



Productivity Commission Draft Research Report: Contribution of the Not-for-Profit Sector Submission from Cancer Council Australia

About Cancer Council

Cancer Council Australia's goal is to prevent cancer and reduce the burden of illness, disability and death caused by cancer. Cancer Council achieves this largely by the development and promotion of effective evidence-based cancer control policy and programs in Australia.

Cancer Council Australia acts nationally on behalf of its member organisations, the eight state and territory Cancer Councils, to advise the Australian Government and other bodies on practices and policies to help prevent, detect and treat cancer. Cancer Council Australia also advocates for the rights of cancer patients to best treatment and supportive care.

The eight state and territory Cancer Councils work independently and together, through Cancer Council Australia, to undertake and fund cancer research, prevent and control cancer (through effective policy, programs and education campaigns), and provide information and support for people affected by cancer. Thanks to community support, the Cancer Councils are the leading non-government funders of cancer research in Australia and provide a comprehensive range of community support services for people affected by cancer.

All eight state and territory Cancer Councils are separate entities established under a variety of governance arrangements, but all are non-government, not-for-profit organisations. While the Cancer Councils openly compete for cancer-related government contracts, our operational funds are derived entirely from non-government sources.

Like many charities in Australia, the Cancer Council's viability depends on the generosity of ordinary Australians, who donate through a range of mechanisms – for example subscriptions, bequests and one-off donations. Hence, tax exemption as a charity is integral to the Cancer Council's viability. We also receive corporate sponsorship and rely significantly on volunteers to help deliver a number of our programs.

While each Cancer Council is an independent entity, over recent years the state and territory Cancer Councils have developed a common corporate identity and have streamlined a number of services and fund-raising initiatives. As a matter of course, the Cancer Councils also promote the same evidence-based positions on cancer control policy and subscribe to the same fundamental principles of independence and political non-partisanship.

Collectively, the Cancer Council is Australia's largest health charity. Cancer Council Australia, as the focal point for the Cancer Councils' national policy priorities, therefore has a high stake in any government policies affecting not-for-profit organisations in Australia. We therefore welcome the opportunity to provide comments on the draft report of the Productivity Commission on the contribution of the not-for-profit sector.

Introductory comments

Cancer Council Australia welcomes the Commission's recognition of the valuable contribution of the not-for-profit (NFP) sector to our society and the need to improve the regulatory and policy environment affecting its operations.

Cancer Council Australia strongly supports the Commission's recommendations for streamlining, consolidating and reducing the compliance burden associated with the myriad fragmented and inconsistent governance, taxation and fundraising regulations that currently apply to the sector. These recommendations offer great potential to reduce the burden and cost of compliance for NFP's, especially for organisations like Cancer Council Australia which operate across jurisdictional boundaries.

In particular, Cancer Council Australia welcomes the Commission's recognition of the need to preserve the independence of NFPs, while enhancing engagement between the Government and the sector so that the strengths and expertise of each sector can be harnessed to achieve common goals.

1. Smarter regulation of the not-for-profit sector

The current regulatory and legal arrangements governing not-for-profit organisations are burdensome and unwieldy. In particular, the current lack of national consistency is particularly problematic for a large federated organisation like the Cancer Council, which raises funds through joint exercises across jurisdictions and is working to develop a common corporate identity across its membership.

To some extent, the Cancer Council's evolution as a large, federated health charity reflects the complexity of Australia's two-tiered government system and a lack of national cohesion and consistency in governance for charities. Our member organisations have variously been established under several Commonwealth, state and territory laws and statutes, and with differing governance arrangements. Likewise, our organisations report their financial statements according to varying approaches. The opportunity to streamline operations and procedures across all member organisations would assist in improving efficiency and effectiveness and would free up resources which could be better allocated to achieving our goals of improving cancer prevention, treatment and support.

Consequently Cancer Council welcomes the Commission's recommendations relating to consolidating, harmonising, and streamlining current regulatory regimes relating to governance, taxation and fundraising for NFPs.

