



The Salvation Army

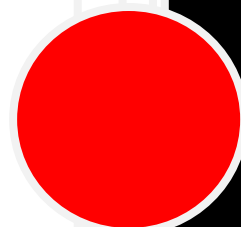
THE SALVATION ARMY SUBMISSION TO REVIEW OF THE OPERATION OF THE AUSTRALIAN CHARITIES AND NOT-FOR-PROFITS COMMISSION ACT 2012 (CTH) AND THE AUSTRALIAN CHARITIES AND NOT-FOR-PROFITS COMMISSION (CONSEQUENTIAL AND TRANSITIONAL) ACT 2012 (CTH).

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The Salvation Army Australia welcomes the opportunity to provide input to the legislated five year review identified above.

1. About The Salvation Army and this submission

The Salvation Army is an international movement and part of the universal Christian church. The Salvation Army is a mission driven organisation that, through its direct service delivery and advocacy role, seeks to reduce social disadvantage and create a fair and harmonious society through holistic and people centred approaches that reflect our commitment to and primacy of:

- Caring for people
- Creating faith pathways
- Building healthy communities
- Working for justice.

Informed by these fundamental mission intentions, The Salvation Army delivers its networks and programs of human services in partnership with communities and government and with the support of government funding. The Salvation Army also contributes significant internally generated funds and resources, including the commitment and support of its many volunteers and supporters. In the current financial year The Salvation Army Australia will contribute more than \$60 million of its own revenue to offset costs in the delivery of services to disadvantaged and hard to reach people in the community, who would otherwise 'fall through the cracks'. In addition, The Salvation Army makes significant 'in kind' contributions to social programs, including the use of buildings and equipment, IT and administrative staff.

The Salvation Army is primarily concerned with altruistic objectives such as addressing and reducing community need and social disadvantage. The Salvation Army achieves mission objectives through the social capital generated by empowering communities through advocacy, volunteering, developing partnerships in the community and a commitment to early intervention and prevention. Mission based charities and not-for-profit organisations, such as The Salvation Army, bring a multitude of additional outputs and benefits apart from contracted service delivery.

The Salvation Army welcomes the government's review of the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)* and the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012 (Cth)*.

The Salvation Army supported the introduction of the Australian Charities and Not-for-Profits Commission (ACNC) with the understanding the ACNC will achieve tangible reductions in the regulatory and compliance costs and burdens of charities and other not-for-profit organisations. It is noted the ACNC has made progress with respect to reducing reporting obligations with certain state based regulators and this is to be commended. However, The Salvation Army believes greater regulatory reform can still occur and encourages the ACNC to continue to work with governments across Australia with the Charity Passport concept, to reduce the amount of reporting charities are required to undertake.

The Salvation Army (TSA) also expresses its concerns about any changes to the objects of the legislation at this time. TSA argues that the changes proposed in the ACNC's own submission could undo the gains made by the ACNC in its work to reduce 'red tape' and bureaucracy. TSA believes the ACNC proposed additional objects would place unprecedented and unnecessary new restrictions and reporting obligations on charities and not-for-profit organisations engaged in advocacy of social justice issues, to the detriment of their primary function of working to alleviate social disadvantage.

TSA believes the not-for-profit sector already meets a high standard of accountability to both the ACNC and state based compliance bodies. The improved level of accountability has resulted in the deregistration of non-compliant organisations and an increase in the sector's confidence in the ACNC. The increased reporting requirements brought about by any new objects are unnecessary.

2. Response to the Review's Terms of Reference

The terms of reference of the review require the Review Panel to evaluate the suitability and effectiveness of the ACNC legislation, giving particular reference to:

- Examination of the extent to which the objects of the ACNC legislation continue to be relevant
- Assessment of the effectiveness of the provisions and the regulatory framework established by the ACNC legislation to achieve the objects
- Consideration of whether the powers and the functions of the ACNC Commissioner are sufficient to enable these objects to be met
- Consideration of whether any amendments to the ACNC Acts are required to enable the achievement of the objects and to equip the ACNC Commissioner to respond to both known and emerging issues.

The Salvation Army notes the ACNC is the regulator of both charities and not-for-profit organisations. To date only charities have been brought under the regulation of the ACNC. The ACNC should be given the necessary powers and authority to fulfil its remit and commence regulation of the wider not-for-profit set of organisations. The extension of being regulator to the full not-for-profit sector is essential prior to any expansion of the ACNC's objects.

With respect to the powers the ACNC has at its disposal as a regulator, The Salvation Army would be concerned with any extension of powers that could lead to irreparable damage of a charity or not-for-profit organisation. Such concerns relate to permitting the ACNC to make public information relating to when an investigation commences. The mere announcement of an investigation could be enough for some organisations to sustain such reputational damage that they may not recover, notwithstanding the ACNC may find no case or issue to answer to.

