



Australian Government



Australian Charities and Not-for-profits Commission

ACNC 2019-20 Regulator Performance Framework Self-assessment

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Overview

The Australian Government released the Regulator Performance Framework (RPF) in October 2014. The RPF measures the way regulators administer regulations, encouraging them to minimise their impact on regulated entities. The RPF consists of six key performance indicators (KPIs):

- KPI1: Regulators do not unnecessarily impede the efficient operation of regulated entities
- KPI2: Communication with regulated entities is clear, targeted and effective
- KPI3: Actions undertaken by regulators are proportionate to the regulatory risk being managed
- KPI4: Compliance and monitoring approaches are streamlined and co-ordinated
- KPI5: Regulators are open and transparent in their dealings with regulated entities
- KPI6: Regulators actively contribute to the continuous improvement of regulatory frameworks

Achievement of the KPIs is demonstrated through evidence (metrics) that a regulator has acted in accordance with good regulatory practice, as articulated in the measures associated with each KPI. Regulators are required to assess their performance under the RPF each year. The Australian Charities and Not-for-profits Commission's (ACNC) results against each metric are detailed in **Appendix A**.

The body of this Report summarises ACNC's performance against each KPI, grouped into the associated measures of good regulatory practice.

Executive summary

ACNC has assessed its regulatory performance as Very good in 2019-20, in line with the 2018-19 assessment.

The report highlights a number of strengths where ACNC's performance was aligned with the expectations of the RPF including:

- publication of the sixth annual Australian Charities Report highlighting the contribution of Australian charities to the Australian economy and communities both at home and abroad
- providing transparency in all decision making including supplying reasons for unfavourable regulatory decisions and providing independent review of decisions when objections are raised
- proactively engaging with charities where intelligence analysis indicated an increased risk of non-compliance.

The report also highlights some opportunities for improvement including:

- driving continuous improvements to ACNC's website, forms and the Charity Portal to ensure they deliver a reduction in compliance costs for the charity sector, this work will include the delivery of an online group Annual Information Statement (AIS)
- continuing to provide resources to help charities to understand and address their key governance risks
- implementation of recommendations of the legislative review and performance audit.

Operating environment

As the independent Commonwealth regulator of charities, the ACNC is responsible for registering charities and administering the national regulatory framework for over 57,000 charities. We work across governments to reduce unnecessary regulation and reporting requirements impacting charities. The ACNC publishes the information we collect to help the public understand the work of charities and to support the transparency and accountability of the sector. The ACNC has a key role in helping charities to understand their obligations and embed good practice governance into their operations. We develop a range of guidance materials and provide support via our multi-channel contact centre. When charities fail to comply with their obligations the ACNC will investigate and work with charities in support of corrective actions. In addition to continuing to deliver against our purposes, the ACNC faced some challenges in 2019-20, including:

Bushfires: During the 2019–2020 bushfire season some charities experienced a sudden influx of donations and increased demand for their services. The ACNC’s website and charity portal also experienced a spike in queries from the community. The traffic to our site during January 2020 increased by 240% compared to the same period in 2019. Meeting the needs of communities impacted by disasters, including bushfires, is a key priority for charities, but donors also seek confidence that their contributions are helping those in need. Accordingly, the ACNC works with charities to ensure robust governance arrangements are embedded in their operations to help them to quickly adapt and respond during times of disaster. The ACNC will continue to support good charity governance into the future.

Coronavirus (COVID-19) Pandemic: The full impact of the Coronavirus (COVID-19) Pandemic is unknown at the time of writing this report. Like all Australian workplaces, the ACNC has business continuity plans in place to protect staff and enable critical functions to continue in many different circumstances. In addition to protecting our staff, the ACNC has provided information to assist charities during this time. We have also prioritised the processing of applications for charities seeking to respond to this pandemic, as we do with all disasters.

Legislation review: In March 2020 the Government responded to the Australian Charities and Not-for-profits Commission (ACNC) Legislation Review 2018. While the Government has shown support for most recommendations, some require more consultation before implementation, and some will not be able to be implemented until legislative amendments are finalised. The ACNC will work collaboratively to implement the Government recommendations to achieve meaningful reform.

Australian National Audit Office (ANAO) Performance Audit: The ANAO tabled the report Regulation of Charities by the Australian Charities and Not-for-profits Commission on 31 March 2020. This report was a welcome endorsement of the ACNC’s achievements since it was established in December 2012. The report also provided valuable insights to assist us to continue to improve our regulatory approach.

Deductible Gift Recipient (DGR) reforms: In the 2020–21 reporting period, the ACNC will commence reviews of existing charities with DGR endorsement to assess their entitlement to registration as a charity and subtype of charity. In the 2019–20 reporting period, the ACNC developed the governance and resources for this review process and will monitor the progress of these reviews closely to ensure the reform objectives are met.

Methodology

ACNC's performance was assessed by senior ACNC officers, reviewed by ACNC directors, and endorsed by the Commissioner and Assistant Commissioner.

RPF self-assessments must also be validated through a process of consultation with an approved consultation mechanism. For ACNC, this is a combined mechanism of the Adviser Forum (professional advisers), formerly the Professional Users Group, and the Sector Forum (charity representatives), formerly the Sector Users Group.

Performance against each evidence metric was assessed as met, partially met, or not met:

Symbol	Performance
✓	Target met or exceeded
!	Some elements of the target were met and issues managed
✗	No or minimal progress was made against the target

Overall performance with respect to each KPI was assessed as excellent, very good, good, fair, or poor:

Assessment
Excellent, with no or minor room for improvement
Very Good, with minor room for improvement
Good, with some room for improvement
Fair, with significant room for improvement
Poor, with numerous significant areas for improvement identified

Areas for improvement identified in the 2018-19 RPF report

In the 2018-19 RPF report, the following areas of improvement were identified for each KPI:

No	KPI	Assessment	Areas for improvement
1	Regulators do not unnecessarily impede the efficient operation of regulated entities	Good	<ul style="list-style-type: none"> Consolidating the improvements to ACNC's website, forms and the Charity Portal to ensure they deliver a reduction in compliance costs for the charity sector. Continuing to work with federal, state and territory regulators to eliminate duplicated reporting. Working towards an earlier release of the annual Australian Charities Report.
2	Communication with regulated entities is clear, targeted and	Very good	<ul style="list-style-type: none"> Continuing to improve accessibility of web content towards 100 %

No	KPI	Assessment	Areas for improvement
	effective		<p>compliance with the Web Content Accessibility Guidelines Version 2.0.</p> <ul style="list-style-type: none"> Continuing to identify opportunities to assist small and very small charities meet their compliance obligations, thereby reducing the cost of regulation for this segment of the sector.
3	Actions undertaken by regulators are proportionate to the regulatory risk being managed	Very good	<ul style="list-style-type: none"> Providing further resources to enable charities to understand and address their key governance risks. Continuing to work with other regulators and formalising these working relationships through Memoranda of Understanding, where appropriate.
4	Compliance and monitoring approaches are streamlined and co-ordinated	Very good	<ul style="list-style-type: none"> Reviewing the operational procedure for forms to ensure it remains current and accurate. Continuing to promote and expand use of the Charity Passport. Ensuring that improvements to ACNC website and Charity Portal result in reduced compliance costs associated with annual reporting.
5	Regulators are open and transparent in their dealings with regulated entities	Excellent	<ul style="list-style-type: none"> None identified
6	Regulators actively contribute to the continuous improvement of regulatory frameworks	Very good	<ul style="list-style-type: none"> Reviewing and, as necessary, updating the Stakeholder Engagement Framework to ensure it is current and fit-for-purpose Continuing to work with federal, state and territory regulators to eliminate duplicated reporting Improving consultation mechanisms for small charities

Overall assessment for the 2019-20 RPF report

ACNC considers that its overall performance in achieving the KPIs in 2019-20 was Very Good, identical to the previous year. This assessment has been validated by the approved stakeholder consultation mechanism, the Adviser and Sector Forums at **Appendix B**.

