

**Submission to Treasury in Response to the Charitable  
Fundraising Regulation Reform Discussion Paper**

**Prepared by:  
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## 1. INTRODUCTION

### 1.1 Who we are

1. ANGLICARE Sydney is a Christian organisation operating a wide range of community services and programs across the Sydney Metropolitan, the Illawarra, and Shoalhaven regions of New South Wales; it embodies the Christian commitment to care for all people in need, as comes from Jesus' command to love your neighbour as yourself.<sup>1</sup> Our range of services include: counselling and family support services (including Family Relationship Centres); community education for families; disability case management and respite; youth services; emergency relief for people in crisis; foster care and adoption for children including those with special needs; migrant services including humanitarian entrants and newly emerging communities; English as a second language classes; aged care both through nursing homes and community services; opportunity shops providing low-cost clothing; emergency management services in times of disaster; and chaplains in hospitals, prisons, mental health facilities and juvenile justice institutions.

2. ANGLICARE Sydney is a large charity and is in a good position to comment on many of the issues surrounding fundraising in the charitable sector. ANGLICARE Sydney's total revenue in 2010-11 was some \$96 million, of which about 10% came through legacies, donations and bequests.

### 1.2 Purpose of this submission

3. In February 2012, Treasury released a discussion paper on *Charitable Fundraising Regulation Reform*. The purpose of the discussion paper is to seek comments on a proposed framework for a new nationally consistent approach to regulation of charitable fundraising, with a view to harmonising different State and Territory legislation in this area. This submission is to provide ANGLICARE Sydney's response to issues raised in the discussion paper.

## 2. OVERALL COMMENTS ON PROPOSED FUNDRAISING REGULATION

4. In principle, ANGLICARE Sydney supports the regulation of fundraising in the charitable sector and the provision of sufficient transparency to assist donors in making informed decisions about their giving. ANGLICARE Sydney's view is that regulation of the sector needs to start from the assumption that most charities are conducting fundraising in an ethical fashion and that any regulation put into place must not interfere with the legitimate activities of charities. Consequently our support is for regulation which focuses upon detecting and preventing illegal activities such as fraud and false or misleading advertising, and serious ethical breaches such as funds raised or bequests made not being distributed to the intended recipients or for their intended purposes.

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<sup>1</sup> The Gospel of Matthew, chapter 22 verse 39.

5. It is noted that the review of fundraising regulation is consistent with the *National Compact: Working Together*, as it seeks to reduce red-tape and streamline reporting.<sup>2</sup> However, religious organisations and related entities including our own organisation are currently exempt from regulation under the *Charitable Fundraising Act 1991 (NSW)*. As a large charity operating within one State, the need for greater transparency and accountability under Treasury's proposals will mean greater levels of 'red tape' and reporting requirements for our organisation, not less.

6. Furthermore, there are significant issues raised in Treasury's discussion paper around defining the costs of fundraising and around the ability of organisations to track donations from the point of collection to the point of service delivery, which is a complex accounting exercise. Such a requirement would clearly increase compliance costs and 'red tape'. Our view is that complementary accounting and auditing requirements to enable detailed reporting of donations, as foreshadowed in chapter 5 of the discussion paper, are both onerous and unnecessary in the light of current levels of accounting and auditing already required.

7. Along with the current reforms taking place in the Not-for-profit sector through the establishment of an Australian Charities and Not-for-profits Commission (ACNC), ANGLICARE Sydney has a growing concern regarding the increased levels of 'red tape' that fundraising and the other reforms will bring and the associated costs to the sector.

8. Our view is that the emphasis of this discussion paper on increased accounting and auditing of fundraising runs counter to Treasury's previously stated assumption that "charities operate for charitable purposes, and overwhelmingly most aim to comply with their regulatory requirements."<sup>3</sup> We are concerned that this emphasis will simply result in the over-regulation of the vast majority of charities which Treasury believes already aim to comply with their regulatory requirements.