Care needs to be taken to ensure there is an appropriate balance between the powers of the ACNC and the ability for the charity and not-for-profit sector to flourish with little or no impediments. If it is determined the powers of the ACNC need to be expanded (and there may be some practical reasons why this needs to occur), these changes will need to be subject to a public review to enable specific analysis and comments to be provided.

It is noted that the external conduct standards have still not been released by the ACNC. The Salvation Army recommends this outstanding matter be progressed and an appropriate consultation process is undertaken in the development and implementation of the external conduct standards.

The Salvation Army recommends the concept that underpins the Basic Religious Charity (BRC) reporting exemption is extended to all such organisations that operate in a similar way to mutual organisations where the income generated by the organisation is derived from members. It is noted the BRC thresholds have not been adjusted since the ACNC Act was enacted and it would now be appropriate to lift the thresholds.

With respect to thresholds for organisation to be classified as small, medium or large organisations for ACNC purposes, the Review Panel should consider whether the revenue limits for each category are still appropriate or whether there is scope for a realignment. The Salvation Army observes the threshold for a large charity is very low and there may also be scope for a “micro” organisation size to be created.

3. Concerns with the ACNC review and recommendations

While The Salvation Army has identified several specific concerns about the ACNC arising from the review’s Terms of Reference, it is particularly concerned about the ACNC’s own recommendation for extra objects being added to the legislation. In its submission to the review, the ACNC made 40 recommendations in total including the recommendation to consider adding two objects to Section 15-5 of the legislation. These are:

- a. To promote the effective use of the resources of not-for-profit entities, and
- b. To enhance the accountability of not-for-profit entities to donors, beneficiaries and the public.

It is this recommendation that TSA is concerned about, and asks that the Government rejects it. It is noted the ACNC’s submission to the Review Panel contained additional recommendations and whilst TSA has not provided commentary on those matters, this should not be taken as support by TSA for those recommendations.

TSA argues that the three existing objects of the ACNC, regarding the use of resources and accountability, are still highly relevant. Those objects are:

- To maintain protect and enhance public trust and confidence in the Australian not-for-profit sector
- To support and sustain a robust, vibrant, independent and innovative sector, and
- To promote the reduction of unnecessary regulatory obligations on the sector.

The proposed changes could be counterproductive to the existing objectives as they would increase the accountability and reporting requirements of the charities and not-for-profit sector.

TSA is also concerned about the definitions of the key terms and phrases within the proposed objects, especially 'the *effective* use of resources' and '*accountability* of not-for-profit entities'.

TSA asks how the ACNC proposes to measure and evaluate not-for-profit *effectiveness*? TSA is concerned about the measures that will be used, as this information has not been announced.

TSA argues that *accountability* and reporting undertaken by charities are already well regulated through the ACNC and that the ACNC has, as a result, gained the trust and respect of the charitable sector and the wider public. The ACNC has worked with previous federal governments to reduce the amount of red tape demanded of charities just as it has improved charities' accountability and transparency. It has also successfully provided a central reference source for charities on relevant information, advice and data.

The Commonwealth Treasury, when releasing the Terms of Reference of the review, endorsed this confidence by stating:

"Australia is well served by its charities and not-for-profit sector and with close to five years of proportionate government oversight and regulation through the ACNC, the overwhelming majority of Australian charities are considered to be well-governed, operating with sound financial management, and are worthy of the trust and confidence of the Australian community" (December 2017).

TSA argues that the ACNC is doing well in its work to:

- Promote public and government confidence in the charities and not-for-profits sector
- Position itself as the 'go-to' organisation for the sector especially as a resource for advice on regulation and compliance
- Reduce red tape
- Increase public accessibility and transparency of the sector.

By contrast, the proposed changes will force charities and not-for-profits to divert their resources to increased levels of reporting and accountability, thereby taking their focus and resources away from serving the most disadvantaged people and communities.

Accordingly The Salvation Army calls on the Australian Government to reject the amendments to Section 15-5 as proposed by the ACNC. These changes go far beyond the stated intent of the Review, in relation to transparency and accountability, and will result in an excessive administrative burden on the sector.

The Salvation Army believes the changes will:

- significantly increase the administrative burden and 'red tape' required to monitor and report on such activities
- limit a charity's opportunity to advocate on behalf of disadvantaged people, as 'advocacy' continues to be confused with 'political campaigning'.

Conclusion

The Salvation Army welcomes the review of the ACNC legislation and looks forward to evaluating the outcomes of the review. TSA continues to support the ACNC in the ongoing search for opportunities for further red tape reduction and simplification of reporting by charities and not-for-profit organisations to government bodies across Australia. .

The Salvation Army invites further discussion concerning these important matters.