



Submission to The Treasury

Deductible Gift Recipient (DGR) Reforms

September 2018

Introduction

This submission outlines key areas of opportunity and concern for the Community Council for Australia (CCA) in relation to the proposed reforms to Deductible Gift Recipient status (DGR) as outlined in The Treasury consultation paper and FAQs paper.

CCA welcomes the opportunity to engage with The Treasury on this very important issue.

CCA has also consulted with other members (see listing in appendix 1) in framing this submission, however, it is important to note that this submission does not override the policy positions outlined in any individual submissions from CCA members.

The content of this submission includes: a brief background to CCA; an overview of the current context for the broader charities and not-for-profit (NFP) sector; a discussion of key issues relating to the proposed DGR reforms; and a conclusion.

CCA welcomes this opportunity to provide input into this consultation and is willing to participate in further discussion as the proposed reforms are finalised.

The Community Council for Australia

The Community Council for Australia is an independent non-political member-based organisation dedicated to building flourishing communities by enhancing the extraordinary work undertaken by the charities and not-for-profit sector in Australia. CCA seeks to change the way governments, communities and NFP organisations relate to one another. It does so by providing a national voice and facilitation for sector leaders to act on common and shared issues affecting the contribution, performance and viability of NFPs in Australia. This includes:

- promoting the values of the sector and the need for reform
- influencing and shaping relevant policy agendas
- improving the way people invest in the sector
- measuring and reporting success in a way that clearly articulates value
- building collaboration and sector efficiency
- informing, educating, and assisting organisations in the sector to deal with change and build sustainable futures
- providing a catalyst and mechanism for the sector to work in partnership with government, business and the broader Australian community to achieve positive change.

Our success will drive a more sustainable and effective charities and not-for-profit sector in Australia making an increased contribution to the well-being and resilience of all our communities.

Background context: the not-for-profit sector

The NFP sector encompasses over 600,000 organisations - from large to very small - and employs well over one million staff (around 10% of all employees in Australia). Australia's 54,000 charities collectively turn over more than \$130 billion each year and hold over \$260 billion in assets. In the last decade, sector growth has continued at more than 7% a year, a figure that is higher than any other industry group.

These facts tell only a small part of the story. The real value of the NFP sector is often in the unmeasured contribution to Australian quality of life. NFPs are at the heart of our communities; building connection, nurturing spiritual and cultural expression, and enhancing the productivity of all Australians. Collectively, they make us a more resilient society.

The importance of the NFP sector is now being internationally recognised with many governments putting in place measures to increase NFP investment and productivity. Smaller government and bigger community is a common theme, driven in part by savings, but also by a commitment to greater civic engagement, social entrepreneurship and productivity within the NFP sector.

The establishment of the Australian Charities and Not-for-profit Commission (ACNC) is the first time the NFP sector has had an independent regulator dedicated to serving their needs and enhancing their capacity. It has proved to be a positive step towards red tape reductions, increased transparency, and trust in the community by prospective volunteers and donors. The national charities register has also provided invaluable information.

While the recent history of the NFP sector is framed by growth and reform, new issues are emerging. The level of volunteering and individual philanthropic giving as a percentage of income has still not recovered to the highs of 2009. At the same time, revenue available to governments is effectively falling in real terms against a backdrop of increasing demands and higher community expectations. Competition for fundraising and services has increased.

Given the size of the sector and its critical role in our community, Government can achieve real economic and social benefits if it chooses to strategically invest in strengthening our communities and our NFPs. There have been numerous reports and recommendations relating to the NFP sector over the last decade, but relatively few have been acted upon.

The inability of governments to streamline their own regulatory processes, their tendering processes, contract management and programs monitoring has consistently been identified as a major barrier to improving productivity in the not-for-profit sector in Australia. The lack of certainty in the government regulatory environment, funding and contracting processes also undermines performance and ongoing investment in improving outcomes. For the sector to be more effective, these issues must be addressed.

