

THE AUSTRALIAN CATHOLIC BISHOPS CONFERENCE



SUBMISSION

SCOPING STUDY FOR A NATIONAL NOT-FOR-PROFIT
REGULATOR

CONSULTATION PAPER

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EXECUTIVE SUMMARY

The Australian Catholic Bishops Conference, in presenting these comments in response to the Scoping Study Consultation Paper, believes that it is important for the not-for-profit (NFP) sector to have good regulation and supports, in principle, the objectives to promote smarter regulation, reduce red tape and improve the transparency and accountability of the NFP sector to the extent that there may be deficiencies in some parts of the sector.

There are many models, purposes, structures and sizes of NFPs, ranging from large corporate bodies to small non-revenue-generating entities. Meeting the needs of these NFP entities generally and the objectives of good government, requires a form of regulation that will do justice to the diversity of the sector and the diverse need for regulation.

Following a wide consultation in the Catholic Church and its agencies, the ACBC takes the view that it would be very difficult to construct a comprehensive model of national regulation that would meet all of these diverse needs, particularly taking into account the federal structure of the Australian community.

Achieving meaningful simplicity, harmony and reduced regulatory burden necessarily involves co-operation between all levels of government. Consideration should be given to a COAG/Ministerial Council framework to oversee the sector and that it would have the capacity to direct existing regulators, for example the Australian Taxation Office with respect to tax endorsements, the Australian Securities and Investments Commission with respect to companies, and various State and Territory bodies with respect to incorporated associations, in ways that would bring about the stated objectives.

Any reformed or new body established must be driven by a desire to improve or bring benefit to the purposes of the NFP sector. The goals of the proposed Ministerial Council would therefore be to empower the NFP sector and improve Commonwealth, State and Territory law currently regulating the NFP sector.

1. INTRODUCTION

- 1.1 The Australian Catholic Bishops Conference (ACBC) is the permanent institution of the Australian Catholic Bishops, which deals with the Catholic Church's national representations and initiatives.
- 1.2 The Catholic Church in Australia comprises thousands of individual not-for-profit (NFP) entities, which provide services to the Catholic and wider community in the following areas: religious worship and pastoral care (parishes, churches, shrines, chapels and chaplaincy services); health (public and private hospitals, clinics and medical research centres); aged care (residential and non-residential services); overseas aid and development; social welfare and community services; and education (pre-school, primary, secondary and tertiary).
- 1.3 There are 3,849 entities in the Catholic GST Religious Group.¹ There are other entities that are not in this Group, which are, nevertheless, Catholic NFPs, which include those entities that are not registered for GST and other unincorporated entities that are not economically significant and are outside the GST regime. The establishment of GST religious groups by the Australian Taxation Office (ATO) highlights the fact that religious organisations (churches) need to be treated differently in some instances from other NFPs whose administrative structure is easier to define. These 3,849 entities include all types and sizes of NFPs, including statutory bodies corporate established by specific State and Territory Acts of Parliament, public companies limited by guarantee, incorporated and unincorporated associations and bodies of persons.
- 1.4 The ACBC supports the general policy direction set out in the Scoping Study Consultation Paper (SSCP) that regulation of the NFP sector should promote smarter regulation, reduce red tape and improve the transparency and accountability of the NFP sector to the extent that there may be deficiencies in some sectors.
- 1.5 This submission will make some general observations on the scope of any system of national regulation, raise issues about some of the assumptions in the SSCP and the challenges for any new national regulatory framework, and make some suggestions for future action.

Appendix A contains specific responses to the questions set out in the SSCP.

2. SCOPE OF NATIONAL REGULATION

- 2.1 At the outset it is important to clarify what is meant by a national not-for-profit regulator and identify the general principles that should underpin government regulation of the NFP sector.
- 2.2 It should be noted that 'government regulation' involves federal and State legislation, regulation and policy and practice directives and, in many cases, the ordinances or policies of local government. The constitutional structure of Australian government adds to the complexity of any analysis of what might be politically achievable.

¹ In some instances these entities include other entities that operate under the same ABN.

2.3 The evaluation of all government action in this area should firstly assess the benefit of any proposal to those served by NFPs, and those who participate in them, then the benefit to NFPs themselves, and only then the benefit to government.

In many of the reports in this area there is a use of language that pre-supposes 'not-for-profit reform' but the real challenge is 'government reform'.

2.4 One of the goals of government regulation should be to enable the NFPs to enhance civil society, to foster diversity which is a strength and treasure of Australian society, and to allow civil society to determine its own destiny.

Regulation should aim to enhance the contribution that the NFPs make to the community and it should not inhibit initiatives. One of the great benefits to the community of a strong NFP sector is a capacity to respond quickly and innovatively to emerging needs. Regulation should not cause any unnecessary burden on NFPs, divert resources unnecessarily from their objects, or limit the freedom of NFP entities to carry out their objects in a manner they see as appropriate.

2.5 Rather than a single 'NFP Sector', there are several important sub-sectors.²

The Catholic Church is the largest non-government provider of school education. Schools are subject to legislation in every State and Territory and, at the Commonwealth level only, to:

- The Schools Assistance Act 2008.
- The Schools Assistance Regulations 2009.
- The Australian Curriculum, Assessment and Reporting Authority Act 2008.
- The Schools Assistance Act 2008 Administrative Guidelines: Commonwealth Programs for Non-government Schools, 2009-2012.

Health care entities will always need to be regulated by government agencies (Commonwealth and State) that are responsible for health. The same applies to many other sectors that have their own sector specific regulation such as; higher education, overseas aid, aged care, community services, licensed clubs, trade unions, political parties, child care and sporting groups. Each is subject to very detailed and different, sector-specific regulation.

While a single national regulator may be able to regulate certain aspects of these diverse groups (such as endorsement as a charity) it would be impossible for it to completely cover all the areas of regulation to which they are presently subject.

2.6 One agency (MacKillop Family Services with headquarters in Melbourne) has managed to document the long list of compliance and regulation that it must manage in order to deliver services. The list of Acts of Parliament, Regulations, Policy Directives and Guidelines is provided at Appendix B. This is a stark indicator of the burden of compliance and regulation faced by social services organisations in Australia today. There are similar burdens on health, aged care, education and other NFPs. There is considerable scope, at every level of government administration, to improve, simplify, reduce and harmonise regulation.

² See table 4.3 in Productivity Commission Report *Contribution of the Not-for Profit Sector* January 2010 at p 65 for the categorisation of NFPs.

The vast bulk of these requirements do not relate to any of the suggested functions of the proposed national regulator as expressed in the SSCP or the Productivity Commission Report. In the context of the SSCP it is unlikely that the proposed regulator or 'one-stop-shop' would provide significant relief for the compliance burden that these agencies face. Yet this should be the one significant goal of any changes to the current regulatory regime affecting NFPs

- 2.7 Current accountability and red tape issues are so process focused, risk conscious, and burdensome to the extent that they can compromise some services in achieving efficiency and effectiveness. The cost of this compliance is not adequately accounted for in current funding arrangements.
- 2.8 Another general area of regulation that causes concern for many NFPs is the burden of compliance with contracts and funding agreements.

In a survey ahead of the Productivity Commission Inquiry, 19 of Catholic Social Services Australia's member organisations reported that they were bound by some 620 separate contracts and funding agreements with government at State and Commonwealth level. It is compliance with these contracting arrangements that produces the waste and duplication that is currently choking services.

It is not clear how any form of national regulator, or 'one-stop-shop' will be able to reduce the burden of these contractual government requirements. This requires a concerted 'whole of government' commitment to identify and implement improvements.

