



Family Relationship Services
A U S T R A L I A

SUBMISSION TO THE SENATE STANDING COMMITTEE ON ECONOMICS

INQUIRY INTO THE DISCLOSURE REGIMES FOR CHARITIES AND NOT-
FOR-PROFIT ORGANISATIONS

AUGUST 29, 2008

About Us

Family Relationship Services Australia (FRSA) is the national peak body for community organisations that deliver family relationship services across Australia.

Our vision is for an Australian society that is enriched through respectful relationships in all of their diversity. In the achievement of this vision, our role is to support the delivery of quality services and engage in the development of public policy.

FRSA is supported by member organisations (Appendix 1) and receives funding through the Australian Government's Family Relationship Services Program (FRSP). Investment in this program is jointly appropriated from the Attorney-General's Department (AGD) and the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA).

Terminology

Organisations that deliver family relationship services funded through the FRSP are all not-for-profit organisations but FRSA prefers the terminology of 'community organisations' that collectively form the 'community sector'.

The defining feature of not-for-profit organisations is that they are community focused – they are embedded in the communities where they were created through their mission and core activities as well as their membership and governance structures. Using the term 'community organisation' positively identifies what organisations are rather than what they are not (eg 'not for profit' and 'non-profit'). The term 'community' must be defined in the broadest sense to refer to both groups of people living in a geographic area as well as people with a shared interest or cultural identity.

The term 'community sector' is also preferable to the terms 'voluntary sector' and 'charity sector' because it is more inclusive – capturing the contribution of paid professionals, volunteers, members, donors and sponsors and encompassing the diversity of purposes for which organisations have formed. While historically the majority of community organisations would have been formed by volunteers for charitable purposes this is not longer the case with many community organisations now being established to address a specific cause or community need, often with resources to engage paid staff from the outset.

The term 'charity' is associated with a very narrow understanding of public benefit involving crisis responses to poverty and people most in need. While many FRSA member organisations are working with highly vulnerable communities and population groups their work often extends beyond crisis responses.

Family relationship services work to strengthen families and provide support through transitions such as separation. There is a well established body of research identifying the long term benefit of prevention and early intervention strategies that promote social inclusion, individual/family wellbeing and community connectedness. The public benefit of this work is recognised in government investment (through the FRSP and related funding programs) and these programs enjoy substantial community support¹, yet they are not generally recognised as 'charitable' activities or eligible for concessions associated with charitable status.

¹ Program and service evaluation over the 40 year history of the FRSP consistently identifies the benefits to individuals, families and support across the community for these programs, see for example the *Evaluation of the FRSP*, Department of Families and Community Services & Attorney-General's Department (2004).

For example, under the current regulatory system a traditional activity such as providing shelter to a homeless family is clearly a charitable purpose but the more sophisticated approach of working with the same family at risk of becoming homeless to prevent eviction may not 'fit' the definition of public benevolence. A more sophisticated regulatory framework would recognise that both have public benefit. Moving beyond the language of 'charity' in the regulation of the community sector is an important step.

Recommendation 1: Modernise the language used in the regulation of 'community organisations' and the 'community sector', recognising the diversity of approaches to achieving public benefits such as social inclusion.

Company Structures

Within the FRSA membership we have a cross-section of community organisations from very large organisations working across State/Territory jurisdictions to small locally focused organisations. Some organisations are Incorporated Associations, others are Companies Limited by Guarantee, some are church affiliated and at least one was established by an Act of Parliament. This gives us a good understanding of the diversity of the community sector and we concur with the assessment by Allen's Consulting²:

"Neither the Corporations Act nor the Association Incorporation Acts — the two most applicable mechanisms — offer a means of incorporation that meets all the needs of the not-for-profit sector. In some senses, there is a 'misfit' between the nature of not-for-profit organisations and the incorporation vehicles available to them. The Corporations Act can be costly, complex and inappropriate in parts, and there are few tools to assist organisations with the practicalities of establishing under it; the Association Incorporation Acts are insulated, inconsistent and not mutually recognised and, while there are ways of overcoming this for multi-State bodies, they involve additional fees and reporting requirements."

FRSA supports the proposal for a new company structure to be designed for community organisations with appropriate accountability requirements. This would better recognise the unique relationships that community organisations have with stakeholders including donors, funders, volunteers and supporters.