We are committed to making further improvements over the course of 2020-21. The [Government response](#) to the Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislative Review 2018 ,report will frame improvements for regulation of the sector.

Our areas for improvement identified in 2019-20 are below:

No	KPI	Assessment	Areas for improvement
1	Regulators do not unnecessarily impede the efficient operation of regulated entities	Very good	<ul style="list-style-type: none"> Timely publication of the annual Australian Charities Report. Ongoing improvements to ACNC's website, forms and the Charity Portal to ensure they deliver a reduction in compliance costs for the charity sector, this work will include the delivery of an online group Annual Information Statement (AIS).
2	Communication with regulated entities is clear, targeted and effective	Very good	<ul style="list-style-type: none"> Identifying of new opportunities to assist charities in meeting their compliance obligations. Continuing to improve accessibility of web content including a complete review of content relating to reporting and reducing red tape.
3	Actions undertaken by regulators are proportionate to the regulatory risk being managed	Very good	<ul style="list-style-type: none"> Continuing to provide resources to help charities to understand and address their key governance risks.
4	Compliance and monitoring approaches are streamlined and co-ordinated	Very good	<ul style="list-style-type: none"> Ongoing improvements to annual reporting arrangements and Charity Portal. promote and expand the use of the Charity Passport.
5	Regulators are open and transparent in their dealings with regulated entities	Very good	<ul style="list-style-type: none"> Improvements to the charity register and information which will be available. Targeted education to assist with charities voluntary compliance.
6	Regulators actively contribute to the continuous improvement of regulatory frameworks	Very good	<ul style="list-style-type: none"> Working with other government agencies to eliminate duplicated reporting. Implementation of recommendations of the legislative review and performance audit.

No	KPI	Assessment	Areas for improvement
			<ul style="list-style-type: none"> Review stakeholder engagement framework.

Our external stakeholder groups, the Adviser and Sector Forums will provide feedback on our self-assessment. This feedback will be set out in **Appendix B**.

Appendix A: KPI self-assessment and analysis

The measures, evidence and sources are as approved in June 2015 by ACNC, and validated by ACNC consultative mechanism, the Adviser and Sector Forums.

Evidence: evidence of performance against each measure.

Source: source of the evidence (Note - where the source is a published policy or procedure, the annual self-assessment will include assessment of ACNC's compliance with the policy or procedure. Where relevant, ACNC will provide narrative regarding quantitative evidence sources).

Results: Performance with respect to each item of evidence has been assessed as met, partially met, or not met (refer to the table below). An analysis of the result, including further detail about performance, is also provided.

Symbol	Performance
✓	Target met or exceeded
!	Some elements of the target were met, and issues managed
✗	No or minimal progress was made against the target

Overall performance with respect to each KPI was assessed as excellent, very good, good, fair, or poor:

Assessment
Excellent, with no or minor room for improvement
Very Good, with minor room for improvement
Good, with some room for improvement
Fair, with significant room for improvement
Poor, with numerous significant areas for improvement identified

For each *source* of evidence, the outputs for the 2019-20 year have been provided; however, these outputs do not in themselves establish performance against the evidence.

KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities

<p>Self-assessment</p> <p>Very good</p>	<p>ACNC has demonstrated a commitment to not unnecessarily impede the efficient operation of entities through:</p> <ul style="list-style-type: none"> consultation with sector representatives and key stakeholder through the Adviser and Sector Forums utilisation of feedback from charities to drive improvements to the annual reporting arrangements and the Charity Portal publication of the sixth annual Australian Charities Report highlighting the contribution of Australian charities to the Australian economy and communities both at home and abroad. 	<p>Areas for improvement</p>	<p>In 2020-21, ACNC will focus on:</p> <ul style="list-style-type: none"> timely publication of the annual Australian Charities Report ongoing improvements to ACNC’s website, forms and the Charity Portal to ensure they deliver a reduction in compliance costs for the charity sector, this work will include the delivery of an online group Annual Information Statement (AIS).
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Measures	Evidence	Source	Result	Analysis
<p>A Regulators demonstrate an understanding of the operating environment of the industry or organisation, or the circumstances of individuals and the current and emerging issues that affect the sector.</p>	<p>1.1 Targeted and consistent consultation with the charity sector</p>	<ul style="list-style-type: none"> 3 meetings of the Sector Forum (formally the Sector User Group) 3 meetings of the Adviser Forum (formally the Professional User Group) 23 speaking engagements 130 stakeholder meetings 	<p>✓</p>	<p>ACNC engages with charity sector representatives and key stakeholders through the Adviser and Sector Forums, with each forum meeting three times in 2019-20.</p> <p>The Adviser Forum comprises professional advisers (mainly accountants, auditors and lawyers) who provide feedback on matters of procedure, new guidance, publications and regulatory positions.</p> <p>The Sector Forum comprises representatives of peak bodies and charities, they also provide feedback on matters of procedure, new guidance, publications as well as our interactions with and regulation of registered charities.</p> <p>In 2019-20 the Adviser and Sector Forums refreshed the way they interact with stakeholders to ensure a consistent and consultative approach; this included a revision of the Charter of each forum.</p> <p>The Adviser and Sector Forums are the approved consultation mechanisms for the RPF self-assessment report. This draft report was provided to both groups for input in July 2020.</p> <p>Our Executive and senior leadership team had 23 speaking engagements and attended 130 meetings with charities, sector representatives and peak bodies in 2019-20.</p>
	<p>1.2 Information reported by charities to ACNC is analysed and published annually</p>	<ul style="list-style-type: none"> 2018 Australian Charities Report ACNC datasets published on data.gov.au 	<p>✓</p>	<p>In May 2020 we released the 2018 Australian Charities Report, the annual analysis of published AIS data. This current report, and reports from prior years are available at acnc.gov.au. We continue to work towards an earlier release of this report; however, no improvement was noted in 2019-20.</p> <p>We continue to share the data used to create the Australian Charities Report on data.gov.au. Publication of this data enables interested parties to undertake their own analysis of the data. There are now 10 different datasets on data.gov.au, with ACNC Registered Charities dataset being the most widely viewed and downloaded.</p>
<p>B Regulators take actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities or affected supplier industries and supply chains.</p>	<p>1.3 Administrative practices are reviewed to identify opportunities to streamline interactions and reduce compliance costs</p>	<ul style="list-style-type: none"> 4 meetings of ACNC Management Committee Review of policy and guidance documents including 	<p>✓</p>	<p>ACNC’s Management Committee met 4 times in 2019-20 to review the progress of activities and initiatives to reduce the regulatory burden we place on charities.</p> <p>The following Commissioner’s Policy Statements were updated in 2019-20 to reflect current practice and provide greater clarity:</p> <ul style="list-style-type: none"> Registration Decision making Voluntary revocation Guidance and education

KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities

- [Group reporting - joint and collective](#)
- [ACNC’s approach to internal disputes within charities](#)

The following operational procedures were also updated in 2019-20:

- [Protected ACNC information](#)
- [Staff use of social media](#)

During the second half of 2019-20, the ACNC recognised that many charities were directly involved with helping communities respond to the bushfire crisis and an extension to AIS submission dates was granted to bushfire affected charities to May 2020. Following shortly afterwards, the ACNC recognised that many charities were likely to experience issues submitting 2019 reports due to the COVID-19 Pandemic, and a blanket extension was granted to August 2020.

