

# Australian Charities and Not-for-profits Commission Regulations 2022 (**Exposure draft**)

Submission to the Treasury

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## About us

Baptist Care Australia is the national representative body for Baptist community service organisations and their clients in the national policy debate. Together, our members employ more than 11,500 staff, work with 3,000 volunteers and have an annual turnover of almost \$1 billion across a range of social service areas.

We work to bring social justice to Australian communities, advocating nationally on issues important to our members and the consumers that access their services. A core principle in our work is to make sure that the interests and voices of marginalised people are heard when decisions are made that affect them. Our vision is a nation of hope-filled, purposeful people, building communities where every voice is heard. Our advocacy work seeks to help realise this aspiration.

Baptist Care Australia is a company limited by guarantee, a registered charity and a public benevolent institution.

## The importance of advocacy by charities

Charities like Baptist Care Australia and its member organisations exist to serve the public interest. We provide a vital mechanism to amplify the voices of vulnerable Australians in public policy debates.

As an affiliated body of the Baptist Church in Australia, we are cognisant of our denomination's tradition of protecting the right to engage in peaceful acts that promote changes that will protect the marginalised and vulnerable. The Baptist church has maintained a long tradition of public advocacy that has sometimes involved peaceful actions that were deemed to be in contravention of local laws.

One of the world's most famous Baptist ministers, Martin Luther King Jnr, was imprisoned for participating in nonviolent demonstrations against racial segregation. We take this opportunity to revisit some of his thoughts upon incarceration:

*While confined here in the Birmingham city jail,  
I came across your recent statement calling my present activities "unwise and untimely." ...  
You deplore the demonstrations taking place in Birmingham. But your statement, I am sorry to say, fails to  
express a similar concern for the conditions that brought about the demonstrations.  
It is unfortunate that demonstrations are taking place in Birmingham, but it is even more unfortunate that  
the city's white power structure left the Negro community with no alternative.*

*Though I was initially disappointed at being categorized as an extremist,  
as I continued to think about the matter I gradually gained a measure of satisfaction from the label.  
Was not Jesus an extremist for love? ...  
So the question is not whether we will be extremists, but what kind of extremists we will be.  
Will we be extremists for hate or for love? Will we be extremists for the preservation of injustice or for the  
extension of justice?*

[Letter from a Birmingham Jail](#)

Martin Luther King Jnr

16 April 1963

Baptist Care Australia's advocacy approach is entirely different in contemporary Australia. As this submission demonstrates, we pursue traditional government engagement approaches to voice our concerns and perspectives. However, the short excerpt from Martin Luther King's letter is a reminder that the contribution of the Baptist church to social reform at times has included peaceful acts that were deemed unlawful in their local jurisdictions. This aspect of our tradition requires us to protect the right to participate in all forms of peaceful advocacy in the strongest manner.

## Remove Standard 3

Baptist Care Australia recommends that Governance Standard 3 is removed from the *Australian Charities and Not-for-profits Commission Regulations 2022*. It is a redundant provision that is overly broad and imprecise in scope. Charities like ours are already held accountable to all applicable laws. It is unfair to create a threshold, such as being “likely” to commit certain offences, that is not imposed upon political parties, corporations or other types of organisations. It further provides the Commissioner with an unreasonable level of discretion in the interpretation of the measure and its consequences. As a result, Governance Standard 3 works to silence legitimate and lawful advocacy by charities. The serious misconduct for which it was created can be more effectively addressed through other means.

If the government is convinced it needs a mechanism to allow the ACNC to address genuine and serious misconduct by charities, then this should be done through a more targeted approach that does not limit the ability of a charity to engage in advocacy in pursuit of its charitable purpose.

## Reflection

Baptist Care Australia is strongly supportive of the role of the ACNC in protecting and enhancing public trust and confidence in the sector and in the role of government more broadly in ensuring charities remain focused on their commitments and contribute to the public good.

However, we have been concerned at recent trends towards increased regulatory burdens and the more stringent enforcement measures that reduce charities’ efforts to fulfil their primary purpose. Some of these regulations increase the risks for charities to engage in public advocacy work and all require charities to understand and engage with complex regulatory environments to ensure compliance issues do not arise.

Our recommendation to remove Standard 3 would be a step in the right direction. It is not clear why it has not already been removed, given the recommendation of the 2018 ACNC Legislation Review.