In particular, we support further examination of the model of the 'Community Interest Company' implemented in the United Kingdom for potential application in Australia.

In lending our support to this proposal we concur with the recommendations of ACOSS that the development of any new national regulatory structure needs to be done in consultation with the sector, preferably by a joint taskforce comprised of representatives of Government and the community sector.

It is important that any new structure is available to community organisations across the spectrum but not imposed or made compulsory. There is value in continuing to recognise the value of diversity and allow organisations to make choices regarding the structure that best suits their purpose, activity and affiliation.

Recommendation 2: A joint taskforce comprising of representatives of Commonwealth and State/Territory Governments and representatives from the community sector be established to design a new optional company structure for community organisations that has appropriate reporting and accountability requirements.

² The Allen Consulting group for the Victorian Government (2005) *Improving Not-For-Profit Law and Regulation*.

Regulation

FRSA believes the regulation of community organisations should be more streamlined and consistent across jurisdictions. In particular, there are two areas of regulation where substantial improvements could be made. Once again Allen Consulting (2005) provide a neat summary:

“Fundraising regulation is highly inconsistent across State boundaries and encompasses no well-defined established conventions for reporting of data on sensitive issues such as fundraising costs. Treatment of individual organisations can be inconsistent within jurisdictions. The results are high compliance costs on organisations and high administrative costs on government, with few benefits — the regulations are doing little to inform the community about the nature of the sector’s fundraising activities.

Taxation treatment of not-for-profits is highly complex, with varying degrees of concession available across numerous types of organisation and little in the way of clear underpinning principles. There is considerable pressure on the definitions used by tax authorities given the benefits of obtaining a tax concession and there are strong incentives for organisations to arrange their affairs so as to obtain a concession. The result is considerable resources devoted by the sector, by tax authorities and, sometimes, by the courts to seeking, defending and establishing particular tax concession outcomes. At Commonwealth level, the legal and administrative framework needs to be amended to reduce the number of categories of not-for-profits for tax purposes, and to establish how each category of not-for-profit should be treated in relation to the various types of concessions; this must be done within a consistent and clearly articulated framework.”

In the family relationship services sector provider organisations are engaged in a diverse range of activities and generate income from multiple sources including government funding, client fee contributions, private donations, corporate sponsorship and fee-for-service activities. The regulatory requirements and taxation rules that apply to these activities are complex and differ according to the status of the organisation with regulators – for example most would have Deductible Gift Recipient status with the Australian Tax Office but only some are Public Benevolent Institutions. It is common for organisations to be managing a complex range of accountability and reporting obligations to members, communities, multiple funding bodies and regulators at both State/Territory and Commonwealth level. It is difficult to provide organisations with support in meeting these obligations because of the diversity of rules that apply across jurisdictions and regulatory bodies.

The fact that some organisations are defined as Public Benevolent Institutions for taxation purposes while others are not creates inequities in the cost of service delivery and the conditions that can be offered to staff. The extent to which the test is fair and the assumptions valid is an issue that warrants public debate. There are potential benefits to Government for broadening the range of organisations and activities that qualify for important concessions such as the Fringe Benefits Tax exemptions.

We concur again with ACOSS³ and the Nonprofit Roundtable⁴ on the desirability of a new regulatory framework for the majority of nonprofit organisations, which encompasses corporate and taxation regulation for each of a number of different types and sizes of organisations such as the model of the UK Charities Commission.

³ Articulated in the ACOSS draft submission to this Inquiry

⁴ Articulated in the National Nonprofit Roundtable Submission to the Victorian Government Review of Not-For-Profit Regulation (2007)

The Nonprofit Roundtable has clearly articulated the merits of regulation that is proportional to the size and impact of organisations. FRSA agrees that regulation should be less onerous for those organisations which have relatively small levels of financial turnover and have limited impact on the community, including those that are project or interest based. The use of 'light touch' regulation in these circumstances is important to encourage individuals and communities to form new organisations that contribute to civil society and democracy. The most important accountability for smaller organisations is to members and donors that support them. More substantial regulatory requirements can apply to larger organisations which receive public funds to provide services or essential supports to community or population groups.