The ACNC also recognised that some charities would be able to help with the community response to COVID-19 and would be called upon to do so by the Government. As this important work may have implications for a charity’s compliance with certain obligations under the ACNC Act, other legislation including state legislation and its responsibilities to its members and donors.

In recognition of the unique challenges brought about by COVID-19, the ACNC Commissioner decided that the ACNC will not investigate certain breaches of the Governance Standards and the External Conduct Standards that occur from 25 March until 25 September 2020.

A full summary of the ACNC’s response to charity operations and COVID-19 can be found on our [website](#).

<p>C Regulators implement continuous improvement strategies to reduce the costs of compliance for those they regulate.</p>	<p>1.4 Documented processes for collecting and acting on feedback from charities</p>	<ul style="list-style-type: none"> • Complaints and compliments about ACNC • Complaints about registered charities • ACNC Stakeholder engagement framework 	<p>✓</p>	<p>ACNC’s policies addressing complaints and compliments about ACNC, complaints about charities and our stakeholder engagement framework are all published on acnc.gov.au.</p> <p>In 2019-20 we received 528 complaints and 114 compliments.</p> <p>In 2019-20 the ACNC experienced unprecedented demand for its services. During the 2019–2020 bushfire season some charities experienced a sudden influx of donations and increased demand for their services. The ACNC’s website and charity portal also experienced a spike in queries from the community. The traffic to our site for January 2020 increased by 240% from the same period in 2019. Meeting the needs of communities impacted by disasters, including bushfires, is a key priority for charities, but donors also seek confidence that their contributions are helping those in need. Accordingly, the ACNC works with charities to ensure robust governance arrangements are embedded in their operations to help them to quickly adapt and respond during times of disaster. The ACNC will continue to support good charity governance through guidance and support over the life of this plan.</p>
	<p>1.5 The online Annual Information Statement (AIS) reporting includes an opportunity for charities to provide feedback</p>	<p>Online survey available throughout 2019-20</p>	<p>✓</p>	<p>All authorised persons submitting annual reports to ACNC are sent an online customer experience survey.</p> <p>As at 30 June 2020 we received 1,279 responses relating to 2019 AIS submissions, we had received 1,750 responses for 2018 AIS submissions at the same time last year.</p> <p>An analysis of these responses found:</p> <ul style="list-style-type: none"> • 61% of respondents said it took them between 30 minutes and two hours to complete their AIS • just over 65% of respondents felt it was easy or very easy to provide the financial information required • 53% of respondents said they didn’t have trouble answering any of the compulsory questions in the AIS • almost 80% said they did not phone our advice line/contact centre for help during the process, of those that did make contact, 46% said they were confused about a question, while 50% said they had issues logging into the Charity Portal

KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities

- 70% said they referred to ACNC guidance during the process, of those that did, 85% found it easy to use
- 91% of respondents found the help text/tool tips in the form itself were helpful and useful and 91% liked the layout and appearance of the 2019 form

These responses will be used to drive future improvements to annual reporting, including delivery of an online group AIS replacing existing spreadsheet solution.

1.6 The registration process includes opportunities for charities to provide feedback

Online survey available throughout 2019-20



All registration applicants are sent an online customer experience survey.

As at 30 June 2020 we received 471 responses, 93% of these responses expressed overall satisfaction with the registration experience.

Feedback from the surveys are analysed and discussed within the registration directorate to continually improve the service we provide for example through staff training or process improvements.

KPI 2: Communication with regulated entities is clear, targeted and effective

Self-assessment: Very good	<p>ACNC maintained effective communication with regulated entities by:</p> <ul style="list-style-type: none"> participating in over 150 meetings with the charity sector offering a broad range of information through publications, webinars and podcasts providing transparency in all decision making including supplying reasons for unfavourable regulatory decisions and providing independent review of decisions when objections are raised. 	<p>Areas for improvement</p> <p>In 2020-21, ACNC will focus on:</p> <ul style="list-style-type: none"> identifying of new opportunities to assist charities in meeting their compliance obligations continuing to improve accessibility of web content including a complete review of content relating to reporting and reducing red tape.
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Measures	Evidence	Source	Result	Analysis
A	Regulators provide guidance and information that is up to date, clear, accessible and concise through media appropriate to the target audience.	<p>2.1 Regulatory obligation of charities is explained through plain language, guidance and education</p>	<p>Guidance was provided to charities through:</p> <ul style="list-style-type: none"> publications webinars podcasts 	<p>✓</p> <p>ACNC continues to refine and improve the way we deliver information to assist charities in understanding and fulfilling their regulatory obligations. We offer charities a wide range of educational materials on acnc.gov.au and in 2019-20 these included:</p> <ul style="list-style-type: none"> establishment of the Governance Hub, a single point of access on ACNC website for all governance resources publication of the Governance Toolkit, a collection of resources that help charities manage financial abuse, cybersecurity, working with partners, and safeguarding vulnerable people webinars including: <ul style="list-style-type: none"> <i>Charity Fraud Awareness</i> - this tied in with Charity Fraud Awareness week and focused on issues of fraud and how to prevent it. <i>Reporting to ACNC</i> - this provided an overview of the reporting requirements of registered charities in the lead-up to the due date for the AIS. <i>How ACNC investigates charities</i> – this webinar focused on how ACNC investigates charities. It explained the processes that we undertake when looking at charities, as well as how we respond to public concerns and the compliance actions we can pursue. <i>Charities and the bushfire disaster response</i> – this special webinar was aimed at helping charities that had received an influx of donations or funding to help conduct bushfire-related relief efforts, or who were working in areas affected by the recent Australian bushfires. We examined some of the risks and issues that these charities may have encountered, as well as offering practical suggestions on ways to address these risks. <i>Charities, ACNC and COVID-19</i> – this special joint webinar with the ATO provided an overview of the Federal Government's recently announced support for the charity and NFP sectors, and covered issues of charity regulation in a time impacted by COVID-19. launch of a new monthly e-newsletter, The Charitable Purpose, for registered charities and subscribers which replaced the fortnightly Commissioner's Column and ACNC Quarterly newly registered charities receive a welcome email that includes links to key content as well as instructions on how to subscribe to the monthly e-newsletter publication of a series of four podcast episodes focused on the needs of Australia's RSLs, these episodes aim to educate Australia's RSLs on a range of topics relevant to their day-to-day activities and obligations to ACNC. In the two months since publishing the episodes, we have seen 1,100 downloads

