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NOVEMBER 2012

Victorian Inquiry Commences

On 19 October 2012 hearings of the Victorian Inquiry into the Handling of Child Abuse by Religious and other organisations commenced.

The preliminary round of hearings have taken evidence from a range of witnesses who provided written submissions to the inquiry including Department of Human Services, Department of Justice and Professor Parkinson of Sydney University who has had a long involvement in Towards Healing and sung the praises of the scheme in principle.

The evidence of other witnesses has been more critical. Professor Cahill of RMIT University called for the Melbourne Response to be completely disbanded and the Victorian Police claimed that the 'Catholic Church' had not reported a single case of sexual abuse which was within their knowledge between 1956 and 2012. The position of the Catholic Church in Victoria is set out in its submission.

[Click here](#) to view its submission.

[Click here](#) to view Appendix A.

[Click here](#) to view Appendix B.

The general line of inquiry of Committee Members of the Inquiry at present seems to be exploring :

- Whether mandatory reporting obligations should be extended to members of religious institutes; and
- the implementation of risk prevention measures.

Further hearings are scheduled to take place in November which will take evidence from a broader array of interested parties and are also expected to continue into 2013.

ACNC Established

The Australian Charities and Not- for- profits Commission Bill passed both houses of Parliament last week and, subject to royal assent, is now law. There are not many "new" issues in the final law, but points to note are:

Substituted Reporting Periods

The first *annual information statements* will be due for the period ending *30 June 2013*.

The first *financial reports* will be due for the period ending *30 June 2014*.

If your charity is obliged to use a non 30 June reporting period, it must notify ACNC of its alternative period; and if it is not so obliged, but seeks to continue using a non 30 June reporting period, it must seek ACNC consent, such actions to be taken with respect to information statements, before 30 June 2013; and with respect to financial reports, before 30 June 2014.

Reports Given to Other Entities

As promised there is an express provision that reports that a charity (and especially schools) may provide to another Australian Government Agency can be treated by the Commissioner as an annual information statement or financial report, provided they contain the information that the Commissioner seeks. This concession will only be available up to the 2015 reporting period or any other later reporting period prescribed by the regulation.

A Review of the Act

As promised the Act now contains an express provision obliging the Minister to review it after the first 5 years of its operation and the report must be submitted within 6 months of that time and be tabled in Parliament within 15 sitting days of its receipt.

Increased Collaboration

The South Australian Government has announced its willingness to harmonise its reporting and fundraising requirements with the ACNC. There is as yet no other express statement from any other state or territory.

Basic Religious Charity Government Grants

In early drafts of the Bill, a basic religious charity could not receive any government grant or operate a DGR Fund: then a concession was introduced to allow a basic religious charity to receive a grant up to \$100,000 and operate DGR Funds up to \$250,000 in revenue each year. The Act now ensures that if the threshold for a "small" charity is raised above \$250,000, the quantum of DGR funds of a basic religious charity can be raised by regulation.

Ongoing Consultation

The government is still consulting over:

Governance and external conduct standards

The aim is to agree a set of principles based matters that a charity must proscribe to meet governance and external conduct standards. This will allow individual charities to define the ways they will satisfy particular standards.

Financial Reporting

The structure of the financial reports required is still being negotiated.

Unrelated Business Income Tax

Although first announced by the Treasurer in May 2011 as Better Targeting of Tax Concessions, consultation continues.

Charity Definition

The statutory definition is yet to be settled: for the ACNC start up the common law definition of charity continues to apply.

Tax Concessions for the Not-for-profit Sector Consultation Paper

On 2 November, 2012, Treasury issued a [consultation paper](#) on the full range of tax concessions currently available to charities and not for profit entities. It targets particular areas where it wishes to improve fairness, simplicity and effectiveness. The paper calls for submissions by 17 December, 2012. Areas covered include

- Income tax exemption;

- Refundable franking credits
- Deductible gift recipients
- Fringe benefits tax exemption and rebate issues
- GST concessions
- Mutuality benefits

The paper is a comprehensive discussion on how those areas presently operate for charities and not for profit entities and poses a series of specific questions for response, if any organisation wishes to make a submission. We will keep you informed of how the review progresses.

Poker Machine Reform

Andrew Wilkie's detailed poker machine reform bill was rejected by the Gillard Government some months ago. On 1 November, 2012, Jenny Macklin introduced a watered down version of the Bill and indicated that one of the elements of the Bill, a trial, would be run in the Australian Capital Territory for 12 months from 1 January 2013.

Voluntary pre-commitment is the main plank of the trial, but that will involve conversion of poker machines in the ACT to allow a player to nominate the sum of money he is prepared to lose. The nomination is voluntary. Each machine must also display electronic warnings.

It will also not be possible to withdraw more than \$250 from an ATM at the venue.

Also included in the legislation is provision for introduction of a National Gambling Research Institute.

The mandatory trial will end at the end of 2013 and it will depend upon political will to institute the law nationally beyond that date.

