

Wednesday, 28 March 2012

Manager
Consumer Policy Unit
The Treasury
Lagton Crescent
PARKES ACT 2600

Dear Manager

Treasury Discussion Paper – Charitable Fundraising Regulation Reform – February 2012

The purpose of this letter is to provide our comments on the questions raised in the Treasury Discussion Paper – Charitable Fundraising Regulation Reform.

We appreciate the hard work Treasury has gone to in preparing the Discussion Paper and we value the opportunity to participate in the consultation process.

Jewish Communal Appeal

The Jewish Communal Appeal (**JCA**) is the fundraiser, planner and facilitator for the New South Wales and ACT Jewish Communities.

Established in 1967, the JCA founders instituted a single unified fundraising appeal with an allocation process to ensure an equitable distribution of funds raised based on communal needs. JCA also incorporates a communal planning process as part of its mandate. JCA is governed by and answerable to the presidents of the member organisations which are all not-for-profits.

Day to day operations are managed by paid staff who support and report to committees headed up by volunteer communal leaders.

Today, there are 21 member organisations spanning local community care services, schools, tertiary and continuing education, disability, health, aged care, cultural affairs, advocacy, security and sport.

JCA's annual fundraising campaign on their behalf raises in excess of \$12 million annually.

Ensuring Jewish continuity in partnership with our member organisations...

Academy BJE
- NSW Board of Jewish Education

ACT Jewish Community

Australian Jewish Historical Society

B'nai B'rith

COA Sydney

Communal Security

Emanuel School

Fund for Jewish Higher Education

JewishCare

Jewish Folk Centre

Maccabi NSW

Masada College

Moriah College

Mount Sinai College

National Council of Jewish Women

NSW Board of Progressive Jewish Education

NSW Jewish Board of Deputies

Sir Moses Montefiore Jewish Home

Sydney Jewish Museum

The Shalom Institute

Wolper Jewish Hospital

The organisation and its leadership is committed to ensuring that the NSW and ACT community remains one of the most vibrant and robust Jewish communities in the world.

JCA works to engage, educate and support our community so as to strengthen Jewish continuity and to preserve the Jewish legacy for future generations to come.

JCA's member organisations are listed below, organised by the sectors they represent.

Community and Cultural Services	Community Care	Jewish Day Schools
<ul style="list-style-type: none"> • ACT Jewish Community • Australian Jewish Historical Society • B'nai B'rith • Communal Security • Jewish Folk Centre • Maccabi NSW • National Council of Jewish Women NSW • NSW Jewish Board of Deputies • Sydney Jewish Museum 	<ul style="list-style-type: none"> • COA Sydney • JewishCare • Sir Moses Montefiore Home • Wolper Jewish Hospital 	<ul style="list-style-type: none"> • Emanuel School • Masada College • Moriah College • Mount Sinai College
	<p>Adult and Student Services</p> <ul style="list-style-type: none"> • The Shalom Institute • Fund for Jewish Higher Education 	<p>Education Boards</p> <ul style="list-style-type: none"> • NSW Board of Jewish Education: Academy BJE • NSW Board of Progressive Jewish Education

Comments on relevant questions raised in Discussion Paper are as follows:

Question 2.1: Is it necessary to have specific regulation that deals with charitable fundraising? Please outline your views.

We consider that it is necessary to have appropriate regulation as this ensures public confidence and trust while ensuring the appropriate levels of governance, privacy and financial transparency.

Question 2.4: Should the activities mentioned below be exempted from fundraising regulation?

- Soliciting for government grants – on the basis that governments can require information and regular reporting on the outcomes from funding provided to charities. - Yes
- Corporate donations or donations from public and private ancillary funds – on the basis that these entities are likely to be better placed than an individual member of the public to conduct due diligence before donating to a potential recipient. - Yes
- Workplace appeals for assistance for colleagues and their families – on the basis that the recipients of such funds are usually personally known to at least a significant proportion of the donors. - Yes
- Donations to religious organisations from their own members – also on the basis that the recipients of such funds are usually personally known to at least a significant proportion of the donors. – Yes, however this exemption should be for all organisations that have member bases, not only religious organisations.

Question 2.7: Should national fundraising regulation be limited to fundraising of large amounts? If so, what is an appropriate threshold level and why?

Yes, and should only be applicable to organisations that raise more than \$500,000 per annum and / or have more than 1,000 donors. This threshold is based on the average individual donation for the 2009 tax year being +- \$450 per tax payer.

Question 2.8: Should existing State or Territory fundraising legislation continue to apply to smaller entities that engage in fundraising activities that are below the proposed monetary threshold?

Yes.

