

Charitable Fundraising Regulation Reform paper Response to Consultation questions

Is regulation on necessary?

2.1 Is it necessary to have specific regulation that deals with charitable fundraising? Yes, we believe it is important to have a specific regulation that deals with charitable fundraising to help build public confidence in charities.

We also believe that it is important for the regulations to be Principle-based as opposed to Prescriptive regulations. Principle based regulation will allow for appropriate levels of transparency without enforcing strict less flexible rules. As otherwise they could lead to the possibility that undesirable conduct may continue to occur simply by falling outside of narrowly proscribed activities.

2.2 Is there evidence about the financial or other impact of existing fundraising regulation on the costs faced by charities, particularly charities that operate in more than one State or Territory? The Shepherd Centre's fundraising activities are only in NSW and ACT, at present and we don't incur any significant additional costs due to individual State or Territory laws. However we do run a National event (Loud Shirt Day) along with our Alliance of other First Voice Centres who fundraise for deaf children in other states of Australia. There have been a couple of situations where we have needed to print different pack version to ensure we have upheld the requirements of the regulations in each State and Territory. This has incurred additional costs but only minimal as the event is held annually.

Activities that might be exempt from fundraising regulation

2.4 Should the activities mentioned above be exempted from fundraising regulation? We agree that Soliciting for government grants, Corporate donations or donations from public and private ancillary funds and workplace appeals for assistance for colleagues and their families should be exempted from the regulation. However we do not agree with the last point which restricts the exemptions to donations from religious organisations from their own members. We believe that members of a religious group should not be the only class of people that can be exempted; we believe that this should be extended to include any class of people associated with the organisation, for example, sporting groups and its members or recipients of the cause and their members.

2.5 Are there additional fundraising activities that should be exempt from fundraising regulation? We believe soliciting for a Bequest should not be exempt; it should be included in the regulations.

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Implementing a national approach to fundraising regulation

2.7 Should national fundraising regulation be limited to fundraising of large amounts? If so, what is an appropriate threshold level and why? We believe the \$50,000 threshold is too high to not be regulated. We feel that it would be more appropriate for the threshold to be up to \$10,000 not regulated. For anything over \$10,000 the national regulation should apply.

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? No, we believe that the only national regulation should apply, and only if you are going to be raising over \$10,000 in donations.

2.9 Should a transition period apply to give charities that will be covered by a nationally consistent approach time to transition to a new national level? If so, for how long should the transition period apply? An appropriate transition period of the new regulation should be a minimum of 12 months.

Registering for fundraising activities

2.10 What should be the role of the ACNC in relation to fundraising? As per the following paragraphs included in the paper:

28. One approach would be to allow all charities registered with ACNC to also be authorised to engage in fundraising activities across Australia. This approach would have the benefit of reducing complexity for participants in the sector and also improve transparency for donors, as all charities registered with the ACNC would be authorised to raise funds from the public.

29. Assuming that charities are registered with the ACNC are also authorised for the purposes of fundraising activities, there is likely to be a need to have legislative power to ban a charity from fundraising activities in certain circumstances, such as insolvency or if there is evidence that there has been significant wrong doing in the course of fundraising. It is proposed that the ACNC would have the power to ban a charity from fundraising activities. However, any decision by the ACNC would be reviewed by the courts.

2.11 Should charities registered on the ACNC be automatically authorised for fundraising activities under the proposed national legislation? Yes, we agree.

2.12 Are there any additional conditions that should be satisfied before a charity registered with the ACNC is also authorised for fundraising activities? No, we don't believe so at the present time.

2.13 What types of conduct should result in a charity being banned from fundraising? How long should any bans last? We believe it is important to assess the conduct on the following scale:

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Least: Administrative error (if a charity has not completed all the paperwork but is still upholding the correct procedures) should not result in a charity being banned.

Worst: a charity not upholding the correct procedures which is resulting in a damaging effect on a donor. This should result in a charity being banned.

The other scale that should be viewed is whether the charity has intentionally undertaken a wrong doing vs an accidental wrong doing.

