

Senator Bushby
Deputy Government Whip in the Senate
Chair, Senate Economics Legislation Committee
Parliament House
CANBERRA ACT 2600

Dear Senator Bushby

Correction about consultations on the abolition of the Australian Charities and Not-for-profits Commission (ACNC)

We refer to the Senate Economics Legislation Committee's (**the Committee's**) Public Hearing on Friday 23 May 2014 for the Inquiry into the Australian Charities and Not-for-profits Commission (Repeal) (No. 1) Bill 2014.

We understand that at the hearing, the Committee was referred by a Department of Social Services (**DSS**) representative to a list of organisations that had been 'consulted' by the DSS on the abolition of the ACNC. The list referred to was one that had been tendered to Senate Estimates (refer to Senate Community Affairs Committee, Answers to estimates questions on notice; Question No: 334; **see Attachment A**).

We were surprised and concerned to see the name of our organisation, Justice Connect, on a list of 'organisations DSS had consulted about the ACNC'.

We understand that we were listed by the DSS because a representative from our organisation attended a Melbourne Law School event on the future of charity regulation, which was also attended by DSS representatives and Minister Andrews' adviser.

At that event we asked the DSS representatives whether consultation on the future of the ACNC was going to occur. We referred in particular to our December 2013 letter to the Minister and the Acting Secretary DSS, in which we requested to be included in any consultations about the ACNC, and the reply letter confirming that public consultations would be commencing in late January or early February 2014. In response to our question, the DSS representative advised that the Government had decided not to proceed with public consultations with the sector. They advised that the Minister was going to undertake targeted consultations only. We have not been contacted by the DSS or the Minister's office since that time.

We therefore request that the record be corrected to indicate that we have not been consulted, despite specifically requesting this opportunity. We note that the brief interaction we had with DSS representatives at an event at which they confirmed we would not be consulted is clear evidence of this.

As noted in our submission to your inquiry (Submission No. 113), the lack of consultation on the future of charity regulation in Australia appears to be contrary to the Government's own 'cutting red tape' guidelines:

The Government's own, recently released *Australian Government Guide to Regulation*¹ sets out that:

- full public consultation should be the default form of consultation to encourage "openness and trust in a decision making process" and
- targeted consultation should only be used when "your stakeholder group is in a small geographic area or other well defined category".²

As charities are located Australia-wide and are not a small or homogenous stakeholder group, the consultation process for the ACNC Repeal Bill No. 1 falls well short of the Government's own, recently published guidelines.

Please note that we have also written to DSS to ask that our name be removed from the list of organisations.

For your reference, every year our Not-for-profit Law service provides legal help to thousands of small charities and not-for-profits across Victoria and NSW. Our service provides free and low-cost legal information, training, phone advice and pro bono referrals to help charities and not-for-profits resolve their legal and regulatory issues. We do this via a small group of dedicated charity lawyers, as well as drawing on the pro bono resources of the legal profession in both states, including many of the mid-tier, national and international law firms and the Victorian and NSW Bar, who are our members. We have also been writing policy submissions on not-for-profit regulatory issues for many years. Given our experience in this area, we were disappointed not to be consulted about the future of the ACNC and charity regulation in Australia.

Kind regards

Fiona McLeay

Chief Executive Officer
Justice Connect

Juanita Pope

Director - Not-for-profit Law
Justice Connect

¹ www.cuttingredtape.org.au

² Australian Government, *Australian Government Guide to Consultation*, page 41, www.cuttingredtape.org.au

Senate Community Affairs Committee
ANSWERS TO ESTIMATES QUESTIONS ON NOTICE
SOCIAL SERVICES PORTFOLIO
2013-14 Additional Estimates Hearings

Outcome Number: 3

Question No: 334

Topic: Civil Society National Centre of Excellence

Hansard Page: 27/02/2014 CA104/CA105

Senator Stephens asked:

Could you take on notice and provide the committee with a detailed list of who has been involved in the Civil Society National Centre of Excellence consultations, and any further consultation sessions that you are planning to hold.

Answer:

The Department has been in consultation with Senior Officers from the Treasury, Australian Taxation Office and Department of the Prime Minister and Cabinet

The Department has also spoken to representatives from the sector listed in the table below and State representatives from Relationships Australia. The Department is working across government to ensure arrangements are in place following the abolition of the Australian Charities and Not-for-profits Commission (ACNC) to facilitate a smooth transition and will continue to discuss this issue and the establishment of the National Centre for Excellence with stakeholders.

Name	Organisation
Susan Pascoe	Australian Charities and Not-for-profits Commission
David Locke	Australian Charities and Not-for-profits Commission
Murray Baird	Australian Charities and Not-for-profits Commission
Kasy Chambers	Anglicare
Lin Hatfield Dodds	UnitingCare
Jackie Brady	Catholic Social Services
Martin Laverty	Catholic Health Australia
Father Brian Lucas	Australian Catholic Bishops Conference
Anne Hollands	Benevolent Society
Professor Ann O'Connell	Not for Profit Project, Melbourne Law School
A/Professor Matthew Harding	Not for Profit Project, Melbourne Law School
John Emerson AM	Herbert Smith Freehills
Alice McDougall	Herbert Smith Freehills

Senate Community Affairs Committee
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Name	Organisation
David Crosbie	Community Council for Australia
John King	Charity Law Association
Joe Zabar	UnitingCare Australia
Anne Robinson	Charity Law Association
Professor Ian Ramsay	Centre for Corporate Law and Securities Regulation, MLS
Derek Mortimer	Law Institute of Victoria Charity Law Committee
Tessa Boyd-Caine	Australian Council of Social Service
A/Professor Fiona Martin	University of New South Wales
Francis Moore	Australian Catholic Bishops Conference
Jennifer Batrouney SC	Victorian Bar, Law Council
Liz Morgan	JusticeConnect
Professor David Gilchrist	Curtin University, Western Australia
Krystian Seibert	Philanthropy Australia
David Ward	Philanthropy Australia
Amy Nathwani	Governance Institute
Dr Joyce Chia	Not for Profit Project Melbourne Law School
Robert Wicks	Anglican Church, Sydney
Myles McGregor-Lowndes	Centre for Philanthropy and Nonprofit Studies, Queensland University of Technology