Recommendation 3: Develop a new national regulatory framework for community (nonprofit) organisations to encompass corporate and taxation regulation that is proportional to the size and activities of organisations including community impact and risks.

Funding Compliance

FRSA works extensively with community organisations that receive government funding to deliver services and projects. We believe that the regulation built into many funding agreements is excessive and the compliance costs to organisations poorly recognized.

Much of the information required and submitted to government is not utilised or useful in the management of services and does not contribute to any improvement in community benefit or individual client outcomes.

Within the Family Relationship Services Program (FRSP) accountability and reporting requirements have increased substantially over recent years without commensurate increases in resources. Organisations now comply with multiple data collection systems that taken as a whole are diverting much needed resources from service delivery to administration, these include:

- 3 year Service Budgets & Service Plans
- Annual Funding Acquittal Reports
- Annual Audited Accounts
- Triennial external audits and annual self-assessment against FRSP Approval Requirements (a form of service quality standards)
- FRSP Online client data (which captures an extensive amount of detail on client characteristics and service delivery activity requiring services to obtain client consent and dedicate resources to data entry)
- FRSP Annual Status Report data (which captures information on organization governance and management including strategic priorities, challenges and needs)
- Manual data collection for some service types and compliance with service specific operating guidelines (inc. Family Relationship Centres)
- Participation in evaluation and research projects (such as the national evaluation of family law reforms) which involves providing data and surveying clients and staff

Historically the emphasis in funding regulation has been on monitoring activity or inputs rather than measuring outcomes or impact. FRSA is engaged in dialogue with both FRSP funding bodies (FaHCSIA and AGD) on the development of outcome based performance measurement but it is important that this is used as an alternative rather than additional mechanism to avoid increasing compliance costs and reducing service delivery outputs.

Both government and community organisations benefit from having reliable data on the effectiveness and efficiency of funded programs. Regulation that can deliver this clearly serves the community interest. However, there are currently no constraints on funding bodies to ensure that regulation is justified and valuable. FRSA believes that a set of agreed principles should be developed to drive good practice in the development of funding

regulation. Such principles could require that regulation contribute to ensuring transparency and value for money in the use of public funds while also keeping compliance and administration costs within reasonable limits.

Another principle for the development of funding regulation could be that there is consistency across funding bodies in relation to the use of funding and how it is acquitted. Inconsistent rules across funding bodies make it difficult to have consistent financial management systems within organisations. For example, FRSP funding comes from two different funding bodies (FaHCSIA and AGD) with different rules applying to the purposes for which funding can be used and how it is acquitted. As a result organisations must create different rules for managing resources across programs. Methodology for categorising expenses, valuing and depreciation of assets as well as the allocation of shared costs across programs should be based on good practice and accounting standards rather than idiosyncratic requirements within funding agreements.

Another principle would be to graduate the reporting requirements for different amounts of funding. Currently, small amounts of funding are generally subject to the same regulation and reporting requirements as large amounts of funding. As a result small organisations or organisations receiving small amounts of government funding find the compliance costs particularly onerous which can be a barrier to growth and diversification. While it is appropriate to require an auditors statement on a grant acquittal for \$400,000 the same requirement for a \$4,000 grant is an onerous requirement that will cost as much as 25% of the grant value.

Recommendation 4: Develop reasonable and consistent funding regulation to be applied to across Australian Government funded programs based on agreed principles of transparency, value for money and risk management.

Accounting Standards

The lack of consistency in the structure of funding acquittal reports required by government funding agencies is compounded by a lack of clarity regarding the application of accounting standards to not-for-profit organisations. Funding restrictions and requirements are sometimes inconsistent with recommended accounting practice which creates an administrative burden for organisations that need to implement exceptional accounting arrangements for the treatment of some government funding. This increases compliance costs and can potentially compromise the integrity of financial management systems within organisations.

FRSA supports the call by ACOSS for the Australian Government to adopt a standard chart of accounts for nonprofit organisations to support greater consistency in financial reporting. We recognise that this would need to be high-level in order to accommodate the diversity of Departments, funded programs and provider organisations. We understand that a chart of accounts has been developed by the Queensland University of Technology and has already been adopted in some State/Territory jurisdictions, this could provide a useful starting point for consultation across government and service sectors.