Establishment of a Registrar for Community and Charitable Purposes

Cancer Council Australia supports the establishment of a "one stop shop" in the form of a national Registrar to consolidate Commonwealth regulatory oversight of NFPs, register and endorse tax status, register national fundraising organisations and provide a single portal for corporate and financial reporting. Ideally, this should supersede state/territory regulations for these requirements, allowing all members of NFPs with a federated structure, such as Cancer Council Australia, to be governed within the same framework. At the very least harmonised regulations should apply across all jurisdictions with mutual recognition of status and eligibility granted in any jurisdiction.

Fundraising legislation

Cancer Council Australia is strongly supportive of recommendations to streamline fundraising regulation. Under the current system, national fundraising campaigns need to be modified to meet the differing regulatory requirements in each jurisdiction, unnecessarily increasing the cost and administrative burden associated with delivering the campaign. While Cancer Council Australia would prefer to see the introduction of a single national legislative regime to govern fundraising, harmonisation of fundraising regulation, mutual

recognition and a single registration point for national fundraising campaigns would assist in reducing the administrative burden and cost of rolling out national campaigns under current arrangements.

It is essential that fundraising legislation adequately protects the integrity of NFPs by requiring that fundraisers clearly disclose the name of the organisation for which funds are being collected and the purpose for which the donation is sought. The legislation should also be underpinned by appropriate sanctions for any misleading or deceptive statements or behaviour by fundraisers. This is especially important in the area of cancer fundraising where a large number of charities operate. As high-profile cancer charities, Cancer Councils are vulnerable to other organisations implying they are collecting for the Cancer Council in order to enhance their own fundraising.

Definition of charitable purposes

Cancer Council Australia is generally supportive of the introduction of a statutory definition of charitable purposes in accordance with the recommendations of the 2001 Inquiry into the Definition of Charities and Related Organisations, but emphasises the need to unequivocally protect the right to advocacy of not-for-profit organisations regardless of their funding relationship with government.

Advocating for change and debating public policies which impact on cancer control is a fundamental part of Cancer Council Australia's mission. Cancer Council Australia advocates on behalf of cancer patients for improved treatment and access to services, and on behalf of all Australians to reduce cancer risks and secure government support for research and effective cancer prevention and early detection programs. Cancer Council Australia's advocacy objectives are informed by evidence and presented in a reasoned and responsible way with the goal of ensuring that issues related to cancer care and control get the attention, legislative action and funding they deserve. Many of the activities Cancer Council Australia undertakes in order to achieve these goals are done with the objective of changing or accelerating change in the law or government policy. They are by any measure in the public interest.

Cancer Council Australia believes it has a responsibility to advocate for improvements in government policy, programs or legislation to reduce the incidence and impact of cancer. People with cancer, and the general community, expect the community-funded Cancer Councils to advocate on their behalf in this regard.

The direct contact state and territory Cancer Councils have with people affected by cancer, and with the health professionals who provide services and care to them, provides us with knowledge and understanding of the issues and problems faced by this large constituency.

The nature of our mission, and our ability to provide expert advice on all matters of cancer control, means governments traditionally have been open to our representations and in fact seek our contribution to the development of many cancer control policies, programs and reports.

However, from time to time contentious policy or legislative matters may arise on which we have differing views. We believe it is important to the Australian community that we protect our right to represent the interests of people affected by cancer or lobby for change we believe will help reduce cancer incidence or impact.

Tax concessions and DGR status

Cancer Council Australia strongly supports the retention of tax concessions for charitable organisations. Tax exemption as a charity is integral to the Cancer Council's viability and by keeping costs down, frees up funds to allow us to provide more services and programs in pursuit of our objectives. Cancer Council Australia notes that the Productivity Commission supports the findings of the then Industry Commission's 1995 inquiry into *Charitable Organisations in Australia* that income tax exemptions have few adverse consequences in relation to competitive neutrality. Consequently, there appears to be no grounds to remove current exemptions.

Tax concessions relating to staffing are also essential to the ongoing provision of our high quality programs and services. While staff salaries are benchmarked at the lower end of the market, without incentives such as salary sacrifice it would be difficult to attract and retain professionals with appropriate skills for our work in cancer control – such as education, research, policy development, administration - and in service and program delivery.