- 2.9 There are a number of different categories of NFP that require different approaches to regulation. Some are directly in receipt of government support where there is a need for proper accountability to government:

- Deductible Gift Recipients
- Entities in receipt of Government funding

Some entities have various Federal and State taxation concessions and, in some cases, a process of endorsement is required in order to access these concessions. Regulation of that process should take note of the different purposes for which endorsement may be required, for example, to ensure the identity of the entity, its proper categorisation, and the identity of those responsible for its activities.

- 2.10 When governments require information it should be for a clear purpose and be useful and used. There is a tendency to simply ask for information without any appreciation that there are costs involved in collecting, verifying and providing it.

NFPs have various legal forms and regulation should respect these differences:

- Companies and Incorporated Associations
- Charitable Trusts
- Bodies corporate established by State or Territory Act of Parliament
- Bodies established by Royal Charter or Letters Patent
- Unincorporated Associations

Furthermore, among religious organisations, there are methods of governance that involve internal doctrinal positions (for example governance by a bishop, elders, vestry committee, parish council, parish priest, pastor or minister). Any regulation that purported to prescribe forms of legal structure or governance, needs to respect religious freedom and allow such organisations to structure and conduct their activities according to their own well tested approved methods.

Any assessment of risk or the need for greater accountability or regulation should take into account the internal governance arrangements of particular entities. For example, the Catholic Church has a sophisticated and detailed internal law (*The Code of Canon Law*) to regulate its activities.

- 2.11 There is an assumption in the SSCP that all NFPs require oversight and regulation by a national regulator, regardless of legal form. This is despite the fact that seventy-five per cent of NFPs are small unincorporated entities, without any economic significance that requires their applying for an ABN, largely falling outside the current regulatory regime. If the principal impetus of the proposed new regulatory regime is the reduction of red tape and streamlining requirements, then this largely does not apply to these unincorporated NFPs.
- 2.12 Traditionally, these organisations within civil society have been largely outside the ambit of government control and the ACBC considers the approach of minimal interference and regulation and self-assessment remains appropriate.
- 2.13 It should be noted that the majority of incorporated NFPs have chosen to utilise the current State regulatory regime because they offer less complex regulation to that applying to companies under the Corporations Act and a regulator closer to those being regulated. Is it proposed that they would migrate to a Commonwealth regulator? If so, it is not clear that this brings any benefit to them.

3. SOME ASSUMPTIONS AND CHALLENGES

- 3.1 There is a statement in the SSCP (paragraph 12) that it is important that the sector is regulated so that it remains accountable to the communities it serves. This assumes that the only method of accountability is through regulation, and that regulation will lead to accountability.

In some cases, for example in the acquittal of government grants, contractual provisions may be more effective than regulation.

- 3.2 There seems to be an assumption that there is 'a problem' and the government proposes that a national regulator will resolve it. Instead there are very many separate problems, some general and some sector specific, that require a range of different strategies to identify and resolve.
- 3.3 The SSCP seems to suggest that consumer confidence in the NFP sector may be lacking or in need of improvement (paragraphs 18, 37, 26.1, 40, 44, 89, 92, 102) and a national regulator or more information will be a remedy. There is little evidence to support such an assumption. On the contrary, government seems to have sufficient confidence in the sector to continue to expand its involvement by out-sourcing service delivery. This assumption seems to be at variance with the statement in the SSCP (paragraph 71) that Australians have a high level of philanthropic engagement and provide a high level of support.

From the perspective of the ACBC and church agencies generally, there is great confidence in Catholic schools, hospitals and community services. They enjoy great public support from both donors and clients and represent a significant share of their NFP sectors.

- 3.4 There is an assumption that access to taxation concessions justifies regulation although it is not clear exactly what further regulation might be proposed.

It should be noted that the list of concessions in SSCP (paragraph 15) is incomplete. Some NFPs in some circumstances do not have concessions, for example, land tax, stamp duty and municipal rates and charges. There are other taxes, for example, road tolls, which do not exempt NFPs. Public accountability needs to be tailored to the particular entities and the particular concessions that they access.

- 3.5 SSCP claims (paragraph 38) that the 'one-stop-shop' of a national NFP regulator will offer NFPs access to information that 'helps them understand and comply with their regulatory obligations'. In the example given of MacKillop Family Services (Appendix B) it is unlikely that any 'one-stop-shop' will be able to cover this range of obligations.

- 3.6 The ACBC agrees with the CCSP (paragraph 31) that the regulatory framework involves significant overlap and duplication between the various levels of government. Co-ordination across a multiplicity of portfolios and levels of government is an admirable objective. The ACBC suggests that the Commonwealth government might consider establishing a COAG working party or Ministerial Council to oversee the process of bringing about harmonisation within the regulatory framework of the NFP sector by targeting the main areas of unnecessary duplication.

The ACBC is not confident with what appears to be an assumption in the SSCP that a national regulator or 'one-stop-shop' is capable of achieving this.

- 3.7 It is not yet clear whether the focus of any new national regulation is on the legal form of the entity or the activities it undertakes, or a mixture of both. This is an initial threshold issue which needs to be resolved. Does a charity that is a company limited by guarantee require regulation because it is a charity or because it is a company? Which dimension poses a risk, or otherwise requires regulation?

- 3.8 Any proposal for a new regulatory regime should articulate what areas it will remove from existing regulators. There is always a fear that once a new regulator is established there will be a natural tendency for it to expand and to find more areas to regulate. The result is not a lessening of the regulatory burden but its expansion. This anxiety can be removed by a clear statement of purpose and clear limits on role.

- 3.9 A major challenge to the capacity of any national regulator to fulfil some ‘one-stop-shop’ function is the willingness of various sectors to concede to it their current regulatory functions. Will a NFP charity that is a company limited by guarantee have its charitable status determined by one regulatory authority, report on its compliance with the Corporations Act to another – the Australian Securities and Investment Commission (ASIC), and obtain its authority to fundraise from a State body? Would charities that are incorporated associations cease to report to the current State regulators? Who will deal with transgressions?

Another example illustrates this challenge. Among charities, only a very small part of the NFP sector, there are issues about the definition of charity. There is a perception among some that having the ATO determining the status of an entity that applies for endorsement as a charitable institution involves a possible conflict of interest. There are calls for an independent regulator to fulfil this function. Assuming such a step is taken, and the ACBC is not necessarily advocating it, then it becomes a question of what other functions such a regulator might also take away from existing regulators, and for what purpose and to what effect. If a charity acts in a way that is in breach of the taxation laws, or there is a dispute about whether its purposes at a particular time are consistent with its endorsement, will this be resolved by the new regulator or the ATO?

To expand on this example: should the proposed new regulator, in endorsing an entity as charitable apply the common law or a new statutory definition? Would a new statutory definition of charity bring about more or less certainty than the common law?

One cannot answer the second question without draft legislation and accordingly one cannot express a preference between the two options in the previous question. On that basis it is difficult at this stage, on the information available, to assess whether a new regulator will bring about any benefit over the existing practice of ATO endorsement.

The above example only relates to charities and for one part of their regulation – their endorsements and is not relevant to the many other NFPs.

- 3.10 Currently the ATO provides educational material to assist taxpayers generally including relevant NFPs, access the law and meet their taxation obligations. Would this continue as an ATO function or be taken over by the new regulator?
- 3.11 If the charity is an overseas aid organisation in receipt of government grants, will AusAid’s current quite significant regulatory role and accreditation process remain or be taken over by the new regulator? There are other charities which are involved in overseas aid and have Overseas Aid Gift Deduction Scheme status granted by the Treasury, on advice from the ATO, who are not regulated by AusAid.

The peak body for this sector, the Australian Council for International Development (ACFID) has a Code of Conduct with over 120 signatories. It is self regulation but rigorous. It covers more charities than the 50 or so accredited agencies who apply for AusAID funding. Then there those charities involved in overseas aid which are not regulated by either Treasury or AusAid.