9. Fundraising regulation, as part of a broader reform of the sector, needs to be as much about building the capacity of the sector as it is about compliance and sanctions. It is telling that, in the current discussion paper, there is no mention of the education of the sector in relation to standards of fundraising practice, accounting or administration. For this reason, ANGLICARE Sydney suggests in our submission that a Charter of Best Practice be created, as an important tool for encouraging better practices in the sector, as a way of complementing regulatory measures.

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<sup>2</sup> Commonwealth of Australia, (2012). *Charitable Fundraising Regulation Reform: Discussion paper*, Released by Treasury, Canberra, p1.

<sup>3</sup> Commonwealth of Australia, 2011, *Australian Charities and Not-for-profits Commission: Implementation Design*, Discussion paper released by the Treasury, Canberra, p5.

10. ANGLICARE Sydney has concerns about the level of public access to information provided as part of reporting on fundraising. There is little discussion in this discussion paper around this very important issue.

### 3. DEFINING THE SCOPE OF REGULATED ACTIVITIES

#### 3.1 Is regulation necessary?

The Discussion Paper asks:

2.1 Is it necessary to have specific regulation that deals with charitable fundraising? Please outline your views.

**11. Question 2.1 Need for regulation:** In principle, ANGLICARE Sydney supports the regulation of fundraising in the charitable sector and the provision of sufficient transparency to assist donors in making informed decisions about their giving. The possibility of fake charities, of overly-aggressive tactics used by some charities and of unethical bequest strategies used by others, are areas to be addressed through regulation.

12. ANGLICARE Sydney's view is that the vast majority of charities exist to promote worthy social objectives and are best able to self-regulate their activities by adhering to industry charters and agreed ethical standards of behaviour. Therefore any regulation of the sector needs to start with the assumption that most charities are conducting fundraising in an ethical fashion and that any regulation put into place must not interfere with the legitimate activities of charities. It is important that the focus of regulation be upon detecting and discouraging aggressive or unethical forms of solicitation and the misuse of funds collected, rather than upon the legitimate communications between charities and their donors.

13. Therefore ANGLICARE Sydney views with concern the emphasis of the discussion paper upon legislation and the universal regulation of charities as the means of achieving fundraising regulation, rather than upon the development of industry charters and ethical standards, and education and awareness raising as a means to the same ends.

14. As a complement to the regulation of fundraising activities, ANGLICARE Sydney proposes that a **Charter of Best Practice** should be presented in the new legislation, to which charities registered with the ACNC would be required to use as guidance principles. Specific practices deemed to be damaging or unethical would be legislated against.

15. An important inclusion in the Charter would be clear standards surrounding the identification of fundraising administration costs and uniform reporting standards. This would assist both in creating greater transparency and in aiding comparability between

charities. Adherence to the uniform approach would become part of accounting and auditing practices.

### 3.2 Activities that might be exempt from fundraising regulation

The Discussion Paper asks:

2.4 Should the activities mentioned above be exempted from fundraising regulation?

2.5 Are there additional fundraising activities that should be exempt from fundraising regulation? If so, please provide an explanation of why the relevant activities should be exempt.

**16. Question 2.4 Exempt activities:** The discussion paper lists four activities that might be exempt from fundraising legislation: soliciting for Government grants; corporate donations or donations from public and private ancillary funds; workplace appeals for assistance for colleagues and their families; donations to religious organisations from their own members. ANGLICARE Sydney's view is that all four kinds of activities are unlikely to raise significant concerns and should therefore be exempt, though there should be an overriding principle that charities will conduct their exempted activities in a manner consistent with the principles of the legislation.

17. The exemption applying to donations from religious organisations' own 'members' will require careful definition so as not to disadvantage most faith communities. Strictly speaking, Catholic, Anglican and many other mainstream denominations do not have formal membership. People identify personally with a denomination and/or they attend the religious meetings of their denomination. It is well known that the former group are much larger in number than the latter group, yet both are legitimate constituencies from which donations may be solicited. The picture is different again for those forms of spirituality that do not require any kind of formal adherence, yet may seek to fund-raise among users of their services.

