



The Uniting Church in Australia

Submission to the

SENATE STANDING COMMITTEE ON ECONOMICS

**INQUIRY INTO THE DISCLOSURE REGIMES FOR CHARITIES
AND NOT-FOR-PROFIT ORGANISATIONS**

Introduction

The Uniting Church in Australia welcomes the Inquiry by the Senate Standing Committee on Economics into the disclosure regimes relating to charities and not-for-profit organisations in Australia.

In preparing this submission, the Church notes the terms of reference and the background paper issued by the Committee. It also notes that the Committee does not intend to limit its inquiry to the content of the background paper and welcomes any submission which addresses the terms of reference.

The scope of this submission will be generally focussed on religious organisations and the large range of charitable activities and subsidiary organisations under the umbrella of a mainstream religious denomination and will use the three items identified in the terms of reference as the framework for discussion, i.e Relevance and appropriateness of current disclosure regimes; models of regulation and legal forms and other measures to assist the sector to improve.

The Uniting Church in Australia

The Uniting Church in Australia is the third largest mainstream Christian denomination in Australia after the Roman Catholic and Anglican churches. It comprises more than 2000 worshipping congregations across every part of Australia and according to the 2006 census more than 1,135,000 people claim affiliation with the Uniting Church in Australia.

As with other Christian churches, the Uniting Church in Australia (the Church) also conducts a wide range of activities and services consistent with its charter of ministry and service to the community. This includes schools, hospitals, aged care facilities, day care centres and many other welfare services including a myriad of local and community groups. These operations are conducted for the benefit and support of all people from the major city centres to the remotest parts of outback Australia. While government funding is provided for many of these services, the government funding is generally insufficient to fully provide for many of the services. As such, the Church, its agencies and volunteers make a significant financial contribution to facilitate service delivery.

This network of congregations, activities and organisations employs approximately 40,000 staff and relies on many thousands of volunteers for support. The Church has been required to derive means by which it can recognise and accommodate “entities” from just a few people in a common interest group within a congregation to multi-million dollar operations that includes schools and the hospital and/or aged care sector.

The Church, was incorporated by parliamentary Acts in 1977 and although relatively young in its own name the Church is founded on the beliefs, values, traditions and history of its constituent churches of the Congregational, Methodist and Presbyterian denominations. Its internal governance structures provide a system of law and regulation which ensures appropriate accountability and transparency for the members of congregations and each of the various councils of the Church. The foundational document of the Church is the Basis of Union which recognises the need for such law in the following:

The Uniting Church acknowledges that the demand of the Gospel, the response of the Church to the Gospel, and the discipline which it requires are partly expressed in the formulation by the Church of its law. The aim of such law is to confess God's will for the life of the Church; but since law is received by human beings and framed by them, it is always subject to revision in order that it may better serve the Gospel. The Uniting Church will keep its law under constant review so that its life may increasingly be directed to the service of God and humanity, and its worship to a true and faithful setting forth of, and response to, the Gospel of Christ.¹

These statements mandate the Church to establish an internal body of law and regulation which ensures appropriate governance, transparency and accountability within the relevant councils of the Church. Accordingly the Church has in place robust internal accountability systems and structures for dealing with the internal financial relationships that operate between its members, supporters and governing Councils.

The Uniting Church acknowledges that where it engages in public fundraising, it is appropriate to be open and transparent with respect to public donations and to conform with standardised disclosure requirements appropriate for this segment of the sector. In a similar way, the Church acknowledges its responsibility to be accountable to Government for financial resources provided through various grants and funded programs. These matters will be further discussed under the appropriate heading.

Relevance and appropriateness of current disclosure regimes

The background paper for the inquiry acknowledges the significant size of the not-for-profit sector within the Australian economy. It also acknowledges the wide diversity of organisations within the sector both in size and in the types of activities in which they are involved. This diversity of organisations which constitute the not-for-profit and charitable sector demands that any form of disclosure regime be founded on basic principles rather than a standardised form. There can be no “one size fits all” approach. Recognition needs to be given to the various segments of the sector.

Where a club or organisation exists primarily to serve the interests of members who are the sole or major contributors to the funds of the organisation through subscriptions and small scale and primarily in-house fundraising activities (eg: raffles, chocolate sales etc), then any disclosure regime should be no more onerous than presently applies through the various state based Associations Incorporation Acts and other relevant fund-raising legislation and supervisory provisions.

