



Anglican Church of Australia

General Synod

25 January 2012

Manager
Philanthropy and Exemptions Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam,

Submission to Treasury regarding The Exposure Draft for the Australian Charities and Not-for-profits Commission Bill 2012

I write to you in relation to The Exposure Draft for the Australian Charities and Not-for-profits Commission Bill 2012 on behalf of the Anglican Church of Australia (“ACA”).

Introduction

This submission is made by the Standing Committee of the General Synod of the Anglican Church of Australia. The General Synod is the principal governing body of the National Church and is constituted under the Constitution of the Anglican Church of Australia and meets ordinarily every three years. The Standing Committee acts in the interim.

The Anglican Church of Australia is a community of Christians scattered across Australia. Our ambition is to serve Christ faithfully in the circumstances of our daily lives. The Church is organised into 23 dioceses grouped into 5 provinces or regions. As well as dioceses and parishes there are many different organisations in areas such as education, health, mission, social welfare and communications which are part of the Anglican Church.

Our welfare organisations include Anglicare, Samaritans and Anglican Retirement Villages. There are around 145 Anglican schools in Australia, providing for more than 105,000 children.

Anglicare Australia is a National Church Network that provides services to children, young people, families, refugees and migrants, indigenous Australians, older people, the homeless and unemployed Australians. The 43 Anglicare member agencies provided services to over 512,340 persons in 2029 locations in 2008-2009. The annual expenditure totaled \$624 million.

The Exposure Draft

We have considered The Exposure Draft for the Australian Charities and Not-for-profits Commission Bill 2012 and have reviewed and contributed to the submission of the Anglican Church Diocese of Sydney (copy submitted by the Sydney Diocese separately).

The Anglican Church of Australia is in agreement with the submissions made by the Anglican Diocese of Sydney and supports the points raised in that submission, which are in summary:

1. The regulatory framework contemplated by the Exposure Draft for the Bill is, in places, unduly heavy-handed and therefore risks unnecessary and costly over-regulation of the NFP sector. This outcome would be inconsistent with the Government's stated basis for reforming the sector, namely to make it easier for charities to help those who need it by simplifying complex regulatory arrangements and removing unnecessary red-tape. The key aspects of the Bill that require substantial modification include –
 - a. The object of the Act
 - b. The reporting and audit tiers
 - c. The scope of the definition of "responsible individual".
2. We recommend that the Government not attempt to finalise the governance standards for inclusion in the Bill from 1 July 2012 but that finalisation of the standards be deferred until, say, 1 July 2013 followed by a suitable transition period to enable the sector to implement any necessary changes.
3. We strongly oppose the formulation of the object of the Act "to promote public trust and confidence in not-for-profit entities that provide public benefits". We consider that the formulation of the object in this way is inconsistent with the basis for establishing the ACNC articulated by the Assistant Treasurer and the Minister for Human Services and Social Inclusion on 10 May 2011 and sends an extremely unhelpful signal of distrust to the sector.
4. We recommend that the object of the Act should be reformulated as follows – "to enhance the capacity of the not-for-profit entities to provide public benefits through the fulfilment of their charitable and other purposes."

5. We consider that the revocation of the registration of an entity on the basis that the Commissioner considers that continuing registration of the entity would cause a loss of public trust and confidence in the sector is too general and subjective. We consider the grounds of revocation need to be specified in terms of objective criteria.
6. We recommend that the Commissioner be given a limited power to register entities as a group and receive reports from the group on a consolidated basis. For example, the power could be exercised in circumstances where the Commissioner is satisfied that –
 - a. the entities in the group share a common purpose and are effectively controlled by the same responsible individuals as a functional whole, and
 - b. group registration and reporting is consistent with the object of the Act.We submit that the capacity to group in appropriate circumstances would achieve substantial savings in the costs that would otherwise be incurred by both the entities in the group and the ACNC in regulating such entities.
7. We recommend that consideration be given to specific provisions in the transitional legislation which allows an entity which has been registered on a grandfathered basis to opt out of registration within a specified period of time after 1 July 2012 without being required to wind-up.
8. We recommend that the applicable thresholds for entity tiers (small, medium and large) and the reporting and audit requirements applicable to each tier be carefully reviewed in light of the full range of factors identified in the Final report on a Scoping Study For a National Regulator as relevant matters to take into account in determining reporting by registered entities.
9. We recommend that, as a minimum, the Government consider the following modifications to the proposed entity tier structure and reporting/audit requirements –
 - a. registered entities with annual revenues of less than \$500k which are not DGRs and do not receive Government funding be treated as Tier 1 (small) entities (with reporting requirements as currently proposed).
 - b. registered entities with annual revenues of between \$500k and \$2m or registered entities with annual revenues of less than \$500k which are DGRs or receive Government funding be treated as Tier 2 (medium) entities.
 - c. Tier 2 entities be permitted to provide financial reports in the form of special purpose financial statements as an alternative to general purpose 3
 - d. financial statements (with audit and review requirements as currently proposed).
 - e. registered entities with annual revenues exceeding \$2m be treated as Tier 3 (large) entities (with reporting and audit requirements as currently proposed).
10. We recommend a 5 month time frame within which annual information statements and financial reports can be provided to the ACNC following the end of the relevant accounting period.

11. We recommend that the Government consider reformulating the definition of “responsible individual” along the following lines –
- a. Subject to (b) and (c) below, limit the definition of responsible individual to the concept of a director of the governing board or council of the entity (including receivers, managers administrators etc).
 - b. Extend the definition of responsible individual to include the broader Corporations Act concept of “officer” only for large (Tier 3) NFP corporations.
 - c. For unincorporated NFP entities which have a large membership and no governing board or council, enable the entity to nominate a small representative group of, say, at least 5 individuals who exercise the most control of the entity by virtue of the office they hold (eg., President, Secretary, Treasurer, etc) to act as the responsible individuals for the entity.

In regards to specific questions regarding the technical content of this submission can I ask that you contact the Diocesan Secretary of the Anglican Church Diocese of Sydney, Mr Robert Wicks, whose contact details are:

Mr Robert Wicks
Diocesan Secretary
Anglican Church Offices
PO Box Q190
QVB Post Office NSW 1230
Phone: (02) 92651671
Fax: (02) 92651634
Email: rjw@sydney.anglican.asn.au

We very much appreciate the opportunity to work with the Australian Government on improving the regulation of the charities and not-for-profit sector.

Yours sincerely,

Martin Drevikovsky
General Secretary

Direct Telephone: +61 (0)2 82672701
Mobile Telephone: +61 (0)418 476937
Email: generalsecretary@anglican.org.au