**18. Question 2.5 Additional exempt activities:** ANGLICARE Sydney suggests that the following activities also be exempt from fundraising legislation:

- Fundraising by schools, clubs and service organisations on behalf of charities (but not initiated by the charity) up to a limit of \$50,000. Schools raise money for existing charities; it is suggested that such fundraising should be an exempt activity up to the \$50,000 limit. Otherwise schools would be brought under the same forms of regulation with the associated accounting and reporting requirements. The inevitable consequence of this would be that schools, clubs and service organisations would be discouraged from undertaking fundraising for charities and other worthy causes, which would damage the sector.

- Public appeals arising from natural disasters (eg flood, bushfire, earthquake).

### 3.3 Implementing a national approach to fundraising regulation

The Discussion Paper asks:

2.8 Should existing State or Territory fundraising legislation continue to apply to smaller entities that engage in fundraising activities that are below the proposed monetary threshold?

#### 19. Question 2.8 Continuing application of State and territory fundraising legislation:

Having multi-tiered Federal and State Territory legislation is unwieldy and reflects the existing confusion and compliance challenge. One over-riding federal legislation administered by both Federal and State and even local authorities would be more practical and effective in supporting and growing charitable activity in communities.

### 3.4 Registering for fundraising activities

The Discussion Paper asks:

2.10 What should be the role of the ACNC in relation to fundraising?

2.11 Should charities registered on the ACNC be automatically authorised for fundraising activities under the proposed national legislation?

2.12 Are there any additional conditions that should be satisfied before a charity registered with the ACNC is also authorised for fundraising activities?

2.13 What types of conduct should result in a charity being banned from fundraising? How long should any bans last?

**20. Question 2.10 ACNC role in relation to fundraising:** Charities will be registered with the ACNC and will report annually according to a three-tiered structure based on a charity's revenue and DGR status<sup>4</sup>. It is considered that the ACNC should have the role of regulating charitable fundraising activities and developing best practice. The ACNC should support significant growth and sustainability in the charities sector.

21. In line with its charter as a regulator of charities and not-for-profit organisations, the ACNC should also have powers of investigation and the ability to impose sanctions in relation to charitable fundraising activities. This authority should extend to charities exempt from fundraising legislation where the ACNC deems that prevailing circumstances warrant investigation.

<sup>4</sup> Commonwealth of Australia, 2011, *Australian Charities and Not-for-profits Commission: Implementation Design*, Discussion paper released by the Treasury, Canberra, pp 14, 15.

22. In line with its information gathering and reporting role, the ACNC should also collect basic information about organisational fundraising activities. A three-tiered approach to the reporting of fundraising activities could be developed in line with the overall three-tiered reporting structure proposed for reporting to the ACNC.

23. However, in a previous submission to Treasury, ANGLICARE Sydney raised concerns regarding the lack of clarity about the level of financial detail that will be required as part of reporting to the ACNC.<sup>5</sup> In the same vein, ANGLICARE Sydney is also concerned that the ACNC may require the reporting of separate fundraising streams within organisations rather than simply as a consolidated figure. This would require a detailed and ongoing recording of funds through an organisation that may simply not have the necessary resources or be required under existing accounting practices. As discussed elsewhere in this submission, ANGLICARE Sydney's view is that this would be an onerous and unacceptable reporting requirement.

24. In relation to the ACNC's information gathering and reporting role, ANGLICARE Sydney has previously raised a concern about the lack of clarity regarding the extent to which information reported by charities to the ACNC will be made available to the public.<sup>6</sup> In the same way, how will the information provided to the ACNC about fundraising activities be treated? Charities should have the freedom of discretion of privacy in receiving donations. This principle should not over-ride the ACNC's ability to inquire and investigate where it deems such activity is warranted.

25. In summary, ANGLICARE Sydney believes that the regulation of fundraising activities could be carried out within the proposed ACNC framework, but holds serious concerns in the way in which this might be implemented, that could increase the associated compliance costs and burden on charities.