How will a new regulator determine the scope of its involvement in this sector?
Which agency will have which responsibilities?

- 3.12 These examples indicate that the resolution of many of the questions in the SSCP require information at a level of detail that is not yet available.

Fundamentally the ACBC is unable to support a proposal that is so open-ended.

4. SUGGESTIONS FOR FUTURE ACTION

- 4.1 The ACBC is aware that there have been many inquiries and proposals about reform of the law affecting charities and other parts of the not-for profit sector.

The SSCP is seeking comment on the goals of a national regulation, the scope of national regulation and the form of a national regulator.

- 4.2 Given the diversity of NFPs, it is the ACBC's view, resulting from wide consultation within the Church and its agencies, that it would be very difficult to construct a comprehensive model for a national regulator or 'one-stop-shop' that would meet the diverse needs of NFPs, particularly taking into account the federal structure of the Australian community.
- 4.3 In the light of all the material that has been gathered from various inquiries, the ACBC proposes that the government abandon the concept of a comprehensive, all encompassing national regulator or national regulation.
- 4.4 The ACBC considers it is likely to be more manageable to put in place a mechanism on an inter-governmental basis to identify, in conjunction with the various NFP sectors, and their current regulators, the particular and most pressing issues for reform that affect them. Within the scope of existing legislation and government practice some changes can be made to accommodate those reforms which appear beneficial and achievable. In some instances there may be a need for additional legislation.
- 4.5 If one takes the example of endorsement by the ATO of charities, and considers it would be preferable that this role be taken over by an independent body, it may be possible to construct an office, such as the Registrar of Charities, locate it in another suitable Department (such as Prime Minister and Cabinet) to fulfil that function, without, at the same time suggesting that it will be a 'national regulator'. That particular role could subsume other relevant activities from other areas of government that will have a net effect of reducing duplication and the compliance burden on charities, for example such as harmonised or ceded charitable fundraising regulation.
- 4.6 How far any reform can go with respect to the overlap involving competing jurisdictions will depend on the willingness of the States and Territories to either agree to harmonisation of laws or to cede certain powers. To this end the ACBC suggests that there be serious consideration given to utilising the COAG/Ministerial Council framework.

4.7 The SSCP Foreword refers to the government's commitment to 'strengthen the NFP sector'. If a new system of regulation is designed to strengthen the NFP sector, then it should only apply to those sectors and or NFPs that need strengthening. They need to be identified. Which NFPs are weakest? at risk? in need of assistance? Only then can one determine the best way of strengthening them which, depending on their needs, may or may not involve national regulation or a national regulator.

SPECIFIC QUESTIONS

Q1 Are these goals appropriate and adequate for national regulation? Which of these are most important?

The question seems to assume a new national regulator. While ACBC accepts the goals, the achievement of those goals does not necessarily require a new national regulator.

The 'one-stop shop' is not necessarily the solution to achieving the main goals. It may well be better for some NFPs to continue to be regulated at the State level.

State-based regulation which is harmonised would benefit all NFPs regulated by them, even if they do not operate across jurisdictions (associations' incorporation and fundraising legislation are two examples).

If an important goal is harmonisation then the use of a Ministerial Council is another option that should be explored as an alternative to the need for a national regulator. A Ministerial Council could be tasked with identifying duplication and possibilities for streamlining and harmonising regulation and making recommendations to the Commonwealth, State and Territory legislatures on legislative and regulatory changes. This may help overcome some of the conflicting jurisdictional issues and will respect the federal/state divide.

The activities and impact of any regulatory regime should be proportionate, both to the scale and risk profile of the NFPs it targets. This is not expounded in detail in the current goals. Without knowing which NFPs are to be so targeted, and why, it is difficult to assess whether a regulator is needed and what it ought to do.

Any regulatory regime should adopt a 'light touch' approach and base interventions on an escalating 'risk assessment' and 'risk profiling' model, which is the ATO's current regulatory method.

Q2 Are there any other goals for national regulation?

Any regulatory regime should have the capacity to require government entities to rationalise and harmonise their scrutiny of NFPs in line with the objectives of the reforms. Any reform process should provide the capacity to enforce the outcome with other government regulations. This will involve consistency of action among government departments. Otherwise there is a real risk than any new regulatory regime will end up being 'in addition to' rather than 'instead of' the current regime.

Any regulatory regime should be required to detail the compliance burden that will be removed from NFPs before it introduces any new forms of compliance burden.

Q3 What should the scope of a national NFP regulator be? What types of entities should be regulated by a national NFP regulator?

Before a new regulatory regime is established the need for regulation needs to be demonstrated and then, on that basis only, would one identify which NFPs should be regulated and in what way.

In general there is no need for a national NFP regulator to supervise unincorporated NFPs in any general way.

There is a general presumption that courts will not interfere with the operation of unincorporated entities (unless there is an intention for their rules or constitutions to be legally binding or other exemption to this general rule) and the ACBC suggests that this should be the approach to unincorporated NFPs or other NFP entities that are bodies of persons.

One of the key advantages of being unincorporated is that the unincorporated entity does not have to comply with requirements imposed on corporate entities. Naturally if they engage in some activity that requires regulation, for example, they engage in an enterprise that requires them to register for an ABN and for GST they are already subject to that regulation. If a NFP has chosen not to incorporate, it should not be regulated in the same way as an incorporated entity which is already regulated at either State or Commonwealth level.

Priority ought to be given to NFPs in receipt of government funding, as required to achieve probity and transparency. It should be noted that the major sectors to which this applies, health, aged care and schools and universities, are already closely regulated and it would be beyond the scope of a new regulator to replace the specialised accountabilities that currently apply.

Any new regulatory regime ought to minimise its intervention into the arrangements citizens make for themselves to associate and pursue common goals. The States' arrangements, with special legislation for most of the larger religious organisations should remain as is.

There should be a more definitive undertaking by government that any new regulation regime will not be introduced unless the overall compliance burden imposed by government agencies is in fact reduced.

Q4 Should some legal forms be treated differently? If so why?

NFPs use the full range of legal forms. It is a massive oversimplification and underestimation of the complexity of the sector and government requirements to assume that a single NFP regulator can remove red tape and provide a 'one-stop-shop' for all NFP organisations without taking into account the differing legal forms.

If a goal of regulation is to address the risk posed by various NFPs then such risks should be identified and entity type and legal form would form only part of the risk profile.

As a matter of principle, any new regulator should not introduce measures that effectively 'split' the accountability of existing NFPs, i.e. where one part of an NFP's activities are covered by one set of regulations and compliance requirements because of legal form and another part by a different set of requirements because of activities.

ASIC already has the power to regulate the 11,000 NFPs incorporated under the Commonwealth *Corporations Act* as companies limited by guarantee. The 440,000 unincorporated NFPs have made a decision not to incorporate and to keep their organisational structure simple. Accordingly unincorporated NFPs, which are typically small, should not be forced to bear increased reporting requirements or other administrative and financial burdens.

While it is correct that unincorporated NFPs do not have the same reporting requirements as incorporated NFPs, the SSCP is incorrect, however, to state (paragraph 46) that 440,000 unincorporated associations 'fall largely outside the current regulatory system'. Likewise (at paragraph 48) the SSCP incorrectly asserts that some 'NFP entities, including churches and religious organisations... fall outside of the current regulatory system'.

Contrary to these assertions, many of these entities, and certainly churches and religious organisations, are subject to various aspects of 'the current regulatory system' including supervision by the ATO in relation to FBT, GST and PAYG tax obligations and tax concession endorsements.

Any further regulation should be for an identified purpose and demonstrably beneficial in meeting the goals of NFP regulation.