KPI 2: Communication with regulated entities is clear, targeted and effective

			<ul style="list-style-type: none"> provision of information to help the general public understand charity obligations, during the bushfires, our Commissioner, was interviewed numerous times about charity obligations with regards donations and governance creation of Charity operations and COVID-19 page on ACNC website to house up-to-date guidance for charities during the pandemic crisis.
	2.2	Compliance with the Australian Government accessibility guidelines	<p>Accessibility of content on acnc.gov.au</p> <p>✓</p> <p>Our website and charity register are compliant with Web Content Accessibility Guidelines Version 2.0.</p> <p>We provide content in HTML format whenever possible, but for technical reasons and to meet some legal requirements, there may be content that is only available in PDF or as other file types. We are currently in the process of reviewing information relating to our work on reducing red tape to ensure compliance with these guidelines.</p>
	2.3	Drafts of Commissioner's Interpretation Statements are provided for public comment	<p>Commissioner's Interpretation Statements</p> <p>✓</p> <p>Our Commissioner's Interpretation Statements are developed to help guide charities and the public on how we understand the law that applies to charities, including to explain the law made by judges ('common law'), parliament (legislation) and any other legal issues.</p> <p>In 2019-20 ACNC did not release any draft interpretation statements for public comment.</p>
B	2.4	Regulators consider the impact on regulated entities and engage with industry groups and representatives of the affected stakeholders before changing policies, practices or service standards.	<p>See 1.1, 1.2, 1.4, 6.1, 6.2 and 6.3</p> <p>✓</p> <p>See 1.1, 1.2, 1.4, 6.1, 6.2 and 6.3</p> <p>A further example of this work is the consultation the ACNC undertook with stakeholders on the ACNC's draft guidance on the External Conduct Standards prior to publication to ensure it was fit for purpose. Following publication of the guidance, targeted presentations were delivered to impacted charities via head bodies established for the specific purpose of providing administrative support to charitable and religious entities.</p>
C	2.5	Regulators' decisions and advice are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions.	<p>Percentage of applications for charity registration are determined within 15 business days of receiving all information</p> <ul style="list-style-type: none"> 90% of registrations were determined within 15 business days of receiving all information <p>✓</p> <p>95% of all registration applications were determined within 15 business days, exceeding the service standard of 90%. ACNC processed 5,554 applications for registration in 2019-20.</p>
	2.6	Refused applications for registration or remission of penalties are accompanied by a statement of reason for decision.	<ul style="list-style-type: none"> All refused applications were provided a statement of reason for decision No penalties were issued to charities in 2019-20. <p>✓</p> <p>136 registration applications were refused, in all cases reasons for the decision were communicated to the applicant.</p> <p>The most common reasons for refusal, accounting for over 80% of all refusals, was where charities had failed to provide enough information to the ACNC to enable registration.</p> <p>ACNC did not issue any penalties to charities in 2019-20.</p>
	2.7	All objections are determined by an independent case officer and if disallowed are	<ul style="list-style-type: none"> All internal reviews were determined by an independent case officer and, if disallowed, reasons for <p>✓</p> <p>Under the ACNC Act, a charity or its responsible persons may object to certain ACNC decisions and request an internal review. In 2019-20 the ACNC received 8 objections relating to our refusal to register an organisation as a charity. We also received 13 objections to decisions made to revoke a registration.</p> <p>In all cases, objections were determined by an independent case officer, and if disallowed, the reasons for the decision were provided to the applicant.</p>

KPI 2: Communication with regulated entities is clear, targeted and effective

		accompanied by reasons for decision.	decisions were provided to the applicant.	
D	Regulators' advice is consistent and supports predictable outcomes	2.8 Staff make decisions according to published policies and procedures	<ul style="list-style-type: none"> Corporate policies and procedures 	<p>✓</p> <p>ACNC staff make decisions according to published policies and operational procedures, consistent with the ACNC's overarching Regulatory Approach Statement and Policy Framework.</p> <p>The Commissioner's policy statements are all available publicly on our website at acnc.gov.au/about/corporate-information/corporate-policies.</p> <p>Included in this suite of policy statements is the Commissioner's Policy Statement: Decision-making, which sets out how the ACNC will make decisions in order to ensure high quality decision-making, promote consistency in decisions and to inform the public about how the ACNC makes decisions. The ACNC undertakes quality assurance processes in relation to our decisions. To ensure consistency, ACNC administrative decision makers consult with ACNC's Legal Counsel as required.</p>

KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed

Self-assessment: Very good	<p>Actions undertaken by ACNC are proportionate to the regulatory risk being managed as demonstrated by:</p> <ul style="list-style-type: none"> • publication of our risk-based regulatory framework and associated policies • ensuring our compliance activities are proportionate to the non-compliance identified. 	Areas for improvement	<p>In 2020-21, ACNC will focus on:</p> <ul style="list-style-type: none"> • continuing to provide resources to help charities to understand and address their key governance risks.
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Measures	Evidence	Source	Result	Analysis
A Regulators apply a risk based proportionate approach to compliance obligations, engagement and regulatory enforcement actions	3.1 Regulatory approach is risk based and proportionate	ACNC Regulatory approach statement	✓	<p>ACNC applies a risk-based approach to its compliance activities as outlined in the ACNC Regulatory approach statement. This approach provides charities with opportunities to address minor issues on non-compliance, while dealing with cases of serious misconduct quickly and firmly.</p> <p>When we identify charities at risk of breaching the ACNC Act or Regulation, we will address these matters through the provision of targeted regulatory advice. This advice reminds charities of their obligations and may also suggest process or policy change to prevent future non-compliance. In 2019-20 the ACNC provided 53 charities with regulatory advice.</p> <p>Where a charity has significant matters of non-compliance and the ACNC determines that the responsible persons are willing and able to address these matters, we may enter into a compliance agreement or enforceable undertaking. These action plans are monitored by the ACNC to ensure charities implement the agreed actions. In 2019-20 the ACNC entered into 11 compliance agreements.</p>
	3.2 Risk based compliance and enforcement policy is published	Compliance policy statement: Compliance and enforcement	✓	<p>This Commissioner's policy statement supplements ACNC's regulatory approach statement, and sets out our general approach to regulating charities.</p> <p>The policy statement sets out:</p> <ul style="list-style-type: none"> • the principles we adopt when addressing compliance concerns about registered charities • our general approach to carrying out our compliance and enforcement activities • ACNC's information gathering, monitoring, enforcement and revocation powers and how we will use them, and • ACNC's policy on the removal or withholding of information from the ACNC Register in relation to the use of enforcement powers.
B Regulators' preferred approach to regulatory risk is regularly reassessed. Strategies, activities and enforcement actions are amended to reflect changing priorities that results from new and evolving regulatory threats, without diminishing regulatory certainty or impact.	3.3 Regulatory approach is reviewed every three years	ACNC Regulatory approach statement	✓	<p>ACNC Regulatory approach statement was reviewed and updated in December 2018. The review identified minor changes only, with the Statement remaining current, relevant and fit-for-purpose. The next review of this document is scheduled to be completed in the 2020 calendar year.</p>

C	Regulators recognise the compliance record of regulated entities, including using earned autonomy where this is appropriate. All available and relevant data on compliance, including evidence of relevant external verification is considered.	3.4 Compliance and enforcement policy consider the prior record of a charity and information from previous investigations in its risk assessment, where possible	Compliance policy statement: Compliance and enforcement	✓	As articulated in ACNC’s Regulatory Approach Statement and the Commissioner’s Policy Statement: Compliance and enforcement , ACNC considers the prior record of a charity and information from previous investigations in its risk assessments.
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KPI 4: Compliance and monitoring approaches are streamlined and coordinated