**26. Question 2.11 Fundraising by ACNC-registered charities:** In order to streamline the regulation process, ANGLICARE Sydney considers that any charities approved for registration by the ACNC should also automatically qualify for fundraising approval. Ideally the ACNC should become the peak regulatory body for charities in Australia, offsetting the need for duplication at State and Territory level. In this respect, ACNC registration should provide sufficient accreditation of charities with State-based agencies.

27. At present each State or Territory has its own fundraising legislation, requiring charities to make applications to each separately. One issue which requires clarification is whether charities that are only based in one State will automatically have the right to fundraise across Australia, once they obtain registration with the ACNC.

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<sup>5</sup> ANGLICARE Diocese of Sydney, 2012, *Submission to Treasury in Response to the ACNC Implementation Design Discussion Paper*, pp11-13.

<sup>6</sup> *ibid*, p8

**28. Question 2.12 Additional conditions for fundraising:** Charities should be required to indicate the purpose of fundraising and how and where they intend to expend or distribute funds raised through fundraising activities.

29. As discussed earlier in this submission, ANGLICARE Sydney believes that a Charter of Best Practice should be developed for charities, to complement any sanctions which may be prescribed under legislation.

**30. Question 2.13 Bans on fundraising:** Fundraising is the life-blood of many charities and remains a significant revenue stream even for those charities which attract government grants or have significant investment and commercial revenues. The process from detection of any illegal or unethical activities through to the imposition of any bans and subsequent avenues for appeal must therefore be just and transparent.

31. The type of behaviours that may attract sanctions such as bans on fundraising would include activities such as fraud, false or misleading advertising, and funds raised or bequests made not being rightfully distributed to the intended recipients or for their intended purposes.

32. There are many potential issues to be resolved even before considering what sort of activities may attract fundraising bans:

- Who will be able to make allegations of illegal or unethical behavior?
- Who will be responsible for judging any allegations or the criminality of particular activities?
- In the case of bequests and targeted appeals for donations, what proportions of funds could be reasonably spent on associated administration costs? Will there be any benchmarks as to what constitutes an administration cost in relation to these areas?
- Apart from the Court system, what would be the avenues of appeal?
- Would the illegal or unethical behavior of an individual within an organisation be sufficient to attract a fundraising ban for a whole organisation?
- How will the ACNC monitor any bans imposed?
- What sort of penalties would be in place for organisations breaching any bans?
- Would sanctions also apply for breaches of any Charter of Best Practice?

33. The ACNC may need similar powers of investigation and prosecution to the ACCC. However an important difference is that most charities do not have the same resources to



appeal any adverse rulings by the ACNC through the court system. Therefore it will be important that there be appropriate avenues of appeal, such as to an industry ombudsman, that do not involve charities in costly litigation with the ACNC.

34. There would also be many kinds of unethical corporate behaviour such as poorly prepared advertising or information, lax accounting practices or the negligent distribution of funds, which may be considered too minor to attract a blanket ban on fundraising. What kinds of sanctions would be proposed for such breaches of standards? In the spirit of building the capacity of the sector rather than policing it, ANGLICARE Sydney considers that a ‘three strikes’ warning system for minor breaches may be appropriate in order to give charities the opportunity to raise their standards before more serious sanctions would apply.

## **4. REGULATING THE CONDUCT OF FUNDRAISING**

### **4.1 Application of consumer protection laws to charitable fundraising**

The Discussion Paper asks:

3.1 Should the aforementioned provisions of the ACL apply to the fundraising activities of charities?

35. The discussion paper outlines several parts of existing consumer protection laws that could be applied to fundraising activities, including provisions in relation to misleading or deceptive conduct, unconscionable conduct, false or misleading representations and harassment or coercion. It is noted in the discussion paper that this would be unlikely to impose significant additional costs on the sector.