Cancer Council Australia is concerned about the Commission's comment that it would be preferable for governments to provide direct and transparent grants to NFPs rather than payroll tax or Fringe Benefits Tax exemptions. Grants are rarely provided without restrictions on how they are to be used while the cost savings provided through tax concessions apply to all our activities. Consequently the removal of tax concessions in favour of grants would be likely to increase our overall costs while limiting our flexibility to direct resources across all programs and services as we deem most appropriate. With respect to DGR status, Cancer Council Australia is concerned that the extraordinary growth in the number of NFPs over recent years raises questions about the rigour associated with eligibility for charitable status. The eligibility criteria relating to the purpose for which monies are being raised should be tightened to underpin quality assurance in the sector; sustainability of the charity should be a criteria.

Appropriate financial reporting is also an essential element in building public trust and allowing the public to compare NFPs. Alarming, however, periodic inquiries have shown us that many 'cancer charities' which have DGR status do not publicly report their annual accounts nor provide evidence that audited annual accounts even exist. The establishment of standard reporting requirements across the sector would allow greater transparency in disclosure and would better inform donors how their donations are used. However, tighter disclosure regimes must not lead to increased administrative costs at the expense of core business. All charities that receive DGR status should have an appropriate governance structure defined in their constitution. Whether the charity is an incorporated body or a company limited by guarantee should depend on size, scope and activity. Consideration should also be given to making clearer distinctions between "charities" and NFPs more generally. For example, it could be argued that a "charity" should be eligible for DGR as well as tax exemption, while NFPs that undertake no charity work are eligible for tax exemption only.

Cancer Council Australia supports the establishment of a single national application process for tax concession status endorsement or mutual recognition.

Standard Chart of Accounts

Cancer Council Australia supports the adoption by all governments of a Standard Chart of Accounts for NFPs in receipt of government grants or service contracts so that reporting arrangements for NFPs receiving grants from different agencies are streamlined and consistent. However we would be concerned if this were extended to require a Standard Chart of Accounts for financial reporting by all NFPs, given the significant diversity in the structure and operations of organisations within the sector. It is also important that any proposed Standard Chart of Accounts for NFP be developed on the basis of thorough consultation.

New national form of incorporation

Cancer Council Australia also supports the establishment of a new form of national incorporation for NFPs operating across jurisdictions, as an alternative to existing state and territory incorporation legislation, together with amendments to existing legislation to allow easier migration from one legal form to another, and between jurisdictions.

2. Building knowledge systems

Cancer Council Australia supports the recommendations pertaining to measuring the contribution of the NFP sector, improving the comparability and usefulness of information collected and improving evidence-based practice through better evaluation.

In measuring and evaluating the contribution of the NFP sector it will be important to recognise that many of the benefits arising from the operation of NFPs are difficult to quantify and will require more qualitative methods to capture.

There is also likely to be only limited value compared to the cost in attempting to collect data on very small unincorporated NFPs operating outside the formal regulatory environment.

3. Sector development

Cancer Council Australia generally supports the recommendations relating to sector development

Cancer Council Australia supports the recommendation to explore options to promote and support planned giving, especially payroll giving and bequests. However, Cancer Council Australia questions whether the recommendation of providing financial assistance and advice to smaller organisations to establish planned giving programs is appropriate as this would favour one class of NFPs over others. Any assistance provided should be available to all NFPs.

Cancer Council Australia also supports the recommendation to explore the viability of infrastructure hubs that provide back office and other services to community based NFPs as this could assist in expanding our cancer education and patient support services.

4. Improving the effectiveness of direct government funding

Cancer Council Australia generally supports the recommendations relating to improving the effectiveness of direct government funding through providing clarity over funding arrangements and ensuring appropriate independence and minimal compliance burden. In particular Cancer Council Australia supports the need to ensure that contract compliance requirements are proportionate to the scale of the program and restricted to the activity funded. As noted above, it is essential that the right to advocacy of NFPs is preserved, regardless of their funding relationship with government.

5. Removing impediments to better value government funded services

Cancer Council Australia generally supports the recommendations relating to removing impediments to better value government funded services

6. Building stronger, more effective relationships for the future.

Cancer Council Australia generally supports the recommendations relating to building stronger more effective relationships between government and NFPs for the future. In particular Cancer Council Australia supports the need to put in place measures to drive the reform agenda for the sector so that the unnecessary administrative and cost burden of associated with meeting the requirements of the myriad Commonwealth, state and territory laws and regulations that currently govern the operation and registration of charity and not-for-profit organisations can be reduced as soon as possible.