Q5 Should the supervision of charitable trusts be moved from the State Attorneys General to a national regulator?

Charitable trusts are regulated by the law of the State or Territory determined by the Settlor when establishing the trust. The ATO administers the granting of tax concessions to charitable trusts. If the Trust has a company as trustee, the trustee will be subject to regulation by ASIC. ACBC is not aware of any significant failures by trustees under the current regulatory arrangements that cannot be dealt with under existing law. If State attorneys-general are remiss in this area then the remedy is to be found at a State level. It is not clear what advantage there is to justify the need for a move for the supervision of charitable trusts to a national regulator, which is likely, at least in the initial stages, to lead to an even more complex legal environment for charitable trusts.

This power was not given to the Commonwealth under the Constitution. The support of the State and Territory governments would be required to facilitate the transfer of responsibility for supervision of charitable trusts to the Commonwealth.

Q6 Should the regulation of incorporated associations (including reporting and governance) be moved to a national regulator? Should there be a residual role of the States in regulating incorporated associations?

Incorporation as an incorporated association is the most popular form of incorporation in the NFP sector with 136,000 incorporated associations and 11,700 companies limited by guarantee in 2008/09.³ According to the Productivity Commission Report (January 2010)⁴, ninety percent of State based NFPs wish to remain as incorporated associations under State/Territory legislation.

The great majority of incorporated associations operate only in the jurisdiction of incorporation and serve and comprise members of their local community. Their structure, form and legal obligations are well understood by their members, committees of management and advisors. A move to a national regulator is not justified or demanded by incorporated associations.

³ See box 4.1 in Productivity Commission Report *Contribution of the Not-for Profit Sector* January 2010 at p 58.

⁴ PC Report at p 126.

There is no evidence that the current State based supervision of associations incorporated under State legislation (rather than corporations established under the Corporations Act) is not effective and that the transfer of this responsibility to the Commonwealth will result in enhanced supervision of incorporated associations.

There is a case for greater harmonisation of these laws.

Q7 What impacts would simplifying and streamlining mechanisms for the assessment, granting and monitoring of concessional tax treatment have on the NFP sector? In particular, what impacts would this have on small and new NFP entities?

Any process that simplifies and streamlines the mechanisms for the assessment, granting and monitoring of concessional treatment and thereby reduces the regulatory burden and associated compliance costs for NFPs will make organisations more effective and efficient and increase the funding and support they can provide to the community.

As to possible impacts, please refer to the response to question 8.

Q8 What are the likely compliance cost savings from improvements to taxation arrangements?

The Productivity Commission estimates that there are approximately 600,000 entities in the NFP sector.⁵ At the end of June 2009 there were 177,109 organisations with an active tax status classified as an NFP by the ATO with more than 60% having a turnover of less than \$150,000 (see paragraph 4.2).

Based on the ATO figures for every \$1,000 saved in costs there is a benefit which those NFPs can provide to the community of approximately \$177m. If the Productivity Commission number of 600,000 entities is used, the savings are very considerable.

An informal inquiry from a law firm that specialises in assisting NFPs suggested that costs for a simple association incorporation and ATO endorsements would be of the order of \$3,500. If this can be simplified and no longer require specialised legal advice, the savings are significant across the sector.

Some of the costs arise because of the current problem of consistency. One example involving a church agency was a trust deed developed for three different entities in different States but worded identically. These were individually and differently queried by the ATO, in each case adding to the legal costs. The solution to this problem would be greater harmony within the one regulator, rather than a new national regulator.

Q9 Does the current complexity of the taxation framework discourage entities from applying to access concessions? If so, what elements of the framework are most problematic?

The general experience of Catholic Church entities is the current taxation framework does not discourage entities from applying to access concessions. In recent years the Australian Business Register online portal for ABN and taxation concession applications has worked satisfactorily. In our view the framework could be improved by

⁵ See box 4.1 in Productivity Commission Report *Contribution of the Not-for Profit Sector* January 2010 at p 58.

the ATO being more vigilant in complying with service benchmark, for example, reinstatement of the previous commitment for a 28 day turnaround for ABN applications and reviewing reported issues of non-compliance with service benchmarks.

Q10 What value would educational and compliance initiatives managed by a new national NFP regulator provide to NFP entities?

Irrespective of whether there is a new regulator and what form that new regulator might take, education initiatives are beneficial to NFPs.

Education compliance initiatives have to understand the sector, for example considerations arising from the internal laws of religious organisations. Industry-based education is preferable – as was the case with the GST start-up implementation education programme. Education programmes are expensive if implemented well but this may well prove to be less burdensome on governments than establishing new bureaucracies.

The majority of NFPs are smaller entities and are typically staffed with volunteers perhaps having a part-time secretary who is responsible for all administration including bookkeeping. There is significant volunteer turnover and education initiatives are ongoing. There would be a relatively high ongoing cost for an NFP regulator in repeating training and education programmes for volunteer and paid staff, but unless there is this investment it is unlikely that there will be any beneficial outcomes.

Q11 What benefits would a ‘report-once, use-often’ model of reporting offer?

The use of a ‘report-once, use often’ model is a laudable but somewhat illusory goal – it would be beneficial if such a system could, in fact, ever be effectively implemented.

Single use reporting would assist agencies and NFPs but would need to be comprehensive and be balanced on the extent to which other reporting requirements can be reduced

Given government performance over many years, it is difficult to envisage Department of Employment Education & Workplace Relations, Department of Human Services, and the Department of Health and Ageing wishing to reduce the current level of accountability required for their financial reporting and grant acquittals. Detailed in the response to Question 12 following are examples of the industry specific requirements for financial and statistical reporting by parishes, congregations and diocesan entities. It is highly unlikely, and would in any case, be extremely costly for an NFP regulator to attempt to be a one stop shop for ‘report-once, use-often’ model of reporting.

It is not clear from the SSCP how a new national regulatory regime would reduce the burden and duplication on entities which receive significant government funding or which have contracts for the provision of services to various government departments. It is precisely these NFPs, however, that should benefit from a new national regulatory regime, if one is established. The focus should be on how to streamline and harmonise requirements for these entities rather than extending its scope more broadly to other types of NFPs that are of little economic significance.

A uniform model of financial reporting would by necessity be extremely complex and contain many irrelevant disclosures for many NFPs. This would increase costs without any added benefit for nearly all NFPs.

Appendix B is illustrative of the real problem of complying with multiple government requirements and this issue is not resolved by the 'report-once, use-often' model.

Q12 What information do NFP entities currently provide to government agencies? Do these include general purpose financial reports and fundraising reports? What other reports are currently required? What do the reporting requirements involve? What information is required for the purposes of grant acquittals?

NFPs currently provide information to Governments including:

- Australian Taxation Office – Where applicable, quarterly or monthly Business Activity Statements, annual PAYG Summaries, annual Fringe Benefit Tax return & annual Refund of Imputation Credits claim; Information on governance and purposes and activities is provided for endorsements;
- Department of Employment Education & Workplace Relations – Non government school authorities and/ or individual schools submit information for annual school questionnaires, February & August school statistical & census data, specific grant acquittals;
- Australian Curriculum, Assessment and Reporting Authority – Data for inclusion in the MySchools website;
- Department of Health and Ageing – Where applicable health and aged care entities lodge annual prudential compliance reports which include copies of general purpose finance report and compliance statement in accordance with the User Rights Principles under the Aged Care Act, 1997. Under the Aged Care Act all approved aged care providers have mandatory reporting responsibilities including reporting of allegations or suspicions of assaults on residents, reporting of non compliance of any State and Territory fire safety laws, changes in key personnel and relinquishment of aged care places;
- There are reports then to the State departments that cover the same areas of activity.
- Grant acquittals generally require qualitative information on project aims & objectives and feedback on how the objectives have been met (or not met as the case may be) and quantitative information including relevant statistical data and a detail accounting of grant income and expenditure.