Within denominational churches, the weekly offerings of their members are gifts to the Church as a whole and are subject to the regulations, canons or rules within each denomination. The Regulations of the Uniting Church allow a high degree of autonomy to local congregations subject to appropriate governance and disclosure requirements. The Church would believe that where the major proportion of an organisation's finances are generated to meet its own objectives, there is no wider social purpose served through

¹ Basis of Union Paragraph 17

external reporting. Within the Church's Regulations, a tier structure is already in place to assist in minimising administration and costs to small congregations.

It should also be noted that within the congregations of the Church the vast majority of its office bearers are unpaid and give freely of their time in order to undertake the necessary administrative and governance activities. As the Inquiry will appreciate there are ever increasing regulatory demands (e.g. OH&S legislation) being placed upon organisations and the imposition of inappropriate requirements for this sector will place additional burdens upon such persons.

A not-for-profit organisation which engages in public fundraising beyond its own membership is in a different segment and requires a different disclosure regime. This might include a higher degree of accountability and transparency. As has been noted in other reports, many of the large charities that rely on public donations to support their work are now voluntarily providing more information about their operations as a means of demonstrating their credibility and to provide assurances to their donors.

The Church acknowledges and supports the principle of a standardised disclosure framework for this segment of the sector.

However, to impose any onerous framework on, for example, our 2,000 congregations, would be counter-productive.

The Church is also aware that issues of disclosure and reporting have been considered by the professional accounting bodies through the establishment of various accounting standards. It would be important that any disclosure regime be developed in conjunction with those standards.

Models of regulation and legal forms

The Church supports the need for regulatory reform for the whole of the not-for-profit sector. As indicated earlier, the diversity of the sector creates a complexity which demands that responsibility for regulation cannot be subsumed within an existing regulatory regime. A new agency is required which has the capacity to cope with the diversity of the sector. It could be expected that the agency will need to relate to the sector through its various segments, some of which will require minimal attention. The level of resourcing that will be required to ensure effective regulation and administration should not be underestimated. It needs also to be acknowledged that a large proportion of the sector does not have the capacity to support a regulatory regime through fees and charges or other "user pays" arrangements.

The Church would support the recommendations of the Charities Definition Inquiry in relation to the establishment of an independent body². An important initial task for the body would be a review of the various forms by which entities can be created with their own legal identity.

² Charities Definition Inquiry Recommendations 24 & 25

The Church is a national body operating under a body of Church Law expressing the values of the Basis of Union with a single Constitution and supporting Regulations. It is not a legal entity. The Constitution prescribes a governance regime based around a series of councils, each of which is allocated responsibility for particular aspects of the life of the Church. The councils are not legal entities.

Legislation (Uniting Church in Australia Act) has been passed in each State and Territory to establish a body corporate as the legal entity for holding property and for other transactions requiring a legal base. This structural framework is common in the larger churches and has been recognised in the treatment of churches in the UK. It is important that this framework be recognised in any proposal for a regulatory model.

Other Measures to assist the sector to improve

The Church, in common with other denominations is a major participant in the delivery of many services funded by the State and Commonwealth governments. An important outcome from this inquiry would be the development of standardised processes across all government funding bodies for the accountability and acquittal of grant and program funds. The multiple and differing acquittal requirements add an enormous cost to charities and, we believe, often do not warrant this cost when compared with the benefit.

Recommendations

The Uniting Church in Australia recommends to the inquiry that:

- A single national regulator be established for the not-for-profit and charitable sector across Australia;
- The national regulator be independent of government and be sufficiently resourced to ensure its capacity to adequately cope with the wide diversity and complexity of the sector and the multiplicity of regulatory matters that will need to be progressively addressed;
- The national regulator, in consultation with the sector and with professional accounting bodies, determine a set of disclosure standards which give recognition to:
 - Different requirements for different activities (eg public fundraising, internal subscriptions, gifts, donations and income to serve internal purposes);
 - The legal status and different non-legal structures in large organisations;
 - Ensuring standards and compliance requirements are commensurate with the size and structure of the organisation and the social benefit that will be achieved by the reporting requirement;
 - The multiple reporting requirements which exist for legal purposes (Corporations law); accounting standards, ASIC reporting acquittal of government grants; taxation registration and reporting and the like.
- The national regulator, in consultation with the sector and other stakeholders review the multiple forms of governance (legal structures in existence and

available to the sector) with a view to the development of structures which give recognition to the diverse range of entities within the sector.