36. However as is outlined elsewhere in our submission, ANGLICARE believes that increased sanctions achieved through legislation should be accompanied by a Charter of Best Practice and education of the sector. As recommended by the Productivity Commission<sup>7</sup>, we believe that the approach of an ACNC towards the sector should not simply be about regulation but about capacity building and improvement to the sector. The proposed education function of the ACNC is also an important area where ethical behaviour can be promoted, in ways other than through sanctions.

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<sup>7</sup> Productivity Commission (2010) *Contribution of the Not-for-Profit Sector*, Research report, Canberra, pp xLii, xLvii, Liii.

## 4.2 Charitable fundraising and calling hours

The Discussion Paper asks:

3.2 Should the fundraising activities of charities be regulated in relation to calling hours? If so, what calling hours should be permitted?

37. ANGLICARE Sydney's view is that charities generally should be required to comply with the provisions of the ACL, which prohibits calling on Sundays and public holidays. However in view of the faith-based character and mission of many charities, we would encourage dialogue with such charities around this and other facets of regulation. For instance, a Sunday prohibition could disadvantage church agencies carrying out appeals among their own constituents, including at Sunday church meetings. It could also disadvantage religious organisations which do not operate on Saturdays for religious reasons, such as agencies of the Seventh-day Adventist Church. An exemption for religious organisations may be appropriate in the light of these issues.

## 5. INFORMATION DISCLOSURE AT THE TIME OF GIVING

The Discussion Paper asks:

4.1 Should all charities be required to state their ABN on all public documents? Are there any exceptions that should apply?

4.2 Should persons engaged in charitable fundraising activities be required to provide information about whether the collector is paid and the name of the charity?

4.3 Should persons engaged in charitable fundraising activities be required to wear name badges and provide contact details for the relevant charity?

4.4 Should specific requirements apply to unattended collection points, advertisements or print materials? What should these requirements be?

4.5 Should a charity be required to disclose whether the charity is a Deductible Gift Recipient and whether the gift is tax deductible?

4.6 Are there other information disclosure requirements that should apply at the time of giving? Please provide examples.

4.7 Should charities be required to provide contact details of the ACNC and a link to the ACNC website, on their public documents?

**38. Questions 4.1 to 4.7 Information disclosure at the time of giving:** ANGLICARE Sydney's view is that in all public documents relating to fundraising by registered charities, a charity's ABN should be displayed.

39. Persons engaged in fundraising activities should be required to provide information about whether they are being paid to collect donations. They should also be required to wear name badges and to provide contact details for their charity.

40. Unattended collection points should display the name of charity, the ABN, website and charity contact details.

41. The provision of identification and charity contact details is necessary to distinguish charities which operate under the same name, but which may collect donations within the same region. For instance there are a number of separate Anglican entities in Australia operating under the 'Anglicare' umbrella name. The provision of proper identification and contact details is necessary not only to clarify the situation for donors but also to avoid confusion among the suppliers of goods and services to those organisations.

42. Charities should be required to disclose whether the charity is a Deductible Gift Recipient and whether the gift is tax deductible. It is a usual practice for tax deductibility to be displayed upon donation receipts.

43. Regarding other information that should be disclosed, the charity should clearly state the purpose of the fundraising and where the funds will be distributed.

44. ANGLICARE Sydney does not consider that it should be mandatory for charities to provide contact details for the ACNC on public documents.

## 6. INFORMATION DISCLOSURE AFTER THE TIME OF GIVING

The Discussion Paper asks:

5.1 Should reporting requirements contain qualitative elements, such as a description of the beneficiaries and outcomes achieved?

5.2 Should charities be required to report on the outcomes of any fundraising activities, including specific details relating to the amount of funds raised, any costs associated with raising those funds, and their remittance to the intended charity? Are there any exceptions that should apply?

5.3 Should any such requirements be complemented with fundraising-specific legislated accounting, record keeping, and auditing requirements?