Recommendation 5: Invest in the development of a national standard chart of accounts for community (nonprofit) organisations and ensure that funding acquittal requirements consistent with this standard, are implemented across funding agencies.

APPENDIX A: FRSA MEMBERS

NEW SOUTH WALES

Anglican Counselling Service
Anglicare NSW
Baptist Community Services
Broken Hill Family Mediation Service
Centacare Bathurst
Centacare Broken Bay
Centacare Maitland-Newcastle
Centacare New England North West
Centacare Parramatta
Centacare Sydney, Catholic Community Services
Centacare Wagga Wagga
Centacare Wilcannia-Forbes
Centacare Wollongong
Community Connections North Coast NSW
Community Programs Inc
Interrelate Family Centres
Macquarie Legal Centre
Manning Support Services
Newcastle Family Support Services
Relationships Australia NSW
The Family Centre
UnitingCare Burnside
UnitingCare Unifam Counseling & Mediation

QUEENSLAND

Centacare - Catholic Diocese of Rockhampton
Centacare Brisbane
Centacare Cairns
Centacare Toowoomba
Centacare Townsville
Community Services Australia
Foundations Child & Family Support Kinctions
Kyabra Community Association
Lifeline Community Care Queensland
Lifeline Darling Downs & South West QLD - Men & Relationships Program
Mackay Children's Contact Services
Men's Information and Support Association
Mercy Family Services
Pine Rivers Neighborhood Centre
Queensland Program of Assistance to Survivors of Torture and Trauma
Relationships Australia QLD
Sunshine Coast Family Contact Centre
Toowoomba Children's Contact Centre
Youth and Family Service (Logan City)

VICTORIA

Anglicare Victoria
Australian Greek Welfare Society
Berry Street Victoria
Bethany Community Support
Brotherhood of St Laurance
Centacare Ballarat
Centacare Melbourne
Centacare Sandhurst - Bendigo
Child & Family Services Ballarat
Children's Protection Society
City of Greater Geelong
Community Connections (VIC) Ltd.
Community West
Crisis Support Services
Drummond Street Relationship Centre
Eastern Access Community Health (EACH)
Family Life
Family Mediation Centre
Family Relationships Institute Inc (RELATEWELL)
GordonCare for Children
Goulburn Valley Family Care Inc t/a Family Care
LifeWorks Relationship Counselling & Education Services
MacKillop Family Services
Mallee Family Care
Relationships Australia Victoria
South East Region Migrant Resource Centre
Spectrum Migrant Resource Centre Inc
Stepfamily Association of Victoria Inc
The Cairnmillar Institute
The Salvation Army Bendigo Community Services
Upper Hume Community Health Service
Upper Murray Family Care

SOUTH AUSTRALIA

Anglican Community Care
Anglicare SA
Centacare Adelaide
Centacare Whyalla
Lutheran Community Care
Relationships Australia SA
UnitingCare Wesley Adelaide
UnitingCare Wesley Bowden
UnitingCare Wesley Port Adelaide
UnitingCare Wesley Port Pirie
Whyalla Counselling Service

WESTERN AUSTRALIA

Agencies for South West Accommodation
Anglicare WA
Catholic Marriage Education Services
Centacare Geraldton
Centrecare
Clan WA
Men's Outreach Service Broome
Ngala
Relationships Australia Western Australia

TASMANIA

Anglicare Tasmania Inc
Centacare Tasmania
Positive Solutions
Relationships Australia Tasmania

NORTHERN TERRITORY

Anglicare Northern Territory - Resolve
Centacare NT
Relationships Australia NT

AUSTRALIAN CAPITAL TERRITORY

Centacare Canberra & Goulburn
Marymead Child & Family Centre
Relationships Australia Canberra and Region

ASSOCIATE MEMBERS

Citizens Advice Bureau of WA
Family Action Centre
First Light Care Association
Lifeline Australia
MAREAA
Migrant Resource Centre of SA
Mission Australia
Parentline ACT
Pathways Counselling & Family Services
Relationships Australia - National
Southern Youth & Family Services Association
The Centre for Excellence in Child and Family Welfare
The Salvation Army Counselling Service
UnitingCare Family Services - Northern Tasmania
Victoria Legal Aid

Please note that this is a list of organisations by trading name rather than legal entity.