



Friday, February 9, 2024

Philanthropy Inquiry
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Dear Commissioners

Submission into the Productivity Commission Inquiry into Philanthropy

This submission is from the National Confraternity of Christian Doctrine (**NCCD**) which is the national peak body that represents the Confraternity of Christian Doctrines (CCDs) which exist in every Catholic diocese in Australia. CCDs are autonomous non-for-profit organisations for the primary and principal purpose of providing religious education for students in public schools. Each diocese provides religious education to students who attend public schools through its CCD. The National network reports to the Australian Catholic Bishop's Conference.

1 Introduction

- 1.1 The NCCD welcomes the opportunity to provide a response to the Productivity Commission's Draft Report on the Future Foundations for giving.
- 1.2 The NCCD also expresses support for the submission lodged by the Australian Catholic Bishops Conference and the National Catholic Education Commission. The NCCD does not intend to address all of the draft recommendations and findings contained in the Draft Report. Rather, this part of the submission responds to the proposal that religious education in public schools be excluded from the scope of the DGR system. NCCD welcomes any future opportunities to engage with the relevant stakeholders on the issues discussed in this submission.
- 1.3 As an initial comment, the Draft Report does not provide any rationale or explanation for the authors' recommendation that the DGR System should exclude religious education in public schools. As there is no explanation or analysis in the report, an inference arises that the authors have expressed a view only, without regard to any underlying facts or any consideration of the proper role of religious education in Australian society and in other advanced societies.
- 1.4 The societal benefits of religious education have been studied and are well understood. It is extraordinary that the Draft Report has not had reference to any of the substantial body of work and academic learning that outlines the value that religious education provides, but rather makes a sweeping statement that religious education should be excluded from the scope of the DGR system.¹

¹ For example: J Valk, A Tosun, "Enhancing Religious Education Through Worldview Exploration" *Discourse and Communication for Sustainable Education*, vol, 7, no. 2, pp 105-117, 2016. Z Gross and S Rutland, "Special Religious Education in Australia and its Value to Contemporary Society", Springer, 1st Edition, 2021. G Bouma and A Halafoff, "Multifaith Education and Social Inclusion in Australia" *Journal of Religious Education*, vol 57, no 3, pp 17-25, 2009.

- 1.5 Moreover, Special Religious Education (SRE) is delivered within the regulated environment of each state's public school system. Compliance requirements, including authorisation of volunteers, ongoing curriculum development and production, compulsory initial and ongoing training and negotiating the implementation of SRE across public schools in NSW, including troubleshooting where necessary are met by the religious faith groups that provide SRE, at the providers expense.
- 1.6 The case for maintaining SRE within the DGR system is strong both as a matter of common sense and, as set out below, when properly considered against the criteria the Draft Report suggests be applied.

2 Draft recommendation 6.1

- 2.1 The key argument provided by the Commission in the Draft Report with respect to the proposed removal of DGR status for religious education is that, with respect to primary and secondary education, religious education, and other forms of informal education, including school building funds, there is substantial risk of a tax-deductible donation being converted into a private benefit, particularly where students are charged fees. Potential donors are most likely to be people directly involved with the school and benefit directly from donations, such as students, their parents or alumni.
- 2.2 For the reasons set out below, none of these issues apply to the field of SRE that is delivered by charities into government schools. Indeed, SRE is entirely consistent with the goals of the DGR system and delivers significant societal value. The Productivity Commission's Draft Report has not given proper consideration, or indeed any analysis, in relation to SRE. There is also a fundamental issue with the Productivity Commission's treatment of religious education generally as being a private benefit. That is a myopic perspective that fails to take account of the important and fundamental role that religion plays in Australian and all free advanced societies.
- 2.3 SRE provides religious teaching, formation and community to school students who seek (or whose parents seek) education in relation to religion generally, or a particular faith. SRE is offered free in public schools to all students on a voluntary basis, with the educators being sourced and funded by the religious faith groups through donations. All of the major religions and faith groups provide SRE. SRE is offered as part of the public schooling process, providing a significant amenity to parents. The importance of SRE can be demonstrated by the experience in NSW, where around 200,000 public school students of all religious faiths receive SRE on a regular basis.
- 2.4 SRE ensures that students in public schools have access to religious education of their choice, for free, in the public school setting. SRE recognises and facilitates the fundamental right of every person to the freedom of religion and as part of that freedom, to manifest religion in teaching, practice, worship or observance as protected by Article 18 of the Universal Declaration of Human Rights, and the right to education that promotes understanding, tolerance and friendship amongst *inter alia* religious groups as required and protected by Article 26.2 of the Universal Declaration. SRE directly gives effect to the requirement of Article 26.3 of the Universal Declaration that parents have a prior right to choose the kind of education that shall be given to their children, by providing access to religious education of choice for families who seek religious education for their children.