The ban by the ACNC should continue until the ACNC can be convinced the charity has taken appropriate measures to fix the wrong doing.

Information disclosure at the time of giving

4.1 Should all charities be required to state their ABN on all public documents? Are there any exceptions that should apply? Yes, we believe a charity ABN and website address should be included on all documents that are soliciting a donation. We do feel that to adequately respond to this question, we need to have a clear definition of what public documents are. There will also need to be guidelines around situations when it is not possible to print an ABN or website address due to the surface space available.

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? We don't believe this is necessary. Some charities don't have large fundraising teams and it can be more cost effective for them to outsource a part of their fundraising activities.

4.3 Should persons engaged in charitable fundraising activities be required to wear name badges and provide contact details for the relevant charity? Yes we agree this should be a requirement.

4.4 Should specific requirements apply to unattended collection points, advertisements or print materials? What should these requirements be? We believe ABN and contact details include phone and website address should be sufficient to include on unattended collection points, advertisements or print materials.

4.5 Should a charity be required to disclose whether a charity is Deductible Gift Recipient and whether the gift is tax deductible? Yes, we believe charities should be required to do this.

4.7 Should charities be required to provide contact details of the ACNC and a link to the ACNC website, on their public documents? We don't believe that it should be mandatory to include a link to the ACNC on all public documents or on the website. It should be up to the charity whether they choose to do this. As it will ultimately benefit them as it will help to build public confidence.

Information disclosure after the time of giving

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5.1 Should reporting requirements contain qualitative elements, such as a description of the beneficiaries and outcomes achieved? Yes, we believe this is important but should be provided to the ACNC on an annual basis only.

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? We believe that it should be a requirement to report on the outcomes of fundraising activities, but only as an aggregated cost associated to the fundraising activity overall for the year as opposed to the cost of fundraising per individual campaign.

5.3 Should any such requirements be complemented with fundraising-specific legislated accounting, record keeping, and auditing requirements? We believe that all charities should be required to use the national chart of accounts to ensure a standardised reporting across all charities.

Internet and electronic fundraising

6.1 Should internet and electronic fundraising be prohibited unless conducted by a charity registered with the ACNC? Yes, a charity should be registered to conduct internet or electronic fundraising. If a third party wishes to conduct internet and electronic fundraising they need to obtain an authority to fundraising from the charity they are fundraising on behalf of. The charities ABN and contact details should appear clearly on the individual fundraisers website page and any of their communication pieces.

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? We believe the term 'communications' needs to be defined. For example it should be a requirement to state a charities ABN and contact details on their Facebook page or their website or Twitter account but it should not be a requirement to appear in each Facebook post or twitter message, this would be viewed as an impractical circumstance.

Fundraising by third parties on behalf of charities

7.1 Is regulation required for third party fundraising? If so, what should regulation require? We believe that their party fundraising should have the same national regulation as all charities. There should be no special regulations.

7.4 Should third party fundraising be required to state the name and ABN of charities for which they are collecting? They should only be required to provide the ABN of the charities if they are asked. It would be an assumption that an individual would state the name of the charity they are raising funds for when they collecting for a charity.

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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? No, we believe it is not the place of the third party fundraiser to disclose this information, we believe that if the third party fundraiser is asked this question they should provide the contact details of the charity for the person asking to conduct the charity direct to obtain this information.

7.6 Should third party fundraisers (or charities) be required to inform potential donors that paid labour is being used for fundraising activities? No we don't feel this is appropriate.

7.7 Is regulation required for private participants involved in charitable fundraising? If so, what should regulation require? If a private participant is raising funds under \$10,000 they need to approach the charity they are fundraising on behalf of to obtain an authority to fundraise. If a private participant is raising funds over \$10,000 they will need to obtain an authority to fundraise and ensure they are following the rules outlined in the regulation.

Should you wish to discuss The Shepherd Centre's responses to the Charitable Fundraising Regulation reform in more detail please don't hesitate to contact us:

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