Positive change often requires increased collaboration, recognition of shared goals and shared ways of achieving outcomes. Given the size of the NFP sector and its critical role in improving Australian well-being, there is scope to boost productivity by working constructively with the NFP sector in developing more responsive and effective programs and services, seeking to achieve shared goals and outcomes.

Key Issues with the Proposed DGR Reforms

The Government's package of DGR reforms comprise of:

1. *Requiring non-government DGRs to register as a charity with the Australian Charities and Not-for-profits Commission (ACNC), or be operated by a registered charity, from 1 July 2019. There are to be transition arrangements and limited exemptions that are discussed in the consultation paper.*
2. *Certain public fund requirements will be abolished. For details, see the consultation paper.*
3. *The four departmental DGR Registers will be integrated with the ACNC Charity Register and duplicative reporting requirements will be abolished from 1 July 2019. The ACNC will also provide a central location for applications and reporting and will work with the Australian Taxation Office (ATO) to provide a streamlined experience.*
4. *Additional funding for the ACNC and ATO to review high risk DGRs for ongoing eligibility, to ensure tax concessions only benefit eligible organisations.*
5. *Publishing charities' declarations of political expenditure to the Australian Electoral Commission on the ACNC Charity Register and relevant criminal activities of charities' staff or responsible persons.*
6. *Eligibility for DGR status will be expanded to include Indigenous language organisations.*
7. *The introduction of external conduct standards to be enforced by the ACNC. The standards will strengthen the ACNC's oversight of overseas activities conducted or funded by registered charities.*

Reforms 1 and 2

CCA understands The Treasury is consulting primarily on the first two of these reforms.

CCA has advocated for the proposed reform requiring most DGRs to register with the ACNC and supports the proposed implementation.

CCA also supports the streamlining of requirements on public funds and the proposed implementation.

Reforms 3 – 7

CCA would also make the following observation in relation to the remaining proposed reforms, even though the consultation paper does not address reforms 3 – 7.

CCA supports all these proposed reforms with two exclusions. CCA has separately prepared a submission to The Treasury in relation to proposed reform 7 - the proposed external conduct standards. Proposed reform 5 is addressed in the following item in this submission.

Proposed Reform 5

5. Publishing charities' declarations of political expenditure to the Australian Electoral Commission on the ACNC Charity Register and relevant criminal activities of charities' staff or responsible persons.

CCA is very concerned about this proposed reform and will not support it. There are two areas of concern in this proposed reform that CCA would note (even though this may be out of scope for the current consultation).

Why focus on the AEC declarations?

It seems strange that of all the declarations, accreditations, and compliance registers that so many charities have to satisfy, the few charities making declarations to the Australian Electoral Commission are to have this listed as part of the ACNC Charity Register. There is no explanation as to why this is required. Anyone concerned about political declarations can readily look up the AEC website and obtain that information. Listing the AEC information on the ACNC website seems to be extending the role of the ACNC register to encompass other registers – why not include fundraising licenses, working with children accreditations, whether the charity is a registered training organisation, etc. etc.?

The concern of CCA about this over-reach is compounded by the fact that the current ACNC Commissioner has previously indicated his personal opposition to charities engaging in advocacy on national policy issues. Is this a way to highlight those charities the ACNC Commissioner believes should not be supported? Why?

Privacy, quality of staff, Board Directors and the voice of the marginalised

The second concern relates to publishing the past criminal records of charities staff or responsible persons. Not only is this proposed reform a massive breach of privacy, it also shows no understanding of the nature of work undertaken by many charities working with the most marginalised in our community.

It is considered good practice, for instance, in drug treatment services, to have on staff some former drug dependent people who have since reformed and become qualified as drug counsellors, psychologists, social workers, nurses, family therapists, etc. Often these staff can connect with clients in a way others cannot. The same is true in many areas of charity work – the voice of a reformed and educated former client can make a huge difference.

It is also good practice to ensure the voice of service consumers or clients is present across the decision-making structures of organisations including at a Board level.

