and reporting frameworks, not only to improve efficiency but also to improve compliance.
- Achieving a whole-of-government framework of more coherent, consistent and efficient arrangements for financial and other service data entry, financial and performance reporting, compliance and accounting.

IN SUMMARY

Key outcomes from any changes in the sector should:

- Strengthen support for the not-for-profit sector,
- Improve transparency for Government and community;
- Create clarity of responsibilities, and reporting requirements commensurate to risk.
- Create uniformity of incorporation. The current State and Territory based incorporation laws and procedures should be uniform. It may be preferable for States and Territories to refer their powers to the Commonwealth, so that a single national legislative regime can be established, managed by a single national regulator.