Self-assessment: Very good	<p>ACNC collaborated with other government agencies to streamline compliance and monitoring activities to:</p> <ul style="list-style-type: none"> proactively engage with charities where intelligence analysis indicated an increased risk of non-compliance share information and streamline reporting arrangements. 	Areas for improvement	<p>In 2020-21, ACNC will focus on:</p> <ul style="list-style-type: none"> ongoing improvements to annual reporting arrangements and Charity Portal promote and expand the use of the Charity Passport.
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Measures	Evidence	Source	Result	Analysis
A Regulators' information requests are tailored and only made when necessary to secure regulatory objectives, and only then in a way that minimised impact. Regulators' frequency of information collection is minimised and coordinated with similar processes including those of other regulators so that, as far as possible, information is only requested once.	4.1 Compliance teams use internally and publicly available data to identify candidates for investigation	Use of ACNC data Cooperation with other regulators or law-enforcement agencies.	✓	<p>ACNC continues to work with other government agencies and uses the information it collects directly from charities through annual reporting, to proactively identify charities at risk of non-compliance and to prevent harm.</p> <p>We are also building our intelligence analysis capability to support a data and intelligence led approach to the identification of charities at risk of non-compliance.</p> <p>In 2019-20, 7% of the cases investigated were identified using this intelligence led approach.</p>
	4.2 ACNC approved forms only request information necessary for the function of the form	Operational procedure: Creating, updating and reviewing policies and procedures ACNC Policy framework	✓	<p>Under the ACNC Policy framework and Operational procedure: Creating, updating and reviewing policies and procedures, when drafting or modifying any forms, the purpose of the form should be considered, and only information needed to fulfil this purpose should be requested.</p> <p>This procedure was not reviewed in 2019-20 as indicated in the 2018-19 self-assessment due to resource constraints, however, it is still considered fit-for-purpose.</p>
	4.3 The AIS is available through the online ACNC Charity Portal	The 2019 AIS was made available in August 2019.	✓	<p>The online version of the 2019 AIS was made available to charities in August 2019, an improvement from the release of the 2018 AIS in October 2018.</p> <p>Changes to the 2019 AIS involved allowing charities to provide their website address. Charities with information withheld from the register were also provided with additional functionality when uploading any financial reports. ACNC improved guidance for AIS completion based on feedback received in 2018 AIS survey responses.</p>
	4.4 Streamlined reporting processes are implemented to obtain information from other regulators where appropriate	Streamlined reporting in place for a range of charities	✓	<p>ACNC's work on reducing red tape includes:</p> <ul style="list-style-type: none"> sharing charity information with other government agencies to build a 'report once, use often' framework for charities using ACNC 'Charity Passport' streamlining reporting for charities regulated by other Commonwealth bodies harmonising ACNC regulatory requirements with the numerous state and territory laws that cover charities commissioning research on red tape reduction in the not-for-profit sector to inform our work providing guidance and advice to charities to help them meet their regulatory obligations. <p>ACNC continues to work regularly with other government agencies in 2019-20 to streamline reporting required across jurisdictions, one example of this work was in late November 2019, the Associations Incorporation and Other Legislation Amendment Bill 2019 was introduced into the Queensland Parliament. The bill was passed on 16 June 2020. The bill applies to some 22,000 incorporated associations as well as some 3,200 ACNC charities that are also registered under the Queensland Collections Act for fundraising purposes. It will finally relieve Queensland charities of duplicated annual financial reporting under the Associations Incorporation Act (AIA) and the Collections Act. Progress and possible implementation will be reported in future self-assessments.</p>

KPI 4: Compliance and monitoring approaches are streamlined and coordinated

B	Regulators utilise existing information to limit the reliance on requests from regulated entities and share the information among other regulators where possible.	4.5	Charity Passport developed and maintained so that central charity data is available to government regulators to reduce regulatory burden.	ACNC Charity Passport was available to authorised government official throughout 2019-20	✓	ACNC Charity Passport allows authorised government agencies to electronically access information on registered charities, including financial reporting, activities undertaken and contact details for authorised persons. The Charity Passport was available throughout 2019-20. At 30 June 2020, 23 government agencies had access to the Charity Passport.
		4.6	Compliance officers share information with and make referrals to other regulators where appropriate	Referrals to other government agencies	✓	Where compliance issues are identified, we work closely with other government agencies to share information (where permissible under the secrecy provisions of the ACNC Act) and determine who is best placed to act. This reduces the burden on charities, as they will not be required to provide the same information to multiple regulators. In 2019-20 we received 37 referrals from other government agencies and made 49 referrals to other government agencies where we considered that a matter fell within another agency's jurisdiction and that agency was best placed to deal with it.
C	Regulators base monitoring and inspection approaches on risk, and where possible, take into account the circumstance and operational needs of the regulated entity.	4.7	Compliance staff act in accordance with risk-based policies and procedures.	Compliance policy statement: Compliance and enforcement	✓	ACNC staff act in accordance with risk-based policies and procedures, consistent with the overarching ACNC Regulatory Approach Statement and our Commissioner's Policy Statement: Compliance and enforcement . Compliance monitoring activities are only conducted in relation to matters that are assessed as presenting a significant risk to trust and confidence in the sector.

KPI 5: Regulators are open and transparent in their dealings with regulated entities

Self-assessment: Very good

ACNC remained open and transparent in dealing with regulated entities through:

- availability of policies and guidance
- publication of RPF self-assessment
- COVID-19 communications and compliance approach
- advice to charities on DGR reviews
- development of guidance for External Conduct Standards
- development of governance toolkit and DGR self-evaluation checklist

Areas for improvement

In 2020-21, ACNC will focus on:

- improvements to the Charity Register and information which will be available
- targeted education to assist with charity voluntary compliance.

Measures	Evidence	Source	Result	Analysis
A Regulators' risk-based frameworks are publicly available in a format which is clear, understandable and accessible.	5.1 Regulatory Approach Statement is published online.	ACNC Regulatory approach statement	✓	ACNC's overarching risk-based framework is articulated within the ACNC Regulatory approach statement and the Compliance policy statement: Compliance and enforcement . ACNC updated the Regulatory approach statement in 2018 after a process of consultation with the Adviser and Sector Forums and was available throughout 2019-20 on acnc.gov.au .
	5.2 Risk assessment framework is published online	Compliance policy statement: Compliance and enforcement	✓	ACNC's overarching risk-based framework is articulated within the ACNC Regulatory approach statement and the Compliance policy statement: Compliance and enforcement . The Compliance and enforcement policy was available throughout 2019-20 on acnc.gov.au .
B Regulators are open and responsive to requests from regulated entities regarding the operation of the regulatory framework, and approaches implemented by regulators.	5.3 Response to all request for access to information provided within 30 days (those not under Freedom of Information (FOI) or Privacy Acts)	Responses to information requests provided within 30 days.	✓	ACNC makes information available to the public outside of the formal FOI process through general information requests, however in 2019-20 ACNC did not receive any such requests.
	5.4 Response to FOI Act requests handled within 30 days (plus statutory extensions) or 60 days where third party consultation is required	Responses to FOI Act requests provided within established timeframes.	✓	In 2019-20 ACNC responded to 100% of FOI Act requests and requests for information within the established timeframes. Under Part II of the FOI Act, ACNC is required to publish information as part of the Information Publication Scheme (IPS). Each agency must display on its website a plan showing what information it publishes in accordance with the IPS requirements. ACNC maintains an IPS page on its website.
C Regulator's performance measurement results are published in a timely manner to ensure accountability to the public.	5.5 RPF self-assessment published	RPF self-assessments	✓	Consistent with other Commonwealth regulators, ACNC publishes our RPF self-assessment on our website. The 2018-19 RPF self-assessment was published on acnc.gov.au in January 2020. This 2019-20 report will be published on acnc.gov.au once approved by the responsible minister and in accordance with the established timeframes.