Gaming ACT has recently indicated that the conversion of machines would take some time and that it would not be sensible to run the trial until after the next Federal election, so, although the simplified bill has been introduced to the House of Representatives, it will depend upon take up by ACT operators, to be implemented.

Homelessness Bill 2012 and National Affordable Housing Agreement ("NAHA")

In its White Paper on homelessness, the [Road Home](#), the Federal Government proposed to introduce new legislation to ensure that people who are homeless receive quality services and adequate support.

The Homelessness Bill 2012 aims to fulfil that promise by a legislative overhaul which includes replacing the *Supported Accommodation Assistance Act 1994* (Cth) ("SAA Act") and establishing the Homelessness National Quality Framework which will ensure the quality of services provided by Government and non-Government agencies such as Centrelink, public and community housing, aged care and community health services.

The Bill has been strongly criticised by the Not-for-profit sector and other lobbyists as being an ineffective solution for homelessness, particularly as it fails to create a legally enforceable right to adequate housing. Interested parties have provided critical submissions on the Bill which have variously described it as "*fairly weak and generic*"; self limiting; lacking the ability "*to ensure that socially isolated people have proper access to services*"; a failure in the "*protection of housing that already exists*" and lacking a genuine understanding of the issues as its definition of homelessness suggests that homelessness is a choice.

Kevin Rudd made a commitment in 2009 to halve the number of homeless people in Australia by 2020 and in order to achieve this outcome the NAHA was commenced on 1 January 2009 and is due to expire on 30 June 2013.

Therefore, regardless of the outcome of the enactment of the Bill, the primary concern now is around how the service providers will be funded beyond 30 June 2013 when the NAHA expires, particularly as discussions in late August 2012 between state and federal housing ministers failed to produce a funding agreement. ([Click here](#) for full report).

Australia is a signatory to the International Covenant on Economic, Social and Cultural Rights 1966 ("ICESCR") and as a signatory is obliged to respect, protect and fulfil the rights to adequate housing pursuant to Article 11(1) of the ICESCR.

The Government will need to ensure compliance with its obligations under the ICESCR when considering what will

occur beyond the expiry of the NAHA.

The Good News

Kiwis Against Seabed Mining (KASM) are staging a walk along the South Taranaki coast in New Zealand to raise awareness for the proposed seabed iron ore mining in the area which will have unknown effects on the environment. Things apparently got a little heated at their public meeting at Whanganui when the manager of foreign mining company TTR showed up. What a coincidence that he just happened to be hanging out that evening in the small Quaker village. After refusing to leave the manager had to be forcefully ejected. Talk about being in the wrong place at the wrong time.

Elsewhere in New Zealand the Motueka Community Patrol, a vigilante band of do gooders who assist the Police control the riff raff on Friday and Saturday nights in the South Island town have struck it lucky. Just as they began fundraising to purchase their own patrol car, the group won a lucky draw run by the Nelson Building Society where they bank their raised funds. The prize they won, you guessed it, was a new car.

A Not-for-profit job seeking agency in Wales is apparently referring its out of work clients for some very important skill training - a spray tan and a makeover. The Wellbeing and Training Academy, where the job seekers are being referred, believe that a primp and preen will give the unemployed people the confidence they need to go out and find a job. We cannot confirm or deny whether they also believe that world hunger can be solved by teeth whitening treatment.

The Learning English Through Singing Group could probably do with a free spray tan and makeover for its members. Made up of elderly immigrants from the former Soviet Union living in New York, the group help narrow the language gap by teaching their members English by singing show tunes and Sinatra hits. The group are apparently now learning dance moves and need an injection of that ol' razzle dazzle which a makeover certainly would provide.

As an update to our last good news story, we are pleased to announce that London Olympian, Edward Fernon, has successfully completed his challenge to retrace the steps of Archer, the winner of the inaugural Melbourne Cup in 1961.

Ed commenced his horseback journey on October 1 from Archer's gravesite in Braidwood, made his way through Canberra and then along the Bicentennial National Trail to Melbourne, arriving on November 4. Travailing over 1000km of some of the country's toughest terrain (and with the odd mishap and wrong turn!), it was an inspiring and marvellous effort by Ed and those who accompanied him throughout his month long journey.

The aim of the trek was to raise awareness and money for the Black Dog Institute – whose goal is to advance the understanding, diagnosis and management of the mood disorders.

Charity Law Seminar Invitation

We are pleased to present this half-day seminar on topical legal issues currently facing the charity sector on November 28 at the Australian Catholic University in North Sydney.

Registration on the day is at 8:30am for an 8:50am start. Seminar will conclude at 1pm and lunch will be provided.

For more information, [click here](#) for invitation.

Sydney: Level 18, St James Centre, 111 Elizabeth Street Sydney NSW 2000

Campbelltown: Level 2 Macarthur Business Centre, 121 Queen Street Campbelltown NSW 2560

Canberra: Level 11, St George Centre, 60 Marcus Clarke Street Canberra ACT 2600

Newcastle : Level 5, 384 Hunter Street Newcastle NSW 2300

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