

CONSULTATIVE FEEDBACK: Exposure Draft Bill: Not-For-Profit Governance

Author: Mr Don Leys

Position: Condell Park Christian School Principal, member of Incorporated Association of Condell Park Christian School and member of board of Deacons of a local Christian church in metropolitan south-west Sydney.

General Statement of Position: Both the church and the school that I represent are both small not-for-profit (NFP) institutions, and would be disadvantaged considerably with additional regulation relating to governance of NFP organisations. Of more grave concern is the initiative of a secular government beginning to ...”set out in legislation the outcome that it wants registered entities to achieve”. (Treasury’s Not-For-Profit Reform Newsletter, Issue 3, 23 December 2011, p.6). Government regulation of this kind, such as the case in the UK, may impinge on the objects of the NFP entity, as there may be neither the appreciation nor the empathy for the objects or the philosophical position of the entity.

Specific Comments:

1. “For-profit” and NFP entities should neither be treated nor measured in the same way, in areas of governance and performance. Their objects are divergent. For a “for-profit” entity, profits are obviously the main driving agenda, whereas for NFP entities, profits are for operational purposes only and the objects are for public benefit.
2. Greater regulation within the NFP framework, especially for small entities, means greater challenges with complexities in reporting and administration, often adding needlessly burdensome tasks to the already strenuous efforts of the existing personnel.
3. It is a grave concern when a secular government administration begins to make judgements regarding the inputs, outputs, outcomes and performance measures of a NFP entity. This should not be the

province of government. There is a fear of government intrusion into the realm of ethos, goals and objectives of NFP entities.

4. Government regulation and rationalisation of this kind relating to NFP entities in this country, will inevitably lead to the same challenges that NFP entities in the UK have encountered. Viz.
 - a. The objective of government to impose comprehensive public benefit obligations or tests upon all schools regardless of their wealth or circumstances. This is simply unreasonable.
 - b. Private schools have had to defend the fact that they are providing a public benefit. This simply should not have occurred, since the provision of education to a full-fee paying student is itself for the public benefit.
 - c. Private schools have been challenged to defend the fact that they are providing a public benefit for the under-privileged or poor. Clearly, and as demonstrated by a judicial review, when a school provides a bursary or discount to a parent, it is not only providing a public benefit, but it is also seen to be assisting the poor or providing an “educational charity.” May NFP entities in this country be spared such needless examinations.

Mr Don Leys

Condell Park Christian School

29 Lancelot Street, Condell Park, NSW, 2200.

Ph. 02-97084530

Email: dleys@condellpark.nsw.edu.au.

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