In New South Wales religious bodies are exempted from the requirements of the Charitable Fund Raising Act (NSW), 1991, apart from controls over remuneration of board members (see s 7). There are no fundraising regulatory reporting requirements for religious bodies in NSW. The ACBC would expect the same exemptions if there is national harmonisation of fundraising legislation.

Q13 How significant is the compliance burden imposed by requirements for acquittal of grants?

The acquittal of grants compliance is a very significant administrative burden for NFPs. Every activity that is not directed towards the service provided by the NFP results in some reduction in services provided to needy causes. However it is understood that there has to be a certain level of accountability and meaningful reporting on the expending of government grants.

Where could these be simplified?

Compliance could be simplified by the usage of consistent definitions and reporting language by all government departments responsible for grant administration as attempted with SCOA. A system of self assessment similar to the taxation requirements could be developed with recommended internal governance policies and a simple declaration statement to the government body. There is also a need to ensure that the acquittal requirements are appropriate to the size of the grant so that relatively small grants do not involve inordinate amounts of effort on acquittal out of proportion to the grant provided.

Some acquittals require information that is governed by other jurisdictions or legislation, for example, requiring pay rates and staff names is entirely inappropriate to regulatory reporting yet required by some NSW State government department reporting requirements. The ACBC is aware of an example of an agency being told to reduce costs in a specific line item area. This is inappropriate and needs addressing in the overall discussion of what information should be included in reporting and acquittals.

Q14 What benefits would the establishment of a NFP sector information portal have for the public, the sector and governments?

There are no obvious benefits in having a NFP sector information portal. There is such variety in size, structure and activities that meaningful comparison is impossible. For the Catholic Church most activities are not separately incorporated so a single entity is often involved in a wide range of religious, educational and social services which are very difficult to reduce down to a simple summary for a portal website.

Some sectors already have public reporting, for example, MyHospital, MySchool, so this would appear to be a duplication. Where these exist, they have not met the expectations for usefulness, given that the accuracy and timeliness of the information is often questionable.

MySchool is being developed as a comprehensive one-stop-shop for school accountability data. Any other portal relating to school performance and financial data would be an unnecessary and confusing duplication.

What information should be available on the portal?

The ACBC only supports the provision of public information that is necessary and reasonably useful and where its provision is not unduly burdensome. In general this would be a basic confirmation of an NFP's identity, legal status, as applicable its endorsement as a charity and/or deductible gift recipient. This is because most information will not be meaningful to the public, the NFP sector and government and therefore would not justify the extra administrative burden of producing such information.

Essentially, no new burden should be inflicted on entities. Those entities that already report publically (companies limited by guarantee for example) could be included on the portal, as long as this did not create additional burden.

While it may well be useful (of interest to the public and service providers) to have a portal that lists the funding and related services that are provided to each NFP entity and where these services are performed (this would demonstrate the scope and extent of Government commitments to provide education and many types of assistance), it is not obvious that more information would serve any significant purpose. In any event, it would be very costly for both Government and NFP providers to try and provide a wide array of meaningful data that is not already available. The information would at best be of doubtful quality as it would require standardising that which is so diverse.

Q15 What information might need to be provided to a national regulator but not made public through a NFP information portal?

There may be some issues of commercial confidentiality that are reasonably made available to government, perhaps in the course of acquittal processes but that ought not be made public.

Existing DEEWR (Commonwealth) and DET (State) collections adequately and appropriately delineate private and public domain accountability data for the school sector.

At the State level, for example, in NSW, non-Government schools must be registered with the NSW Board of Studies (BOS) and BOS mandates a set of school data, including financial data, which must be made publicly available on each school's website. Similar requirements exist in other States.

NSW non-Government schools already provide a high level of access to school level performance and financial data. Consequently, no further disclosure mechanisms, including further portal development, should be required in respect of schools.

Q16 What benefits would be provided by the application of SBR to the NFP sector, following the implementation of the SCOA so as to minimise any additional compliance costs?

If SBR can be successfully applied to the NFP sector there are obvious benefits of reduced duplication and harmonisation of reporting requirements. However there are serious obstacles in applying it to the larger and more complex NFPs. None the less the ACBC supports a strategy of exploring this possibility.

Many NFPs are already using the SCOA, or equivalent Likewise a notional Standard Chart of Accounts applies to Australian schools. No useful purpose would be served by duplicating or substituting for these standards.

The development of MySchool financial reporting is also further harmonizing school based financial management across all Australian school sectors.

Given the above, any new SBR and/ or SCOA requirements would constitute an unnecessary compliance requirement for non-Government schools.

Within the social services sector SBR and SCOA are not yet widely used. Such standardisation would be beneficial as it would eliminate diverse reporting systems and

practices. Such standardisation would reduce compliance costs provided there was no need to duplicate work if the regulator did not take the place of the funding body.

It should not be mandatory for small NFPs to use and submit standardised reporting, so as to not impose a disproportionate burden on them. This approach would be similar to that taken by ASIC.

Q17 Given its voluntary nature, are many NFPs likely to use SBR?

What barriers, such as preferences for providing reports in paper form or reluctance to upgrade accounting software, might reduce usage of SBR by NFP entities?

Many NFPs are not large enough financially or sophisticated enough to use a system which is SBR enabled. Essentially, where records are kept in paper form or spreadsheets this is not an option. Many NFPs work with very simple systems, often operated by volunteers who are not always capable of operating computer based systems. Larger NFPs would not see this as a problem but the majority of potential reporting entities are small. The government might consider assistance to NFPs to acquire suitable software and training for the volunteers and staff of NFPs.

MYOB is widely used by many NFPs and when this is SBR enabled it will certainly make reporting easier. As an example the ATO has talked about lodging Business Activity Statements (BAS) via SBR, but the BAS has been around for many years without this actually being implemented.

There would be a need to provide additional training for staff where this software is being used but many organisations still prefer to complete and submit paper returns. It is probably an illusion to think that the availability of SBR enabled systems would automatically mean organisations would use this form of reporting.

Further thought should be had to the level of reporting. Would it be at an ABN level similar to BAS reporting? If the level of reporting is at ABN level then the reporting and returns required are multiplied. There is also the question of mixed activities within the same entity and to whom these would be reported.

As noted, all non-Government schools are already required to comply with both the DEEWR Financial Questionnaire and the ACARA MySchool reporting processes. As a consequence, any new NFP SBR process would unnecessarily increase both the burden and cost of compliance for all non-Government schools.

Q18 Are the suggested core rules and regulatory framework adequate?

The three core rules are laudable, but in our view would go too far for the vast number of NFPs and the demands on the vast number of volunteers involved in their operations.

Most NFPs are run properly already and there are not significant issues of governance or service delivery. The framework looks as if the regulator wants to run NFPs or set a standard template on how they should be run, but NFPs vary widely in size, functions and aims. A set framework is unlikely to suit the majority of NFPs.

Many micro NFPs often 'just run' and they do so without any documentation or formality. They ought not be required to do anything.

For the Catholic Church and its many agencies *The Code of Canon Law* provides for internal governance already and there should be a freedom for religious organisations to establish their own framework for their operations.

The framework proposes a 'commercial' approach to running NFPs but there is also an important 'pastoral' aspect to the work of many NFPs, especially those within religious and welfare organisations, which needs to be recognised.

Although the three core rules seem simple on the surface, they would inevitably become more complicated and demanding. This would result in more and more compliance and reporting. The additional burden on the many volunteers and professionals who provide their time and services to NFPs could mean that they are less likely to offer their services due to the increased professional risk and demands.