5.4 What other fundraising-specific record keeping or reporting requirements should apply to charities?

**45. Question 5.1 Qualitative elements in reporting:** It is noted in the discussion paper that the "reporting requirements for fundraising will be considered in the context of broader ACNC reporting requirements and needs to be proportionate to the risks and the amount of

the funds involved.”<sup>8</sup> In principle, ANGLICARE Sydney agrees with the use of the proposed ACNC reporting structure, since this would remove the duplication involved in separate reporting about fundraising. We also agree that the reporting should be proportionate to the size of the risk; the proposed three tier structure for ACNC reporting may be sufficient for this purpose.

46. The reporting of qualitative elements such as outcomes for beneficiaries and descriptions of beneficiaries, whilst it has obvious attractions, will also be subject to the charity’s desire to portray its work in the best possible way. On the one hand, charities are unlikely to report upon undesirable outcomes where donor funds did not meet expected outcomes or were clearly wasted – even though this is perhaps some of the most salient information for the general public. On the other hand, the reporting of positive achievements by charities may be prone to inaccuracies or exaggeration and become the province of marketing professionals, adding significantly to the scope and cost of reporting as more charities seek this kind of assistance. The suggested Charter of Best Practice might outline the need for a measured, balanced, accurate, timely and comprehensive overview of fundraising outcomes.

47. ANGLICARE Sydney’s concern is that, depending upon the reporting parameters that are adopted on the ACNC portal, reporting will not be a level playing field for all charities, but will favour larger organisations with the resources to spend on promotion. Therefore, our view is that the qualitative reporting of outcomes and beneficiaries should be limited and tightly controlled, to keep a level playing field in reporting by organisations of different sizes.

**48. Question 5.2 Reporting on outcomes:** The discussion paper notes that “donors as well as the general public, have an interest in the outcome of fundraising campaigns. In particular, donors may be interested to know about the distribution of funds raised and to receive some assurance that funds raised reached the intended beneficiaries.”<sup>9</sup> Whilst the idea of achieving greater transparency around the outcomes of donations is an attractive one, such transparency *must* come at a price to many charities in the form of greater accounting and auditing costs. Therefore a greater proportion of donated funds raised for meeting human needs must instead be diverted into additional compliance costs.

49. The question is asked in the discussion paper as to whether charities should report upon the specific details of the amount of funds raised, any costs associated with raising those funds and their remittance to the intended charity. In short, ANGLICARE Sydney’s view is that:

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<sup>8</sup> Commonwealth of Australia, (2012). *Charitable Fundraising Regulation Reform: Discussion paper*, Released by Treasury, Canberra, p17.

<sup>9</sup> *ibid*, p17.

a) such reporting will greatly increase the costs associated with accounting and auditing such revenues, will require significant changes in accounting practices to achieve and is not necessary in the light of current auditing requirements.

b) there is currently no standard approach to the allocation of administrative costs that would enable a fair comparison to take place between organisations in relation to their relative administrative efficiency. Again, a Charter of Best Practice may be the best way to cover this, with agreed standards regarding the reporting of administration costs.

c) it is unclear what level of detail about an organisation's fundraising will be required for reporting and, hence, what level of detail will be made available to the public under such reporting arrangements as well as the form and frequency of reports issued.

d) the levels of reporting discussed in the paper will unduly penalise charities that rely on multiple streams of fundraising compared with charities that undertake single fundraising events.

**50. Increased accounting and auditing costs:** At present, ANGLICARE Sydney collects information on how much is raised as well as the cost of fundraising per fundraising event. However, reporting on the distribution of donations by program would require a significant shift in internal reporting and accounting practice. Apart from the costs of reporting to the ACNC, the potential aspects that would require to be reported as outlined in the discussion paper, would necessitate changes to existing accounting practices in order to track donated funds through an organisation.

51. As mentioned in the introduction to our submission, ANGLICARE Sydney is a large organisation serving the needs of a wide diversity of people. Much of our work is funded by Government grants and investment funds, but a significant part of our revenue comes by way of donations. These donations come from many sources including via our website, direct debits, responses to major appeals, fundraising by third parties, local fundraising by program staff and volunteers, and bequests.

