



14 March 2021

Senior Advisor  
Not-For-Profit Unit, Not-for-profits and Tax Administration Branch  
Treasury Melbourne  
Level 16, 530 Collins Street  
Melbourne VIC 3000  
via email: [charitiesconsultation@treasury.gov.au](mailto:charitiesconsultation@treasury.gov.au)

Dear Sir/Madam

**RE: Unlawful activity - changes to the governance standards for registered charities**

We refer to the proposed changes to the ACNC Governance Standard 3 continued in the Exposure Draft *Australian Charities and Not-for-profits Commission Amendment (2021 Measures No. 2) Regulations 2021* (Cth).

We are strongly supportive of the proposed change and the policy principle we understand to be behind the Exposure Draft regulations.

We note that the Exposure Draft Explanatory Statement indicates that the third category of offences to be caught within the expanded ambit of the Standard are those *“causing personal injury to an individual or any other kind of impairment of an individual’s health, including the risk or threat of causing such injury or impairment”*. The example provided being *“common assault or threatening violence against an individual”*. It almost goes without saying that we would support the inclusion of these types of offences in the prohibition.

However, we also note that the FAQ document provided as part of the consultation on these changes seems to describe this category in broader terms, as *“interference with an individual (e.g. assault, causing injury or harm, threatening violence or otherwise intimidating an individual)”*. While this document would obviously not carry the same interpretative value as the Explanatory Statement this broader description clearly has some currency to be included in this document.

We are concerned that provisions in State or Territory law, such as section 17 of the *Anti-Discrimination Act 1998* (TAS) may be thought to enliven the prohibition in the Exposure Draft regulations if this broader description is not clearly address. This provision, and other similar or proposed provisions, makes unlawful *“conduct which offends, humiliates, intimidates, insults or ridicules another person”*, a very ‘low-bar’ test. We would be very concerned if allegations of conduct which is said to merely *“humiliate”* or *“insult”* or *“ridicule”* was to be construed as *“interference with an individual”* falling within the ambit of the Exposure Draft regulations.

**Christian Schools Australia Limited**  
ACN 092 580 124

**Office** Suite 14, Level One, Manuka Arcade,  
22 – 30 Franklin Street Manuka ACT  
**Mail** PO Box 3069 Manuka ACT 2603

**Phone** (02) 6257 7989 **Fax** (02) 9887 4928

Accordingly, we **recommend** that the Explanatory Statement be expanded to more clearly exclude these types of provisions. The current example of receiving “*a traffic infringement in the course of their employment*” as not being covered could be extended with further examples of legitimate debate and criticism that would not trigger a breach of the proposed expanded standard.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Mark Spencer', written in a cursive style.

Mark Spencer  
Director of Public Policy