There are many different legal forms for NFPs. Where does this new framework leave them when they are already meeting other guidelines such as ASIC and ATO reporting and compliance?

Q19 What powers does the regulator require to improve governance and regulatory oversight?

There is always a danger that the more powers a regulator has the more it will want to use them to justify its existence. Greater powers will also mean more demands for compliance and reporting. Powers that might be expected are audit, being able to request further information, questioning of officers of the NFP, access to records, investigation of complaints, seeking compliance or undertakings from NFP or its officers. But these powers should only be used as necessary and for serious purposes. Various parts of the NFP sector have effectively been regulated or operated as self regulated whilst delivering a wide range of critical services and public goods which might not otherwise be delivered. Over regulation and too much in the way of intrusive and unnecessary exercise of power has the potential to stifle the NFP sector.

The sector is very regulatory compliant. Encouragement and education are important for the sector and work much better than sanctions and threats.

Q20 What role should a national regulator play with respect to fund raising?

A threshold question is whether there is a need today for specific fundraising legislation or whether existing criminal and consumer legislation is adequate.

If there is to be a national regulatory regime taking on this role from the States, then it should follow current practice. It could publish guidelines or regulations for the types of fund raising, for example, raffles, appeals, donations, bequests, advertising, etc. Certainly a regulator might investigate complaints about improper fund raising activities. It might also approve fundraising activity so that NFPs can point to the fact that they are 'approved fund raisers'.

Any regulator could play a role in providing information to donors so that they might know that their funds are not going to disreputable organisations. Australian Competition and Consumer Commission (ACCC) already provides a register of fraudulent organisations and people. This is a role of protecting donors and the reputations of legitimate organisations.

There is some justification for national harmonisation of fundraising legislation, if it is needed at all, and a one-stop shop for fundraising campaign applications for NFP organisations that operate in more than one State jurisdiction. In that process ACBC would seek to retain the exemptions available under current NSW fundraising legislation for religious organisations, and, for the sake of harmonisation, to extend this exemption to religious organisations in other States and Territories.

A question which those presently engaged in considering harmonisation of charitable fundraising legislation might consider is whether the present highly prescriptive and technically detailed State based legislation has outlived its usefulness and that the more flagrant abuses are covered in the general criminal and consumer law.

Q21 What problems arise from the complex interrelationship between Commonwealth, State and Territory responsibilities in this area?

Australia is a unique Commonwealth of previously strongly independent States and Territories, which federated after extensive consultation and negotiation during the 1890's. The complex interrelationship between Commonwealth, State and Territory responsibilities for NFPs reflects the history of federation, the Constitution and residual powers retained by the States.

Health, education and social services NFPs are currently subject to regulation at both the Commonwealth and State level. This leads to duplication and, at times, inconsistency in meeting requirements.

Ideally one may wish that there was but one regulatory regime. That is not the political reality. In any event, there are, at times, advantages in the regulator being closer to those being regulated.

The current legal and regulatory environment, although complex, is reasonably well known to NFPs. The ACBC notes that State based regulation with State based regulators is overwhelming the preferred choice of entities operating in the NFP sector. Any proposed move to a national NFP regulator has the potential to massively confuse the NFP agencies and those Commonwealth, State and Territory governments involved in regulating various parts of the NFP sector.

Q22 What might be the implications of the different approaches of referral of powers or harmonisation of legislation?

While ideally a referral of powers may lead to a simpler regulatory and legislative regime one must assess whether or not harmonisation and retaining direct control in the States better suits the particular issue being regulated.

Some consideration might also be given to using the framework of a Ministerial Council in selected and suitable areas.

Q23 What form of the national regulator best meets the objectives of simple, effective and efficient regulation of the NFP sector?

Canada's model, where the NFP regulator is structurally separate, but under the central revenue agency, appears to offer one relevant model for further consideration and possible adaptation to Australian circumstances.

Another model is to retain the existing regulators with a Ministerial Council established to identify how existing regulations can be streamlined and harmonised. An Office for the NFP sector in the Department of Prime Minister and Cabinet can oversee and direct this process and provide for education and capacity building among NFPs.

Given the complexity of the NFP sector, together with the special character of the sub-sectors such as health, aged care, and education, the ACBC does not believe that a one-size-fits-all approach to NFP regulation is either desirable or achievable.

Q24 Would a Commonwealth only regulator provide sufficient benefits to the sector?

Even under a Commonwealth only model, when any new regulator only deals with Commonwealth legislation and competencies, many sectors would still be subject to both Commonwealth and State and Territory regulations.

Without identifying the areas in which any new regulator would operate it is not possible at this stage to assess any potential benefits.

Q25 Are there benefits from establishing an interim regulator through an existing Commonwealth regulator, to undertake immediate reform?

The ACBC is not sure that the setting up of an interim regulator is appropriate pending the Commonwealth reaching agreement with the States and Territories as to the form that a national regulator would take including its functions and the question of referral of powers.

An interim regulator drawn from an existing Commonwealth regulator is not required. Any new regulatory regime should reflect best practice. It should be carefully developed and not on the basis of interim political expediency.

There does not appear to be such urgency for reform so as to warrant the creation of the interim regulator. Existing Commonwealth agencies, ATO, ACCC and ASIC already have competencies that can immediately implement improvements.

The key purpose of the proposed regulator, which appears to be to monitor access to Commonwealth revenues, is currently managed by several different long established mechanisms, which will continue to operate until such time as a new permanent regulatory function might be established.

Q26 What would be the advantages and disadvantages of incorporating the functions of ORIC and the proposed housing regulator into a national regulator? What alternative approaches are available to avoid duplication?

Q27 What benefits could flow from a national regulator maintaining a dedicated subsection focusing on Indigenous corporations and/or housing?

The ACBC does not express any view on these two questions and prefers to leave it to the specialist groups involved to make their submissions.

The 2,600 Indigenous corporations currently regulated by the Office of the Registrar of Indigenous Corporations are best placed to respond to proposals as to how best they should be regulated, and they should be widely consulted on this topic. Agencies of the Catholic Church do not operate bodies established under the auspices of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

Q28 What level of contribution should NFP entities make to the cost of the national NFP Regulator?

Because of the nature of NFPs, and the benefit to be derived by government by the possible establishment of a regulator, costs should be borne by the Commonwealth. Some expenses may be recouped through the provision of services that can voluntarily be accepted by the NFPs on a basic fee for service basis.

Q29 Should there be a differential cost for smaller NFP entities?

The ACBC can see a rationale for this but there is a prior question. Why should there be any charge to any NFP entities for the operation of a NFP regulator? What quantifiable benefit would accrue to an individual NFP from such an authority to justify a charge without such a charge being merely a revenue charge? If there is to be a charge then it should be proportionate to the revenue of the NFP.

Q30 Would a statutory definition of charity achieve the goals of greater certainty and administrative efficiency in relation to the determination of charitable purpose, particularly in relation to determining access to taxation concessions and across different jurisdictions and laws?

It is not possible to properly answer this question or the following one, without analysing the proposed statutory definition.

The ATO now has ten years experience in assessing the charitable purpose of NFP organisations seeking endorsement as tax concession charities. It should be noted that case law regarding this matter is well developed and that cases involving this matter tend to be very few (in comparison to the number of NFPs) and at the margin of the definition of charity.

Accordingly, as there does not appear to be a problem with the current definition of charity, it is difficult to justify establishing a codified alternative definition. Legislative changes can be made as required from time to time.

There is always the risk that a new statutory definition of charity will result in a proliferation of cases seeking to define the limits of the new definition. Such an initiative could complicate, not simplify, the definition of charity.