- 2.5 In order to meet Australia’s obligations under Articles 18 and 26 of the Universal Declaration, the Australian public education system must provide a mechanism for students to have religious education available as part of their school education.
- 2.6 SRE is the mechanism by which governments meet this obligation, by ensuring that the Australian parents have access to faith based teaching and religion for their children at school, without needing to attend a religious or independent school. SRE is legislated for in every state.²
- 2.7 The ability for Australian parents and students to access SRE is highly dependent upon the generosity of the Australians who fund it both directly and through religious faith groups, and those who volunteer their time to deliver SRE. It is obvious that the Productivity Commissions recommendation that religious education be excluded from the DGR system would deprive SRE of significant funding and its viability would come into question. Were that to occur either SRE would need to become an entirely government funded obligation of public education (government having an obligation to provide such options under the Universal Declaration), which would pose significant challenges. If that did not occur, it is likely that formal religious education will become limited to those children whose parents can afford non-government schools or otherwise have the time and means to access or provide that religious education outside of the public school system. That is a repugnant proposition that would damage Australian society and Australia’s cohesiveness.

3 Response to the Draft Report’s three step process

- 3.1 The Draft report proposes a three step process which should be adopted to determine whether a class of charitable activity should be within the scope of the DGR system.
- 3.2 SRE meets every step of the Productivity Commission’s analysis.

First step

- 3.3 The Draft Report posits that first, there must be a rationale for taxpayer support because the activity is expected to generate net community-wide benefits and would otherwise likely be undersupplied by the market.
- 3.4 SRE satisfies this test.
- 3.5 Firstly, there is an overarching rationale for taxpayer support that stems from the points made in paragraphs 2.2 to 2.6 above.
- 3.6 Secondly, Australia recognises the fundamental role that religious faith groups play in the fabric of society, and the myriad of community benefits that faith brings. Faith as the source of spiritual wellbeing provides nourishment, growth at an individual level and a significant community for the followers of each faith group. Through those communities, significant community works of charity and outreach are provided to the community at a quantity and in a manner that the government is simply incapable of providing. As the Draft Report recognises: In addition to funding goods and services for people who need

² *Education Act 1990* (NSW), s 32; *Education and Training Reform Act 2006* (Vic), s 2.3.4(d) and s 5.2.1(2)(b); Ministerial Direction No.145 (Vic); *Education (General Provisions) Act 2006* (Qld), Chapter 5; *Education (General Provisions) Regulation 2017* (Qld), Part 5; *School Education Act 1999* (WA) Part 3, Division 3; *Education and Children’s Services Act 2019* (SA), section 82; *Education Act 2004* (ACT), section 29; *Education Act 206* (Tas), section 126; *Education Act 2015* (NT), section 86.

them, philanthropy – particularly volunteering – creates indirect benefits for society by contributing to social networks, building trust within communities, and diffusing knowledge and innovations.

- 3.7 The provision of religious education by SRE's lays the foundation for the growth and continued membership of faith groups and provides the willing workers and volunteers for the significant community works that religious faith groups provide, upon which Australia relies to function.
- 3.8 Thirdly, religious education, in addition to being a fundamental right as set out at 2.4 – 2.6 above, is a necessary precursor to a significant amount of cultural and academic learning. The cultural, humanitarian, legal, scientific, philosophical and artistic traditions of all civilisations are inexorably entwined with religion. Whether a student accesses SRE as a member of a religious faith, or simply as an interested student, they gain a significant corpus of learning that deepens their understanding of other their academic pursuits. The removal of DGR status for SRE risks a situation where that corpus of learning is not available to students whose parents cannot afford non-government schools or otherwise do not have the time and/or means to access or provide that religious education outside of the school system.
- 3.9 Fourthly, SRE is a service that cannot be efficiently supplied in the 'market' by any other source. It cannot be provided by the Government, except through wholly funding of religious faith groups to provide that service. That would be an undesirable outcome.
- 3.10 DGR donations are a significantly more efficient way of funding SRE. Together, the Dioceses of Sydney and Broken Bay receive approximately \$2.2 million per annum through charitable works donations which funds the SRE program in public schools. Other Dioceses are partially funded through charitable works donations to the account of \$600,000.
- 3.11 The work undertaken by Sydney and Broken Bay directly supports 2,500 volunteers and indirectly up to 4,000 volunteers (in the Catholic Church alone) with curriculum resources and mandatory initial and ongoing training in accordance with the requirements of the NSW Department of Education.
- 3.12 It is estimated that approximately 80,000 Catholic students attend SRE in NSW and over 200,000 students of all religious faiths receive SRE in NSW on a regular basis. These services are provided at no direct cost to the Government.

