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Dear Ms Berkeley

Thank you for the opportunity to comment on the proposed Governance Standards for the Not-for-profit Sector Consultation Paper.

UnitingCare West (UCW) is a community services agency of the Uniting Church which touches the lives of over 30,000 families and individuals each year. Our organisation is founded on the Christian principles and values that lie at the core of the Uniting Church in Australia.

We are also part of the UnitingCare national network of more than 400 Uniting Church agencies, which provide community services to over 2 million Australians annually.

Our mission is to "support, serve and empower people most in need". As such, accountability, transparency and sound governance is of particular importance for organisations like ours which work with people who are disadvantaged and vulnerable. It is essential that the not-for-profit sector is supported and enabled to work efficiently and effectively to deliver services to the community in innovative and valuable ways.

For these reasons UCW is supportive of the objects of the *ACNC Act*:

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

However the ACNC Governance Standards, and the Financial Reporting Requirements, are being developed and debated in the absence of some of the crucial elements which will be required to achieve the Objects of the *ACNC Act*; to support and sustain the sector and to reduce unnecessary administrative, reporting, acquittal and compliance costs imposed by Government.

For example it is unreasonable to debate the governance standards and financial reporting requirements for charities before a statutory definition of 'charity' is discussed and introduced. Furthermore it is counterproductive to increase the reporting and compliance requirements for charities before substantial work is done to reduce current obligations or to minimise duplication and new red tape.

For Western Australia in particular the introduction of the ACNC Governance Standards, and the Financial Reporting Requirements, will result in a considerable increase in compliance and

reporting obligations for incorporated associations and for those organisations, like ours, which are incorporated under a State Act of Parliament.

The recent COAG Regulatory Impact Assessment report (COAG RIA) estimates that the compliance burden that will arise from the duplication between existing regulatory requirements of States and Territories and the proposed ACNC governance and reporting requirements will be significant in this State. In fact, of the estimated annual ongoing cost of this duplication across Australia, the Western Australian component for incorporated associations of \$7,643,190⁽¹⁾ represents 57% of the total national cost. Considering that WA hosts only 10% of the charities across Australia, it appears that this State will bear a disproportionate burden of the increase in reporting and compliance.

On top of this duplication many entities will also have new and additional reporting obligations to the ACNC. The COAG RIA identifies these new requirements on page 53 of its report and notes that this will result in additional costs for charities and a diversion of the resources of charities towards compliance rather than the core purpose of the entity.

Whilst we acknowledge that the Commonwealth Government has a stated commitment to reducing red-tape through improvements to the Commonwealth Grants Guidelines and by introducing a "Charities Passport", these steps will not be implemented before the new financial reporting and governance standards are established.

Similarly there appears to be little progress in the harmonisation or simplification of compliance between the Commonwealth and State and Territory regulators, particularly in Western Australia. There also appears to have been very little consideration of other "unintended consequences" of the increasing requirements for entities subject to these reforms.

Many small organisations currently do not have the skills or resources to manage the transition to this new regime. It would be unfortunate if the introduction of the ACNC resulted in a contraction of small organisations which contribute to the innovative and vibrant nature of the community or if the reassessment of what constitutes a 'charity' where to change the nature of the work that we do or our capacity to do it.

Without improvement in these areas it is unlikely that the objects of the *ACNC Act* will be achievable and authentic and, in the potential absence of future government support for the ACNC and for the principles contained in the National Compact, it is essential that the sector is protected from further compliance and intervention.

As such, we support the recommendation from UnitingCare Australia that these Governance standards should only be implemented after legislation to prevent "gag" clauses within Government funding agreements is enacted, agreed modifications to the Commonwealth Grant Guidelines are in place and the "Charity Passport" is sufficiently advanced to ensure that registered entities that have provided organisational and or financial information to the ACNC will not be required to provide similar information to other Commonwealth agencies.

Furthermore, we encourage Commonwealth, State and Territory governments to act quickly on the findings of the COAG RIA and implement as soon as possible Option 4B of the COAG RIA whereby States and Territories enter into an agreement with the Commonwealth to allow the

⁽¹⁾ COAG *Regulatory Impact Assessment of Potential Duplication of Governance and Reporting Standards for Charities*, January 2013. Available at:

<http://www.coag.gov.au/sites/default/files/COAG%20Regulatory%20Impact%20Assessment%20of%20Potential%20Duplication%20of%20Governance%20and%20Reporting%20Standards%20for%20Charities.pdf>

requirements of the ACNC in relation to governance and/or reporting to satisfy the equivalent provision in State or Territory legislation. We also ask that action in relation to reducing unnecessary reporting and compliance on the NFP sector be made a priority and elevated to the Ministerial level.

Finally, the *ACNC Act* itself does not currently limit the capacity of the Regulator to introduce new compliance obligations that would require entities to amend or introduce new practices in order to comply with the standards.

UCW therefore supports the recommendation from UnitingCare Australia that a statement be included in the standards which seeks to explicitly link the ACNC's development and implementation of the compliance obligations and processes to the Objects of the *ACNC Act* as at Division 15-51(b) and (c).

Recommendation: To include wording at Subdivision 45.2 of the governance standards to the following effect:

The compliance obligations and processes of the governance standards in Subdivision 45-B must be consistent with the Objects of the ACNC Act.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sue Ash'.

Sue Ash
Chief Executive Officer