Q31 Is Parliament a more appropriate body to define charitable status than the courts, given its ability to be more responsive to changing community needs and expectations?

It is difficult to know whether the legislature or the courts are better placed to assess changing community needs.

There is a risk that a statutory definition of 'charity' might become politicised and subject to the vagaries of politics and public opinion of the day. This creates uncertainty for charities.

MacKillop Family Services

COMPLIANCE REPORTING

1. Service Delivery

	Compliance Requirements
Substitute Care	<ul style="list-style-type: none">• Children, Youth and Young Families Act 2006• Adolescent Community Placement — Principles and Program Framework, September 1991• Permanent Care Order Guidelines 1993• Adolescent Support Program Document, 1993• Capital Development Guideline 7.7 Fire Risk Management in Community-Based Houses, Sep 2001• Departmental Instructions relating to Community Services, September 1991 (D1/91/7)• Children In Residential Care 1998 Program Guidelines• High Risk Adolescent Quality Improvement Initiative – Service Specifications, December 1997• Mental Health Act 1986• Aboriginal Child Placement Principle November 2000• Adolescent Support Program Document, April 2001• Minimum Standards and Outcome Objectives for Residential Care Services in Victoria, 2002• Protecting Children Volumes 1 May 1994• Protecting Children Volume 2• Protecting Children Volume 3 - Part 1• Protecting Children Volume 3 - Part 2• Protection and Placement Output: Definitions for Performance Measures 2002• Voluntary Placements Handbook July 1993

	Compliance Requirements
	<ul style="list-style-type: none"> • Baseline Standards for Out of Home Care, December 1995 • Working With Children Regulations 2006 • Minimum Standards and Outcome Objectives for Residential Care Services in Victoria, 2002 • Counting Rules for Child Protection & Placement Output Group Performance Measures • DHS Management Response to Inhalant Use, February 2003 • Flexipack Guidelines, November 1995 • Funding Arrangements for Placement & Support Service • Providers, Community Care Division 2001 • The Home-Based Care Handbook November 2003 • Practice Standards in Foster Care 1984 • Procedural Guidelines Shared Family Care, Placement and Support Grant Funding • Protection and Placement Output: Definitions for Performance Measures 2002 • Residential Care Services - Substance Abuse Guidelines, February 2003 • Wrongs Act 1958 • Wrongs and Other Acts (Law of Negligence) Act December 2003
Funding Agreements and Instructions	<ul style="list-style-type: none"> • Community Services Act 1970 • Departmental Instructions relating to Community Services, September 1991 • Funding Arrangements for Placement & Support Service Providers, Community Care Division 2001 • Service agreement information kit for agencies 2003-06 • Community Care Policy and Funding Plan 2003-2006

	Compliance Requirements
Adoption	<ul style="list-style-type: none"> • Immigration (Guardianship of Children) Act 1946 • Adoption Act 1984 • Adoption Standards 1986 • National Principles in Adoption 1997 • Adoption Regulations 1998 • Adoption and Permanent Care Procedures Manual 2000 • Adoption (Amendment) Regulations 2002
Disability Services	<ul style="list-style-type: none"> • Disability Act 2006 • Victorian Intellectually Disabled Persons' Services Act 1986 • Disability Services Standards
Family Support Services	<ul style="list-style-type: none"> • Service agreement information kit for agencies 2003-06 • Community Care Policy and Funding Plan 2003-2006 • Family Services Program: Service Standards and Quality Improvement Program, August 1996 • Guidelines for Completion of Strengthening Parent Support Program Data 2001/2002 • Protocol Between Protective Services and Families First, 1993
Education Services	<ul style="list-style-type: none"> • Education Act 1958 • Education Regulations 2000 • Transport Accident Act 1986 • School Focused Youth Services Program Guidelines 2003 • Psychologists Registration Regulations 2001 • Registered Schools Board Regulations 1996

2. *Human Resources*

	Compliance Requirements
HR reporting Industrial Relations	<ul style="list-style-type: none"> • Workplace Relations Act 1996
EEO	<ul style="list-style-type: none"> • Equal Opportunity Act 1995 for prevention of harassment and discrimination • Racial and Religious Tolerance Act (2001) • Racial Discrimination Act (1975) • Sex Discrimination Act (1984) • Disability Discrimination Act (1992)
Disputes and Grievances	<ul style="list-style-type: none"> • Compliance with Dispute and Grievance Settling procedures set out in Workplace Agreement
OHS	<ul style="list-style-type: none"> • Occupational Health and Safety Act 1985 • Victorian Codes of Practice: <ul style="list-style-type: none"> • Noise (1992) • Provision of OHS Information in Languages other than English (1992) • Plant (1995) • First Aid in the Workplace (1995) • Plant (Amendment No.1) (1998) • Workplaces (1998) • Manual Handling (2000) • Hazardous Substances (2000) • Dangerous Goods Storage & Handling (2000) • Prevention of Falls (2004)

	Compliance Requirements
	<p>Regulations:</p> <ul style="list-style-type: none"> • OHS (Noise) 1995 • OHS (Plant) 1995 • Equipment (Public Safety)(General) (1995) • OHS (Confined Spaces) 1996 • OHS (Incident Notification) 1997 • OHS (Issue Resolution) 1999 • OHS (Manual Handling) 1999 • Dangerous Goods (Storage & Handling) (1999) • OHS (Hazardous Substances) 1999 • OHS (Lead) 2000 • OHS (Asbestos) 2003 • OHS (Prevention of Falls) 2003
Workers Compensation	<ul style="list-style-type: none"> • Accident Compensation Act 1985
Information Privacy	<ul style="list-style-type: none"> • Information Privacy Act 2000 (Victoria); • Health Records Act 2001 (Victoria); and • Privacy Amendment (Private Sector) Act 2000 (National)
Whistleblowers Protection	<ul style="list-style-type: none"> • Encouragement and facilitation of disclosures, protection of whistleblowers and establishment of a system for investigations under the Whistleblowers Protection Act 2001

3. *Finance and Taxation*

	Compliance requirements
Annual Reporting — Financial Statements	<ul style="list-style-type: none"> • Corporations Act 2001 • Accounting Standards and the Corporations Regulations 2001 • Other mandatory professional reporting requirements • Lodge Financial Statements with ASIC within 4 months of end of financial year
Financial and Operating Delegations	<ul style="list-style-type: none"> • Delegations policy
Tax Compliance	<ul style="list-style-type: none"> • GST Tax Laws • FBT Laws (relating to PBI organizations)

4. *Other Governance Issues*

	Compliance requirements
Freedom of Information	<ul style="list-style-type: none"> • Compliance with Freedom of Information Act 1982
Insurance	<ul style="list-style-type: none"> • DHS Non-government insurance guidelines
Information Technology	<ul style="list-style-type: none"> • Compliance with software license requirements
Fire Safety	<ul style="list-style-type: none"> • Building Regulations 1994 — Section 11 (form 15) • Capital Development Guideline 7.7 Fire Risk Management in Community-Based Houses, Sep 2001 • Fire Risk Management Standard 2002 Departmental Instructions relating to Community Services, September 1991(D1/91/7) • Fire Risk Management Standard 2002 • Lead Tenant/Home Based Care Services Fire Safety Standard, March 2000 • DHS Fire Risk Management Standard, March 2000
Building Regulations	<ul style="list-style-type: none"> • Compliance with Building Act 1993 • Building Regulations 1994 — Section 11 (form 15)

Victorian Acts & Regulations

- Fundraising Appeals Regulations 1999
- Gambling Regulation Regulations 2005
- Liquor Control Reform Act 1998
- Building Regulations - 2006
- Business Names Regulations 2003
- Consumer Credit (Victoria) (Administration) Regulations 2006