KPI 6: Regulators actively contribute to the continuous improvement of regulatory frameworks

Self-assessment: Very good	<p>ACNC is committed to continuous improvement through:</p> <ul style="list-style-type: none"> analysis of ACNC performance as published in the ACNC Annual Report analysis of charity performance as published in the 2018 Charity Report submissions on potential impact of proposed changes to the regulatory framework on the sector. 	Areas for improvement	<p>In 2020-21, ACNC will focus on</p> <ul style="list-style-type: none"> working with other government agencies to eliminate duplicated reporting implementation of recommendations of the legislative review and performance audit review stakeholder engagement framework.
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Measures	Evidence	Source	Result	Analysis
A Regulators establish cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.	6.1 At least three meetings of the Adviser Forum are held annually	<ul style="list-style-type: none"> 3 meetings of the Adviser forum 	✓	<p>In 2019-20 we held three meetings of the Adviser Forum. After a review of the Adviser Forum Charter in 2019-20, it was agreed that, going forward, these meetings will now be held twice a year.</p> <p><i>See KPI 1: Evidence measure 1.1</i></p>
	6.2 At least three meetings of the Sector Forum are held annually	<ul style="list-style-type: none"> 3 meetings of the Sector Forum 	✓	<p>In 2019-20 we held three meetings of the Sector Forum. After a review of the Sector Forum Charter in 2019-20, it was agreed that, going forward, these meetings will now be held twice a year.</p> <p><i>See KPI 1: Evidence measure 1.1</i></p>
	6.3 Stakeholder engagement framework outlines how ACNC will engage with stakeholders to reduce regulatory burden and enhance knowledge of the regulated sector	ACNC Stakeholder engagement framework	✓	<p>ACNC's Stakeholder engagement framework outlines our approach to consultation and the mechanisms we may use. For example, this framework outlines our commitment to reduce the regulatory burden on charities by providing accurate, timely and relevant information to charities to help them understand and meet their obligations to ACNC in a way that minimises the impact on their time and resources.</p> <p>ACNC did not do a formal review of this framework in 2019-20 as indicated in the 2018-19 RPF self-assessment but is confident that it remains relevant and fit-for-purpose.</p>
B Regulators engage stakeholders in the development of options to reduce compliance costs. This could include industry self-regulation, changes to the overarching regulatory framework, or other strategies to streamline monitoring and compliance approaches.	6.4 See 6.1, 6.2 and 6.3		✓	<p>In 2019-20 the Government responded to the Australian Charities and Not-for-profits Commission Legislative Review 2018. While the Government has shown support for most recommendations, some require more consultation before implementation, and some will not be able to be implemented until legislative amendments are finalised. The ACNC will work collaboratively to implement the Government recommendations to achieve meaningful reform.</p> <p>The Australian National Audit Office tabled the performance audit report <i>Regulation of Charities by the Australian Charities and Not-for-profits Commission</i> on 31 March 2020. This report was a welcome endorsement of the ACNC's achievements since it was established in December 2012. The report also provided valuable insights to assist us to continue to improve our regulatory approach.</p> <p>ACNC engages with stakeholders in the development of options to reduce compliance costs. In 2019-20 we made submissions on issues which affect the efficient regulation of the charity sector including:</p> <ul style="list-style-type: none"> Australian Accounting Standards Board Exposure Draft 291 – Not-for-profit Entity Definition and Guidance Australian Accounting Standards Board Exposure Draft 293 – Amendments to Australian Accounting Standards – Disclosure in Special Purpose Financial Statements of Compliance with Recognition and Measurement Requirements Joint Standing Committee on Electoral Matters Inquiry into the 2019 Federal Election Parliamentary Joint Committee on Corporation and Financial Services – Inquiry into Regulation of Auditing Australian Accounting Standards Board – Exposure Draft 296 (Disclosure of Accounting Policies) Auditing and Assurance Standards Board (AuASB) – Discussion Paper (Revision of AuASB Guidance Statements)

KPI 6: Regulators actively contribute to the continuous improvement of regulatory frameworks

- Attorney General’s Department on the Exposure Draft of the Religious Freedom Bills
- NSW Community Gaming Regulation 2020.

C	Regulators regularly share feedback from stakeholders and performance information (including from inspections) with policy departments to improve the operation of the regulatory framework and administrative processes.	6.5 Stakeholder engagement framework outlines how ACNC will share feedback from stakeholders with policy departments	ACNC Stakeholder engagement framework	✓	In 2019-20 ACNC engaged with stakeholders through the Adviser and Sector Forums, this engagement informed various submissions regarding the efficient regulation of the charity sector. <i>See KPI 1: Evidence measure 1.1 and 6.4</i>
		6.6 Report is published analysing the previous year’s cases and forecasting risk for future years annually	ACNC Annual Report	✓	ACNC publishes a summary of its regulatory activity and enforcement actions in its annual report. The 2018-19 annual report summarised these activities and actions including: <ul style="list-style-type: none"> • 100 investigations were finalised • 107 risk assessments were completed • 52 charities received regulatory advice. 2019-20 statistics for regulatory activities and enforcement actions will be published in the 2019-20 annual report currently under development. The annual report will be published on acnc.gov.au in accordance with timeframes set by the Department of Finance.

Appendix B: Summary of feedback from consultation

Consultation mechanism

Under the Regulator Performance Framework (RPF), the ACNC is required to have our self-assessment 'validated' by the approved RPF stakeholder consultation mechanism. The ACNC's stakeholder consultation mechanism is the Adviser and Sector Forums.

The self-assessment was tabled at the Adviser and Sector Forums on 22 and 23 July 2020 respectively. Access to an online survey was provided after these meetings took place and each group had more than a two-week window in which to respond to the survey.

The survey asked members to:

- indicate their agreement with the ACNC's self-assessment against the key performance indicators (KPIs) and overall assessment
- provide feedback on each KPI and the ACNC's overall self-assessment
- where a member disagreed with our self-assessment, they were asked to confirm whether the rating should be higher or lower.

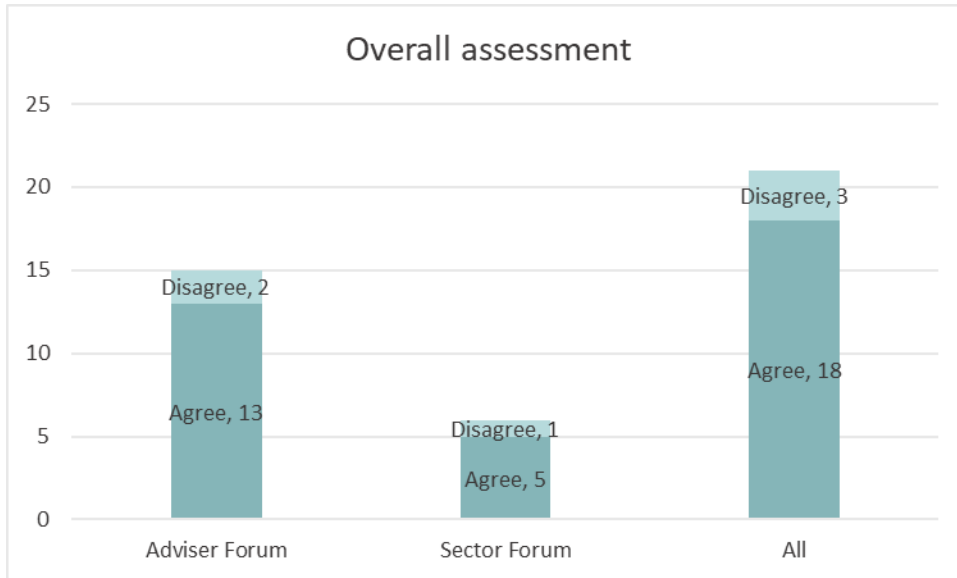
The online survey was available until 10 August 2020 and 21 responses were received consisting of 15 responses from the Adviser Forum and 6 from the Sector Forum. This was an increase from the 11 responses received for the 2018-19 self-assessment online survey.

This increase, while pleasing, represents 42% (36 members) of Adviser Forum membership and 20% (20 members) of Sector Forum membership, a low number considering the responsibilities outlined in each forum's Charter; for members to provide annual feedback on the ACNC's self-assessment under the Government's Regulator Performance Framework, noting that the Sector Forum and Adviser Forum form the ACNC's approved stakeholder consultation mechanism.

Executive summary

The 21 members who responded to the survey agreed with the ACNC's self-assessment, with between 76% and 90% of respondents agreeing with the self-assessment for each KPI.

