



SISTERS OF THE
Good Samaritan
of the Order of St Benedict

Fears new rules could restrict advocacy and free speech

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The Good Samaritan Foundation has joined its voice with other community organisations in expressing concern that proposed new Government regulations could silence charities' advocacy on behalf of vulnerable groups for fear of having their charitable status revoked.

The Federal Parliament is expected to soon consider the expansion of one of the [Australian Charities and Not-for-profits Commission](#)'s (ACNC) governance standards, which the Government claims will ensure charities that engage in or use their resources to actively promote unlawful behaviour face enforcement action.

The planned amendment to the ACNC governance Standard 3, would expand the reasons for which a charity can be deregistered beyond indictable offences to include summary offences, such as trespassing, theft, vandalism or assault.

The charities sector believes the proposal, which is part of a government crackdown on “activist organisations masquerading as charities”, could lead to charities being deregistered for something as simple as tweeting in support of a protest that accidentally ventures on to private land, or providing support to whistleblowers.

Sr Catherine Norman SGS, who is Chair of the Refugee and Asylum Seeker Support Network, said there was often a close link between advocacy and charitable activity, especially in the refugee and asylum-seeker space.

“Because the Federal Government doesn’t support those people who are living in community detention on Bridging Visas, the burden of this is being carried by voluntary organisations,” she said.

“This is what democracy is about, being able to advocate for people on issues where the Government is not doing well, without the fear of retribution and losing funding. This new legislation is both mean-spirited and short-sighted.”

[Good Samaritan Foundation](#) CEO Catherine Cresswell said while the proposed change would likely not have a direct impact on the work of the Foundation, it was of deep concern for the broader charitable sector.

“It’s a worry for us if any charities who are working for people in need or advocating for people who are voiceless are in any way limited in speaking out on their behalf,” she said.

“That’s a very hard job to do at the best of times, to be the one who speaks up, so to think that charities could be legally constrained from doing that is shocking.”

Catherine said the vague nature of the regulation in question meant that charitable bodies were concerned about unintended consequences.

“It’s very vague and I know there are concerns that if volunteers or people who don’t even work for the organisation but have an association with it speak out, then the organisation could be in breach, and their charitable status in jeopardy,” she said.

“Surely in our democracy, if people are drawn to speak out on any topic, advocating for vulnerable people, the environment, animals, they should have the freedom to do so.”

ProBono News reports that following the strong sector backlash, the Government has watered down parts of the proposal. The new regulations say charities must take reasonable steps to ensure their resources are not used to “actively promote” unlawful conduct rather than “promote or support” as was in the original wording.

It says the scope of offences that are captured in the proposal has also been narrowed, with charities no longer at risk of deregistration for administrative errors, such as failing to authorise a pamphlet in the lead-up to an election.

However, those in the charities sector say the proposal still served to silence important advocacy by Australian charities.

[Catholic Social Services Australia](#) (CSSA), the [St Vincent de Paul Society](#) and the [Community Council for Australia](#) have been among those speaking about the changes, which they say will undermine the freedoms necessary for registered charities to conduct essential advocacy work.

In a submission to the Federal Treasury, Vinnies’ National President Claire Victory said the suggested changes were redundant, unnecessarily complex and, if implemented, would increase burdensome red tape.

“The changes potentially stymie the right of our members to freedom of expression and opinion, and limit their right to participate in or organise a protest,” Ms Victory said.

“The amendment not only increases the type of unlawful activities covered by the standard, it introduces more legal ‘grey areas’ and creates greater uncertainty as to what constitutes unlawful activity that may affect registration.”

Outgoing CSSA Chief Executive Officer Dr Ursula Stephens said the rationale offered for the change “fails to demonstrate why such an expansion is needed”. If introduced, it risks “unintended consequences regarding the right of our members to freedom of expression and opinion”.

“Our ultimate concern with the proposal is that Standard 3 may be misused to inhibit legitimate public dialogue by charities or persons associated with charities to the detriment of Australian representative democracy,” Dr Stephens said.

“We believe that the proposal as drafted will leave us in the position of having to monitor and ‘punish’ staff, volunteers, and those of our members, or face the constant threat of having our charitable status removed.”

CSSA represents dozens of Catholic social service agencies across Australia, employing more than 15,000 staff and 7500 volunteers, and serving more than 850,000 people annually.

“The worst-case scenario is that this threat might be made in response to the criticism of a government policy affecting our members or those they serve,” Dr Stephens said. “This situation is unreasonable, undemocratic and likely offends against the implied constitutional freedom of political communication.”

The [Community Council for Australia](#) (CCA), a member-based organisation for the charities and not-for-profit sector, said the proposed changes allow for the politicisation of the ACNC.

“A country where charities fear raising their voice is not the kind of Australia we want to live in,” the CCA said in a submission.



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