52. Potentially, donations received for a *specifically targeted appeal* would be able to be tagged and tracked to the point of distribution (eg. an appeal for a respite cottage for people with a disability).

53. However tagging and tracking *general* donations to the organisation, which are not project-specific, from the point of donation to any number of possible programs, would be very onerous and costly given the small amounts of money involved in most donations. Such tagging and tracking of general donations may be easier in single-purpose organisations, or where the size of individual donations is relatively large (eg. corporate donations). But in large and diverse charities such as ANGLICARE Sydney, where both the avenues of donation and the possible points of distribution are numerous, the level of

accounting needed would be onerous. Our view is that the increased levels of accounting and auditing implicit in this section of the discussion paper are impractical and burdensome on large, diverse charities such as ANGLICARE Sydney.

54. It should be noted that ANGLICARE Sydney is not currently required to report on donations to the NSW State Government. Any such requirements as part of the ACNC must mean a vast increase in 'red tape'.

**55. No standard approach to determining administration costs:** There would be many ways to allocate administration costs connected with donations and there are no standard practices followed by charities. A Charter of Best Practice may be the best way to cover this, with agreed standards regarding the reporting of administration costs.

56. It should be noted that there is often a timing disparity between the intent of fundraising and the statutory reporting of the costs. At times, charitable organisations need to invest in fundraising growth with a return that is not expected for several years, however, the Australian Accounting Standards require such expenditure to be recorded and reported in the financial year it is incurred. This can lead to a perception of a high cost of fundraising to income in the year the expenditure is incurred.

**57. Level of information for the public:** There is a lack of clarity in the discussion paper about what level of such information provided as part of fundraising reporting would then be publicly available. It is envisaged in another of Treasury's discussion papers that information provided by charities will be made publically available – though it is unclear to what extent and to what level of detail such information would be available.<sup>10</sup>

58. ANGLICARE Sydney's view is that there is scope for the misuse of publically available information through drawing incorrect conclusions about the size of administration charges compared with donated funds. This has the potential to damage relations between donors and charities and to undermine one of the main objectives of the ACNC: to bolster public confidence in the sector as a whole.

59. Potentially once a charity submits detailed financial information to the ACNC, this could also be subject to Freedom of Information requests where it was not displayed on the portal. Depending upon the level of information that a charity is required to submit, this also has the ability to compromise 'commercial in confidence' information.

60. ANGLICARE Sydney's view is that existing accounting practices and thorough auditing procedures are the primary safeguards against illegal and unethical practices. It is the existence of these accounting and auditing practices that should bolster public confidence, not the imposition of even more onerous reporting requirements.

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<sup>10</sup> Commonwealth of Australia, 2011, *Australian Charities and Not-for-profits Commission: Implementation Design*, Discussion paper released by the Treasury, Canberra, pp 18, 19.

**61. Question 5.3 Complementary accounting and auditing requirements:** Like all equivalent charities, ANGLICARE Sydney is audited annually. This involves auditors examining evidence relating to the reliability and integrity of financial and operating information. Audits provide a reasonable basis for expressing an opinion on whether the accounts reflect the true and fair position of the organisation and assessment of management's representations. The efficiency with which funds are being expended and our stewardship of funds comes within the purview of internal auditors. ANGLICARE Sydney is governed and supported by its Council, Executive Team and various sub-committees such as for Audit and Risk. It operates under a Risk Management framework. Our view is that these combined measures adequately safeguard the financial procedures of the organisation. We would therefore oppose any complementary accounting or auditing requirements that would materially add to the auditing costs of the organisation and increase 'red tape'.

**62. Question 5.4 Other reporting requirements:** Charities should only be required to report on an annual basis. Apart from the costs involved in more frequent reporting, the differences in timing between collection of donations and expenditure may be misinterpreted as charities 'sitting' on available funds.