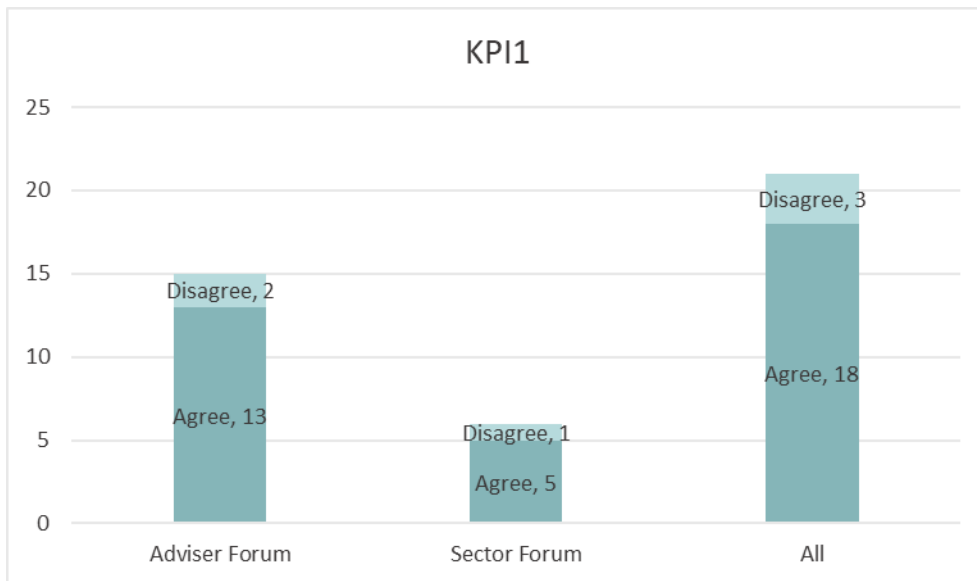
Of the 21 members who responded, 18 out of 21, or 86%, agreed with the ACNC's overall self-assessment of 'very good'.



- 18 out of 21 members, or 86%, agreed with our overall self-assessment of Very good.
- Of the three members who disagreed with the ACNC’s self-assessment, two thought the rating should be lower.

The survey results and concerns raised for each KPI are discussed below.

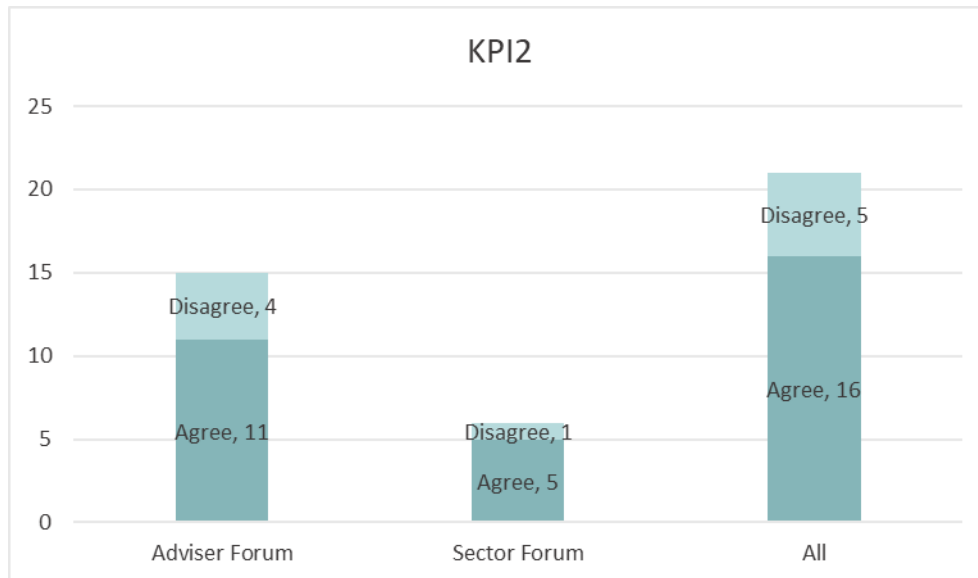
KPI1: Regulators do not unnecessarily impede the efficient operation of regulated entities



- 18 out of 21 members, or 86%, agreed with our self-assessment of Very good.
- Of the three members who disagreed with the ACNC’s self-assessment, two thought the rating should be lower.
- Feedback included the following concerns:
 - the ACNC’s focus on transparency and accountability of the sector comes at the expense of understanding and supporting the sector
 - ACNC staff do not always perform their role without bias or with proper regard to the law

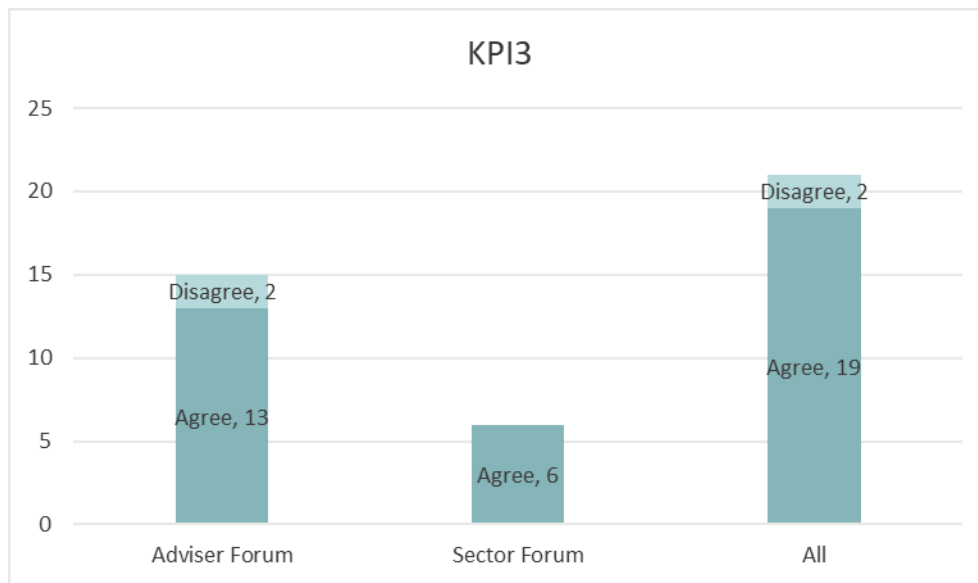
- additional information requirements regarding the programs charities deliver will be onerous for some charities.