Second Step

- 3.13 The Draft Report's second step requires that there are net benefits from providing government support for the activity through subsidising philanthropy using a tax deduction for giving (as opposed to other government funding mechanisms, like grants). The government should take into account the alternative uses of the taxpayer funds that are supporting philanthropy, which could be more (or less) valuable to the community as a whole; there are opportunity costs to subsidising philanthropy.
- 3.14 The funding of SRE through the DGR system clearly meets the criteria of the second step proposed in the Draft Report. Australia has long recognised the importance and value of religious faith groups to Australia and has facilitated philanthropy through the DGR system. Direct government funding of religious activities is problematic and, SRE is a prime example of where indirect government support through subsidising philanthropy is more

appropriate than direct government support. Indeed, it is a key example of a situation where Philanthropy can provide funding for activities that the community values and constraints on governments mean it would otherwise be underfunded, or not funded at all. This enables governments to focus on other priorities.

- 3.15 SRE also represents one of the best examples of Australian volunteering. SRE is conducted by thousands of volunteers who provide their time to teach, support and care for Australian children with their education and personal development, and to connect them with religion. SRE's format of volunteer teaching connects students with people who live the values of the religious faith groups that they represent. SRE volunteers provide connection to faith and an example for students that cannot be replaced, and certainly not in a format delivered by government.

Third Step

- 3.16 The Draft Report's Third Step requires that, the activity is unlikely to be a material risk of converting tax-deductible donations to private benefits for donors.
- 3.17 The Third Step is met in relation to SRE. SRE is provided for free to all students who chose to participate in it. SRE does not require students to be a member of the faith they are learning about. The benefits of SRE to those students are amply set out above, and are not private benefits for donors in any form.
- 3.18 No private benefit for donors arises.

4 Excluding SRE, but maintaining secular Ethics in the DGR system is wrong and discriminatory

- 4.1 It is noted that the authors' do not propose to remove the DGR endorsement category relevant to the provision of Special Education in Ethics (SEE) in NSW government schools.
- 4.2 In 2013, the Income Tax Assessment Act 1997 (Cth) was amended to allow taxpayers to claim an income tax deduction for donations made to providers of ethics classes in government schools where a State or Territory government has approved the organisation to provide ethics classes as an alternative to religious education.
- 4.3 The Explanatory Memorandum noted that "the availability of ethics education in government schools as an alternative to religious instruction provides parents with a greater choice of education options for their children."
- 4.4 For SRE to be excluded from the DGR system while SEE retains its inclusion is discriminatory and contrary to the aims of the legislation which gave SEE its DGR status in the very recent past.
- 4.5 Such a decision would be wrong, discriminatory and unfair to the hundreds of thousands of public school students in Australia who benefit from SRE.

5 Aims of the proposed DGR Reforms

- 5.1 The Draft Report also contains a number of statements on the aims of the proposed DGR reform.
- 5.2 One of the stated aims of the DGR Reforms proposed in the Draft Report is to expand

access to DGR status to more charities and give donors more choices about which charities they make tax-deductible gifts to.

- 5.3 Removal of the DGR status from SRE would give donors less choices about which charities they make tax deductible gifts to. The provision of religious education is an important and legitimate philanthropic goal that benefits Australian children and aligns with the important rights protected by the Universal Declaration.

6 Conclusion

- 6.1 SRE is an important charitable work that provides significant value to hundreds of thousands of Australian children, their parents and to Australian society. It is appropriately funded within the DGR System and that status should be maintained.
- 6.2 Having regard to the complete lack of analysis or consideration of the role of SRE and the benefits SRE offers in the draft report, the authors should remove religious education from clause 6.1, and positively recommend that SRE maintain its place within the DGR system.

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