Human Resources

- Accident Compensation Regulations 1990
- Accident Compensation Regulations 2001
- Emergency Management Regulations 2003
- Working With Children Regulations 2006
- Drugs Poisons and Controlled Substances (Volatile Substances) Regulations 2004

Placement & Support

- DHS Management Response to Inhalant Use, February 2003 DHS
- Practice Bulletin 2004/02
 - DHS Practice Instruction "Sharing information in out-of home care" - Home based care handbook
 - High Risk Adolescent Quality Improvement Initiative - Service Specifications, December 1997
- Interagency Protocol between Victoria Police and nominated agencies 2004
- Office of Housing, 1999, 'Housing Standards Policy Manual'
- Procedural Guidelines Shared Family Care, Placement and Support Grant Funding
- Protection and Placement Output: Definitions for Performance Measures 2002
- QAS for OofHC
- Residential Care Services - Substance Abuse Guidelines, February 2002
- The Home-Based Care Handbook November 2003
- Voluntary Placements Handbook July 1993

Disability

- DHS Disability Service Standards
- DHS Disability Services Policy and Funding Plan 2003-2006
- Family Options Procedures Manual
- Flexible Packages Case Management Manual
- Funding
- Great Break and Holiday Respite Regional Guidelines
- Looking After Children (LAC) Framework / Assessment of Action and records
- Looking After Children (LAC) Framework / Care and Placement Plan
- Looking After Children (LAC) Framework / Essential Information Record
- Looking After Children (LAC) Framework / Review of Care and Placement Plan
- Making a Difference Procedures
Manual Quarterly Data Collection
- RAPT Procedures Manual
- Special Support Unit Orientation Manual

DHS Disability Policy

- Client Expenditure (CERS) Fire Policy
- Health Care
- Locked Doors and Windows
- Menstrual Management
- Moving Interstate
- Policy and Funding Plan
- Privacy
- Respite
- Restraint & Seclusion policy
- Victorian Standards for Disability Services

DHS Disability Guidelines

- ABI Assisted Community Living
- Access to Disability Services Programs
- Accommodation Staff Handbook
- Accommodation Standards and Design Guidelines
- Aids and Equipment guidelines

DHS Disability Guidelines *(continued)*

- Chronic Illness Case management
- Community Visitors Handbook
- Duty of Care
- Dyshpasia Interim Guidelines
- Early Choices
- Emergency Crisis Accommodation
- Entry, Exit & relocation
- Family Choice Program
- Fire Safety Evacuation
- Flexible Support Packages
- Forensic Service Policy
- HIV positive guidelines
- Home First guidelines
- Human Relations & Sexuality
- Inclusive Consultation for people with disability
- Individual Program Planning
- Insurance Guidelines
- Metro Access Guidelines
- Motor Vehicles
- Neuropsychological Assessments
- Pricing Principles
- Protection against Infection
- QDC Consent list
- QDC Guidelines
- Tube Feeding

DHS Disability Practice Instructions

- Behaviour Intervention Support
- Family Options Policies and Procedures
- Food Safety
- Home First Business Rules
- Incident Reporting
- Responding to Allegations of Abuse
- Restraint & Seclusion Joint Practice Instruction

DHS Disability Protocols

- Acquired Brain Injury and Mental Illness
- Disability Services Cultural & Linguistic Strategy
- Family Intervention Support Services
- Corrections, Justice & Disability Services
- Disability & Juvenile Justice
- Protective Services & Intellectual Disability
- Intellectual Disability & Psychiatric Services
- Police

Department of Education & Training directives

- Census Data
- Assessment and reporting
- Curriculum & Standards
- Human Resources
- Initiatives & Programs
- ICT in Schools
- Professional Development
- Key Learning Areas
- Student Welfare
- Bullying
- Transport
- Wellbeing
- Traffic Safety Education
- Admin procedure and Forms
- Emergency & Security Management
- Evaluation & Audit
- Facilities
- Tax
- Regional Programs
- Safety in Schools
- Standards & Accountability

Associations

- Adult, Community & Further Education
- Merit Protection Boards
- Victorian Curriculum & Assessment Authority
- Victorian Institute of Teaching
- Victorian Learning & Employment Skills Commission
- Victorian Qualifications Authority

Catholic Education Commission

- Superannuation: Employees in Catholic Education
- Participation of Women in Catholic Education VIC
- Education about AIDS and Care of AIDS sufferers
- Accreditation to teach in a Catholic School
- Accreditation to teach Religious Education in a Catholic School
- Hepatitis B Policy
- Confidentiality
- Affirmative Action
- Pastoral Care
- Curriculum, Assessment and Reporting
- Curriculum Dev P-12 Curriculum
- Assessment P-12
- Reporting student outcomes
- Commercial Sponsorship Arrangements
- LOTE
- Email and Internet use by staff
- Criminal Records Check
- Pathways and Transition in Post Compulsory Years
- Privacy
- Excursions

Catholic Education Office

- Educating for Peace
- Employment of Staff
- Personal Files for Catholic Employees
- Enrolment Policy
- Christian Education for Personal Development
- HIV / AIDS Education
- Access to Records
- Research Access
- Enrolment of students under minimum age
- Drug Issues in Catholic Schools
- School Fees in primary schools
- Sexual Harassment Policy Enrolment of Year 7 students
- Professional Development of Staff
- Mandatory reporting of Abuse
- Procedures for the management of allegations against lay staff
- Privacy Policy in Catholic Schools Leadership: Role of RE
- Co-ordinator

Registered Schools Board

- Annual Return
- Requirements for registration
- Conditions for registration
- Special Category registration
- Procedure for registration of new schools
- Refusal to grant registration to a school
- Procedures for continuing registration of Existing Schools
- Review of registered schools Closure of a school or section of a school
- Cancellation of registration
- Registration – Resources

Family & Community Services Service Agreement

DHS - Service Agreement

Community Care Funding Plan

Service Standards

- Family Services Program - Service Standards and Quality Framework - August 1996
- HACC Standards
- Disability Standards

Parent Support

- Guidelines for program data - 2001/2002

Protocols

- Protocol Between Protective Services & Families First

Research & Advocacy

- NHRMC - Guidelines approved under Section 95A of the Privacy Act 1988 - December 2001

Privacy

- Case Recording: Policy Advice and Practice Guidelines for Protective Workers (February 1997)
- Child Protection & Care Practice Instruction 2003/01 Physical security of client files
- Child Protection & Care Practice Instruction 2003/03 Placement referral process
- Department of Human Services Interim Privacy Policy Guideline: Use and disclosure for primary and related purposes
- Department of Human Services Privacy Policy
- Department of Human Services Privacy Policy Making Privacy Work
- MFS - An Introduction to Privacy - Complying with Legislation
- Sharing information in out of home care 2003/10 - Child protection and care practice instruction

Fire Safety

- Fire Risk Management Standard 2002
- Departmental Instructions relating to Community Services, September 1991 (D1/91/7)
- Lead Tenant/Home Based Care Services Fire Safety Standard, March 2000
- DHS Fire Risk Management Standard, March 2000
- AS 3806-2006: Compliance Standards
- AS/NZS 4360 - 2004: Risk Management
- AS/NZS 4360 - 2004: Risk Management Guidelines
- Manual Handling (code of Practice No. 25, 2000)
- Plant (Code of Practice No. 19, 1995)
- Plant (Amendment no.1 to Code of Practice No. 19, 1995) (1998)
- Hazardous Substances (Code of Practice No. 24, 2000)
- Workplaces (Code of Practice No. 3, 1988)
- Dangerous Goods Storage & Handling (Code of Practice no. 27, 2000)
- Provision of Occupational Health and Safety Information in Languages Other than English (Code of Practice No.16, 1992)

