

Review of Australian Charities and Not-for-profits Commission (ACNC) legislation

Global Development Group would like to make a small submission to this inquiry.

We are not qualified to speak to the legal structure and requirements but we have had relationship with the legal people at ACNC for a long time and they have our confidence.

The points that Global Development Group would like to address **are procedural and relate to the sending of tax deductible funds to 'projects' overseas**. Global Development Group believes that the standards and boundaries laid out for OAGDS are what is required. We note that OAGDS has been transferred to the oversight of ACNC. Here is an opportunity for improvement.

The area of concern is PBI's (Public Benevolent Institutions.)

As a result of 'The Hunger Project' case, PBI's were granted the ability to give tax deductibility for donations and to send the funds overseas, currently with no accountability. (The many lawyers and advocates of this position don't seem to realise that The Hunger Project already had OAGDS and their requirement for PBI status was not to eliminate accountability but more to avail their staff of exempt FB.)

A requirement of OAGDS is for projects having strict boundaries and of necessity partnering with an acceptable in-country partner who implements the project within the laws and requirements of the country. It is our experience that PBI's now send funds to overseas 'projects' thinking that Australian Boards can control whatever happens to the funds.

They have no rules or accountability.

So the **first** requirement to sending T/D funds to overseas 'projects' is to clearly define the project, partner with an in-country entity who has been checked for integrity, capability and conformity with target government regulations.

The **second** requirement is to ensure that funds are sent under Australian security and good governance rules and that the implementing entity has a competent accounting system where fraud can be prevented and easily detected. Global Development Group has documented instances where substantial Australian funds have been stolen from 'projects' funded by Australian Charities.

Third is a requirement for strong child protection policies and procedures and proof that this policy is implemented and achieving required results. There are a number of other requirements including capacity building and sustainability, gender and empowerment. The requirements need to be encompassed by a structure that includes regular professional reporting (narrative and financial), monitoring and evaluation.

We have not found reliable evidence to suggest that PBI's to have any of these capabilities. We have not found ACNC under the current legislative remit to be able to either institute sufficient standards nor to monitor conformance of PBI's engaged in overseas operations.

Applications and submissions to AIS are required but these are inadequate and answers given are not truthful (ignorance is a main cause) nor do they counter the desire to not be accountable.

We now have a new issue of ‘Parliamentary Inquiry into establishing a Modern Slavery Act in Australia.’

The main interest for ACNC and DFAT is Residential Care and Volunteers and or Voluntourism

Residential Care is defined by ACFID and others as ‘Orphanages’ who are funded largely by tourists.

Global Development Group believes that there is a wide range from residential care models which are fully supported by local in-country government with very controlled and beneficial programmes – and (at the other end) the exploitive orphanages which are very detrimental to the children they have in their care.

Global Development Group believes that projects involving children and residential care and volunteers should be subject to very good structure, management, policies and procedures plus monitoring and reporting.

The Parliamentary committee said in its submission to parliament:

The Committee recommends that the Australian Government review its guidance for organisations operating overseas regarding the risks of orphanage trafficking, to ensure that there are consistent guidelines across regulatory agencies and schemes, including the Australian Charities and Not-For-Profit Commission, the Overseas Aid Gift Deduction Scheme and the Direct Aid Program.

This was mentioned several times in the 343page report.

There is an onus on ACNC to address this requirement

ACNC say they are currently waiting on direction from Treasury.

When action is taken – then the non-accountability of PBI’s operating overseas needs to be strongly addressed.

ACNC says

At this stage, there is no change in legislation nor has the Assistant Minister to the Treasurer released draft External Conduct Standards for consultation which will occur before the Standards are included in the Australian Charities and Not-for-profits Commission Regulation

The Hon Kelley O’Dwyer MP Minister for Revenue and Financial said:

*ACNC and ATO will receive about 6M to audit charities. **External Conduct Standards will be issued to be enforced by ACNC.***

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NOTE

UN Convention on the Rights of the Child

The UN Guidelines require us to:

To provide appropriate care and protection for vulnerable children, such as child victims of abuse and exploitation, abandoned children, children living on the street, children born out of wedlock, unaccompanied and separated children, internally displaced and refugee children, children of migrant workers, children of asylum-seekers, or children living with or affected by HIV/AIDS and other serious illnesses.

[Some of these children require Residential Care](#)