



**Australian Charities and Not-for-profits
Commission**

Development of Governance Standards

&

Financial Reporting Requirements

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**Regulatory Impact Assessment of Potential
Duplication of Governance and Reporting Standards
for Charities**

**SUBMISSION FROM THE SALVATION ARMY
AUSTRALIA**

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The Salvation Army

The Salvation Army is the most recognised charity in Australia. The Salvation Army's services are open to all, without discrimination. The foundation of The Salvation Army and its current ethos affirm its religious commitment and its social commitment as equal and indivisible. The Salvation Army describes this as a "holistic mission".

The Salvation Army is an evangelical part of the universal Christian Church. Its message is based on the Bible and its ministry is motivated by love of God. Its Mission is both spiritual and practical, encompassing the preaching of the Gospel of Jesus Christ and alleviating human suffering and distress without discrimination.

Opportunity to contribute

The Salvation Army is pleased to have the opportunity to contribute in the consultation process on the development of governance standards and financial reporting requirements for the Australian Charities and Not-for-profits Commission (ACNC) and the Council of Australian Governments Regulatory Impact Assessment of potential duplication of governance and reporting standards paper.

The Salvation Army's Submission

Discussion

The Salvation Army has contributed to the consultation process for the development and establishment of the ACNC from the outset of the consultation process. Consistently The Salvation Army has stated its support for reform being undertaken is on the basis that the reforms achieve the Federal Government's stated outcomes of red tape reduction, reduced compliance costs and elimination of duplicated administrative functions. The Salvation Army supports reform that reduces regulation, reporting and compliance costs for the sector.

The Salvation Army refers to the previous submission it made in January 2012 in relation to governance standards and the operation of the ACNC.

Proposed Governance Standards

Standard 1: Purposes and NFP character of a charity

The Salvation Army is charitable to its core and obtains its legal identity with the use of legislated property trust acts throughout Australia.

The development and implementation of Standard 1 must not require organisations such as The Salvation Army to petition States and Territory Governments to amend relevant legislation to comply with this standard.

The Salvation Army observes the use of the term 'not for profit entity' within the Standard. This term is undefined and a separate Bill before the Federal Parliament relating to this term appears to have stalled. It is noted previous consultations have raised issues with the development of definition relating to the term 'not for profit entity' and The Salvation Army recommends continued efforts are made to resolve these issues.

The Salvation Army recommends appropriate wording is included within the Standard to ensure that, to the extent there may be technical deficiencies with current charitable property trust acts of Parliament (or similar legislative arrangements), Standard 1 does not result in the needless wastage of charitable resources to overcome such deficiencies. The absence of such assurance in this regard would be of great concern and cause significant uncertainty to The Salvation Army.

Standard 2: Accountability to members

The Salvation Army does not believe Standard 2 will create compliance or administrative burdens in addition to the current manner in which The Salvation Army operates today.

Standard 3: Compliance with Australian laws

The Salvation Army strongly supports the requirement that all persons (regardless of their legal status and identity) need to uphold the law of the land. However, The Salvation Army remains strongly of the view the inclusion of Standard 3 is unnecessary in this context given the range of powers already granted to the Commissioner of the ACNC to ensure the Objects of the ACNC Act¹, as contained in Division 15 of the ACNC Act are fulfilled.

The inclusion of such a requirement to obey Australian laws is in of itself a significant duplication of regulatory oversight for the not-for-profit sector given the range of other Australian enforcement bodies that exist and relevant legislation that gives rise to Australian law.

To the extent a reference to complying with Australian law is necessary within the standards, this could be incorporated within the Responsible Entity duties.

Standard 4: Responsible management of financial affairs

The Salvation Army does not support the inclusion of Standard 4 within the ACNC governance standards as a standalone standard.

The Salvation Army has not been convinced by the discussion paper of the need to separately and solely focus on 'financial affairs' as an area that requires a specific governance standard. There is a significant risk that this governance standard will be used in the future as a tool by the ACNC to restrict the behaviour of charities via the issuance of narrow and prescriptive guidance notes that must be followed by the sector. This will then

¹ Division 15 of the Australian Charities and Not-for-profits Commission Act 2012

lead to a regulation mentality of a 'one size fits all' regime. This risk is of grave concern to The Salvation Army and it will directly impact of the ability of the sector to be 'robust, vibrant, independent and innovative'².

Responsible financial management is an implicit duty (amongst other requirements) for Responsible Entities (within the context of the ACNC Act). As such the obligation to manage the financial affairs of a charity responsibly must only reside in Standard 6 and form part of a Responsible Entity's duties if it is to be included at all.

Standard 5: Suitability of responsible entities

The Salvation Army does not believe the inclusion of Standard 5 will impose compliance costs that are in addition to the current operations and practices of The Salvation Army.

Standard 6: Duties of responsible entities

The Salvation Army remains concerned with the continued inclusion of the principle of differing standards of care existing between responsible entities of the one organisation. This differentiation will most likely lead to a practice where some responsible entities inappropriately attribute risk matters to certain individuals and maintain they are not responsible for any corresponding outcomes. As stated in The Salvation Army's previous submission, The Salvation Army does not support the development of different standards of care on the basis of employee versus volunteer or professional versus lay persons, nor the development of standards of care for responsible persons which vary based on particular qualifications, experience or skill of the individual.

Financial Reporting Requirements

The Salvation Army observes the draft regulation for financial reporting requirements is concise and effectively results in auditors and reviewers becoming the regulator of this regulation as they will have the responsibility to determine if Australian accounting standards are being met.

It is noted the draft regulation states that to the extent the provisions in the ACNC Act³ relating to joint or collective reporting are in contradiction to accounting standards, the financial statements do not have to comply with the accounting standards. This potentially means the auditor will be required to qualify their audit due to the fact all accounting standards have not been complied with.

The Salvation Army recommends further work is undertaken by the ACNC in conjunction with relevant accounting bodies to ensure this outcome does not eventuate prior to the draft financial reporting regulation coming into effect.

² Section 15-5(1)(b) of the the Australian Charities and Not-for-profits Commission Act 2012

³ Subdivisions 60-E and 60-G of the Australian Charities and Not-for-profits Commission Act 2012

Regulatory Impact Assessment of potential duplication of governance and reporting standards paper

The Salvation Army's interest in this paper relates to the clear findings of significant new and additional regulatory burdens being created for the charitable sector as a result of the proposed new governance and financial reporting regulations.

The Salvation Army has consistently stated its position in relation to the need for a reduction in regulation, red tape, unnecessary administration and compliance costs.

The Regulatory Impact Assessment makes it clear compliance and administrative costs will increase as a result of the operations of the ACNC.

In light of these findings The Salvation Army submits that prior to, or simultaneously with, the implementation of governance and financial reporting standards, the Federal Government and ACNC need to implement the following previously announced measures:

- modifications to the Commonwealth Grant Guidelines, which will utilise the ACNC as a 'one stop shop' and reduce multiple reporting of identical information.
- the operational release of the ACNC's announced Charity Passport.

These two measures are purportedly tangible means by which red tape reduction will be achieved and it is essential that offsetting mechanisms are introduced at the same time new regulations are created that add to the cost of compliance and administration for a charity.

If you have any questions in relation to this submission or would like any further clarification, please do not hesitate to contact us.

Contact details:

Major Kelvin Alley
National Secretary
The Salvation Army National Secretariat, Canberra
2 Brisbane Avenue Barton, ACT 2600
02 6273 3055
Email: Kelvin.alley@aue.salvationarmy.org