KPI2: Communication with regulated entities is clear, targeted and effective



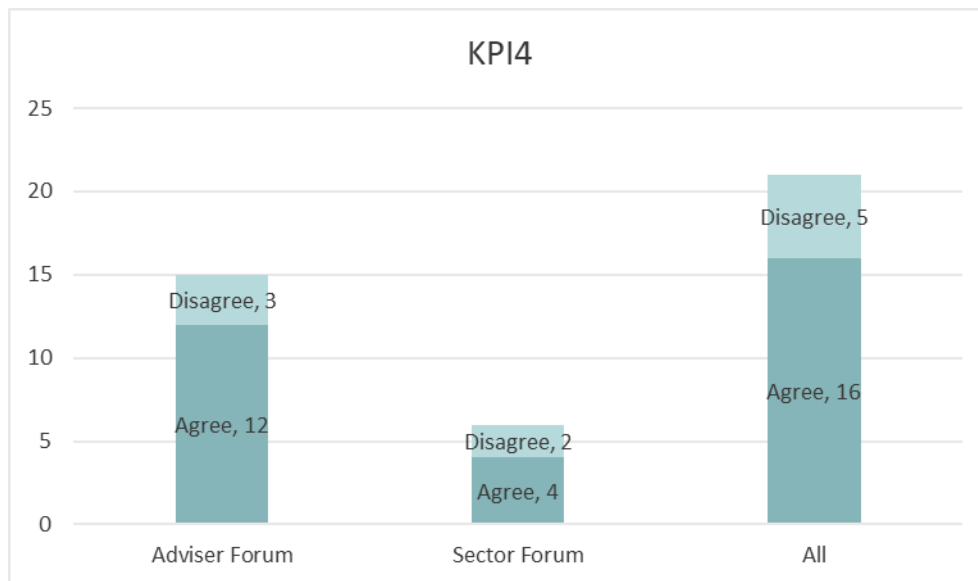
- 16 out of 21 members, or 76%, agreed with our self-assessment of Very good.
- Of the five members who disagreed with the ACNC’s self-assessment, three thought the rating should be lower.
- Feedback included the following concerns:
 - updates regarding high profile cases affecting the sector should be provided in a timely manner
 - instances of mistakes about law in the guidance provided by the ACNC, for example, in relation to external conduct standards and public benevolent institutions
 - instances of inaccurate or unclear guidance provided by the ACNC, which could be addressed through greater consultation with the Adviser and Sector Forums
 - information requests to charities during the registration process can significantly slow down the process and the performance measure does not reflect this accurately, a review of the request for information process is suggested
 - quality of decision making could be improved, for example, the regulators should improve on identifying and applying Australian legal authorities and not foreign laws, such as cases from New Zealand.

KPI3: Actions undertaken by regulators are proportionate to the regulatory risk being managed



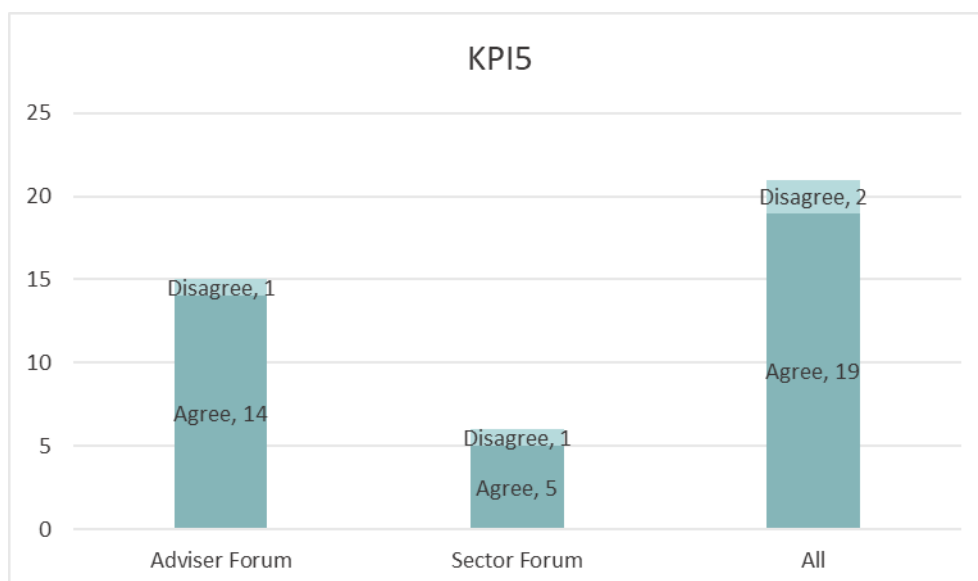
- 19 out of 21 members, or 90%, agreed with our self-assessment of Very good.
- Of the two members who disagreed with the ACNC’s self-assessment, both thought the rating should be lower.
- Feedback included the following concerns:
 - ACNC could improve its proportionate regulation, there is large focus on small charities, but large charities present a greater risk and account for the greater portion of the investment in the sector
 - while good governance is important, ACNC could prioritise how assets are used for charitable purposes, over other governance standards, which are important but do not present the greatest risk for the sector
 - perceptions that at times ACNC staff seek irrelevant information on matters they are investigating.

KPI4: Compliance and monitoring approaches are streamlined and co-ordinated



- 16 out of 21 members, or 76%, agreed with our self-assessment of Very good.
- Of the five members who disagreed with the ACNC’s self-assessment, four thought the rating should be lower.
- Feedback included the following concerns:
 - greater clarity is needed over the monitoring process for external conduct standards and the requirement for charities to use a registered company
 - instances of the ACNC not passing on requests for charitable taxation concessions to the ATO
 - coordination, communication and sequencing of compliance activities could be strengthened

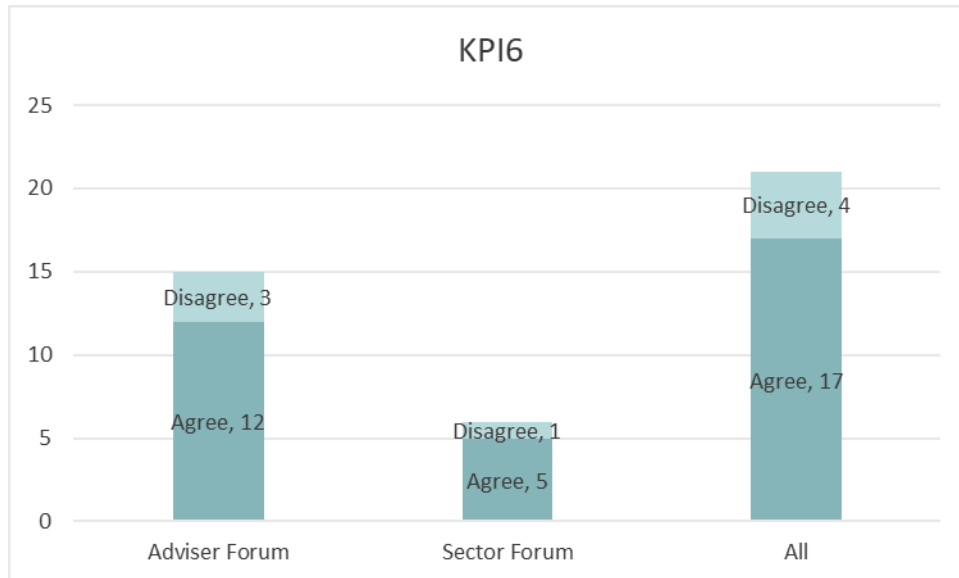
KPI5: Regulators are open and transparent in their dealings with regulated entities



- 19 out of 21 members, or 90%, agreed with our self-assessment of Very good.

- Of the two members who disagreed with the ACNC’s self-assessment, one thought the rating should be lower.
- Feedback included the following concerns:
 - clarity is required on how the ACNC uses the data it collects from the sector
 - the ACNC could consider publishing reasons for non-compliance anonymously for the benefit of other charities.

KPI6: Regulators actively contribute to the continuous improvement of regulatory frameworks



- 17 out of 21 members, or 81%, agreed with our self-assessment of Very good.
- Of the four members who disagreed with the ACNC’s self-assessment, all thought the rating should be lower.
- Feedback included the following concerns:
 - perceived decline in the quality of guidance provided by the ACNC, with some guidance found to be incorrect or overly simplistic
 - lack of transparency or guidance concerning the ACNC’s approach to the review of public benevolent institutions
 - the need to strengthen the influence of the ACNC to progress improvements to state based laws to reduce the burden of regulation on the sector.

Conclusion

The ACNC is pleased with the level of agreement reported through the on-line survey from the approved RPF stakeholder consultation mechanism, the Adviser and Sector Forums. We believe that the results of this survey validate our self-assessment rating of Very good.

We will continue to work collaboratively with these forums to achieve efficient regulation and we thank the members who took time to provide us with this valuable feedback.