Question 2.10: What should be the role of the ACNC in relation to fundraising?

Monitor fundraising practices and review of financial position on an annual basis. Should organisations breach regulations relating to solvency as well as fundraising legislation have the power to ban a charity from fundraising activities.

Question 2.11: Should charities registered on the ACNC be automatically authorised for fundraising activities under the proposed national legislation?

Yes.

Question 2.12: Are there any additional conditions that should be satisfied before a charity registered with the ACNC is also authorised for fundraising activities?

Yes - provide audited financial statements within 6 months of financial year end.

Question 2.13: What types of conduct should result in a charity being banned from fundraising? How long should any bans last?

Insolvency – ban to last until solvency restored.

Material theft, fraud, dishonest conduct – ban to last until the relevant person has been dismissed by the organisation.

Material breach of regulations – ban to last until the breach has been rectified.

Question 3.1: Should the below mentioned provisions of the ACL apply to the fundraising activities of charities?

- Misleading or deceptive conduct - Yes
- Unconscionable conduct - Yes
- False or misleading representations - Yes
- Harassment and coercion - Yes

Question 3.2: Should the fundraising activities of charities be regulated in relation to calling hours? If so, what calling hours should be permitted?

Yes.

- Monday to Thursday – from 9am to 8pm; and
- Friday – from 9am to 5pm.
- Saturday – not at all.
- Sunday and public holidays – not at all

Question 3.3: Should unsolicited selling provisions of the ACL be explicitly applied to charitable entities? Alternatively, should charitable entities be exempt from the unsolicited selling provisions of the ACL?

Yes if charities sell products then the provisions on the ACL should be applicable, however if they only solicit donations then the ACL provisions should not apply.

Question 4.1: Should all charities be required to state their ABN on all public documents? Are there any exceptions that should apply?

Yes.

Question 4.2: Should persons engaged in charitable fundraising activities be required to provide information about whether the collector is paid and the name of the charity? (commission)

Yes.

Question 4.3: Should persons engaged in charitable fundraising activities be required to wear name badges and provide contact details for the relevant charity?

Yes if they are operating in public places.

Question 4.4: Should specific requirements apply to unattended collection points, advertisements or print materials? What should these requirements be?

No Comment.

Question 4.5: Should a charity be required to disclose whether the charity is a Deductible Gift Recipient and whether the gift is tax deductible?

Yes.

Question 4.6: Are there other information disclosure requirements that should apply at the time of giving? Please provide examples.

No.

Question 4.7: Should charities be required to provide contact details of the ACNC and a link to the ACNC website, on their public documents?

No.

Question 5.1: Should reporting requirements contain qualitative elements, such as a description of the beneficiaries and outcomes achieved?

Yes.

Question 5.2: Should charities be required to report on the outcomes of any fundraising activities, including specific details relating to the amount of funds raised, any costs associated with raising those funds, and their remittance to the intended charity?

Yes.

Question 5.3: Should any such requirements be complemented with fundraising-specific legislated accounting, record keeping, and auditing requirements?

Yes.

Question 5.4: What other fundraising-specific record keeping or reporting requirements should apply to charities?

Disclose Directors / Officers / Trustees

Question 6.1: Should internet and electronic fundraising be prohibited unless conducted by a charity registered with the ACNC?

Yes.

Question 6.2: Should charities conducting internet or electronic fundraising be required to state their ABN on all communications?

Yes.

Question 6.3: Are there any technology-specific restrictions that should be placed on internet or electronic fundraising?

Yes – need to have a minimum level of security to ensure confidentiality of credit card and bank account details.

Question 7.1: Is regulation required for third party fundraising? If so, what should regulation require?

Yes – Should be similar regulations to that which apply to organisations who are fundraising for themselves.

Question 7.2: It is appropriate to limit requirements on third party fundraising to those entities that earn a financial benefit?

No Comment.

Question 7.3: Should third party fundraisers be required to register with the ACNC for fundraising purposes only?

Yes.

Question 7.4: Should third party fundraisers be required to state the name and ABN of charities for which they are collecting?

Yes.

Question 7.5: Should third party fundraisers be required to disclose that they are collecting donations on behalf of a charity and the fees that they are paid for their services?

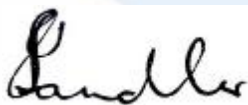
Yes.

Question 7.6: Should third party fundraisers (or charities) be required to inform potential donors that paid labour is being used for fundraising activities?

Yes.

We would be pleased to elaborate on the above or provide any further information you may like and would also be pleased to meet with you to discuss.

Yours sincerely



Ian Sandler
Chief Executive Officer
Jewish Communal Appeal