Would a former drug addict who committed minor offences be happy to have their criminal history displayed publicly now that they are working as a social-worker in a drug treatment agency? Would a former drug addict, now a successful lawyer or businessman, be happy to have their past criminal record published because they chose to volunteer to be a Board Director of a charity?

Implementing this reform would drive a significant number of well qualified and experienced staff and Board members to resign from their engagement in the charities sector. Robbing charities of the rich experience and knowledge of those who have experienced difficulties in their own lives seems ill conceived, especially given the lack of evidence about any benefit in publishing their personal histories.

Conclusion

CCA has long supported ending the multiple application processes involved in DGR and charitable status. Reforming DGR to ensure that most DGR organisations are listed with the ACNC and ending the role of separate registers run at a Departmental level makes good sense, reduces red tape and compliance, increases transparency, and is a sound practical policy initiative.

Similarly, the move to streamline the public fund requirements has long been supported across the charities sector.

CCA welcomes these proposed reforms and commends The Treasury and responsible Minister for these positive initiatives.

CCA has serious reservations about a number of other proposed reforms and is flagging those concerns in this submission, knowing they may fall outside of the current consultation paper.

Highlighting the few charities that make declarations to the AEC on the ACNC Charities Register seems arbitrary at best. There needs to be a very clear rationale revealed before such a measure could be justified.

CCA also feels very strongly that revealing the personal histories of charity staff and Board Directors without demonstrating how this breach of privacy offers any real public benefit is bad policy. It will harm the charities sector and their capacity to work effectively with the most marginalised in our community. These ill-conceived proposed reforms need to be revisited prior to any regulatory proposals being developed.

Current Membership – Community Council for Australia *Appendix 1*

Access Australia's National Infertility Network
Adult Learning Australia
Alcohol, Tobacco and Other Drugs Association ACT
Arab Council Australia
Australian Community Support Organisation (ACSO)
Australian Council for International Development, Marc Purcell, CEO (CCA Board Director)
Australian Institute of Superannuation Trustees
Australian Major Performing Arts Group
Australian Research Alliance for Children and Youth
Australian Women Donors Network
Business Council of Cooperatives and Mutuels
Carers Australia
Centre for Social Impact
Church Communities Australia
Churches of Christ Vic and Tas
Community Based Support (Tas)
Community Broadcasting Association of Australia
Community Colleges Australia
Connecting Up
Ethical Jobs
Everyman
Foresters Community Finance
Foundation for Alcohol Research and Education
Foundation for Young Australians
Fragile X Association of Australia
Fundraising Institute Australia
Good Samaritan Foundation
Good2Give
Hammondcare
Healthy Options Australia
Hillsong Church, George Aghajanian, CEO (CCA Board Director)
Housing First
Justice Connect
Life Without Barriers, Claire Robbs, CEO (CCA Board Director)
Lock the Gate
Mater Foundation

Menslink
Mission Australia
Missions Interlink
Musica Viva Australia, Mary Jo Capps, CEO (CCA Board Director)
Non Profit Alliance
Our Community
OzHarvest
Painaustralia
Palliative Care Australia
Philanthropy Australia
Pro Bono Australia
Queensland Water & Land Carers
RSPCA Australia, Heather Neil, CEO (CCA Board Director)
SANE
SARRAH
Save the Children, Paul Ronalds, CEO (CCA Board Director)
Settlement Services International
Smith Family, Lisa O'Brien, CEO (CCA Board Director)
Social Ventures Australia
St John Ambulance
Starlight Foundation
Ted Noffs Foundation
The Lost Dogs' Home
Touched by Olivia
Variety Australia
Volunteering Australia
Wesley Mission, Keith Garner, CEO (CCA Board Director)
White Ribbon Australia
Work Place Giving Australia
World Vision, Tim Costello, Chief Advocate (Chair CCA Board)
World Wide Fund for Nature Australia
YMCA Australia