## 7. INTERNET AND ELECTRONIC FUNDRAISING

The Discussion Paper asks:

- 6.1 Should internet and electronic fundraising be prohibited unless conducted by a charity registered with the ACNC?
- 6.2 Should charities conducting internet or electronic fundraising be required to state their ABN on all communications? Could this requirement be impractical in some circumstances?
- 6.3 Are there any technology-specific restrictions that should be placed on internet or electronic fundraising?

**63. Questions 6.1 to 6.3 Internet and electronic fundraising:** ANGLICARE Sydney's view is that internet and electronic fundraising should be prohibited, unless conducted by a charity registered with the ACNC. It is well known that the internet provides significant opportunities for false identities to be created and misrepresentations to be made. In addition, there is the security risk of personal funds being accessed on-line through various 'scams'. The internet should be a key area for monitoring by both the ACNC and law enforcement agencies.

64. Charities conducting internet or electronic fundraising should be required to state their ABN on all letters, emails and public documents, especially those used in initial contact with potential donors. It is not considered practical for the same requirement to be made for communications made via SMS, Facebook, Twitter and other social media. In these

instances, potential donors could be referred to the charity's website for ABN and other details.

65. Charities fundraising via the internet need to have sufficient on-line security, particularly in the capture and storage of credit card information.

## 8. FUNDRAISING BY THIRD PARTIES ON BEHALF OF CHARITIES

The Discussion Paper asks:

7.1 Is regulation required for third party fundraising? If so, what should regulation require?

7.2 Is it appropriate to limit requirements on third party fundraising to those entities that earn a financial benefit?

7.3 Should third party fundraisers be required to register with the ACNC for fundraising purposes only? If so, what are the implications of requiring the registration of third party fundraisers?

7.4 Should third party fundraisers be required to state the name and ABN of charities for which they are collecting?

7.5 Should third party fundraisers be required to disclose that they are collecting donations on behalf of a charity and the fees that they are paid for their services?

7.6 Should third party fundraisers (or charities) be required to inform potential donors that paid labour is being used for fundraising activities?

7.7 Is regulation required for private participators involved in charitable fundraising? If so, what should regulation require?

**66. Questions 7.1 and 7.2 Regulation of third party fundraisers:** Charities may be assisted in fundraising by other organisations giving their services voluntarily, such as schools, clubs and service organisations. ANGLICARE Sydney's view is that these groups should not be regulated by the ACNC or subject to the kinds of accounting and reporting requirements outlined in the discussion paper. It would be the responsibility of the charity concerned rather than the volunteer organisation to ensure that all volunteers are properly equipped with name badges and other information as may be required. To regulate these third party organisations will have the effect of dampening volunteering by such organisations and impact upon fundraising by charities.

67. However third party fundraising organisations that are being paid for their services should be subject to the same scope of regulation as charities. The same rules should apply to other paid commercial providers as distinct from volunteers who fundraise on behalf of the charitable agency. Disclosure should indicate the role of the party for the fundraising as well as the purposes to which the funds raised are to be put.



68. Some definition is required as to what would constitute a 'financial benefit' to third party fundraisers. Sometimes pro bono work can still have a financial benefit in the longer term, such as profile and business building and referrals. Will the definition of a financial benefit be limited to cash-in-hand or include other kinds of financial benefit?

**69. Questions 7.3 to 7.7 Requirements on third party fundraisers:** ANGLICARE Sydney's view is that third party fundraisers should not be required to also be registered with the ACNC; the charity's own registration should be sufficient. The third-party fundraiser would need to provide the same disclosure information about the charity in the same way that the charity would if collecting donations directly. Third party fundraisers need to disclose the name of the charity for whom they are collecting, ABN and contact details of the charity. In addition they should also disclose, if requested, that they are being paid a fee - though not the size of the fee or commission.

70. ANGLICARE Sydney's view is that the regulation of private participators in fundraising is not required.

## **9. CONCLUSION**

71. ANGLICARE Sydney appreciates the opportunity of participating in the consultation process and looks forward to further opportunities to do so over the coming months.

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