

Topic: Compliance

Key points at a glance

1st Qtr 2022-23 (1 July - 30 Sept 22)

- 19 investigations were finalised, 13 self-audits were completed and 2 charities had their registration revoked due to compliance action

Financial year 2021-22

- 96 investigations were finalised, 37 self-audits were completed, 55 compliance reviews were conducted, 316 self-evaluations were emailed and 15 charities had their registration revoked due to compliance action
- the ACNC completed 78% of its investigations within 12 months, exceeding the service target of 75%
- In 2021-22, **2522** concerns were received, 50% from the public
- Between 1 July 2022 and 30 September 2022, the ACNC received **466** concerns in jurisdiction.
- The ACNC receives between 2,000-2,500 concerns per year.

Compliance activities

- Our compliance approach continues to evolve and there are a range of activities we undertake which include:
 - Education – where we provide specific regulatory advice
 - Self-evaluations (introduced in 2021-22) where we proactively ask a charity to evaluate their compliance against the governance standards
 - Self-audits (introduced in 2020-21) where we ask charities to return a survey that allowed us to conduct a high-level assessment of their compliance and provide advice.
 - Reviews (introduced in 2020-21) where we assess a charity's compliance on a particular issue identified as a focus based on known risks
 - Investigations where we investigate significant breaches of obligations based on our intelligence or concerns raised with us.
- This is in addition to the work we undertake at registration to assess charities' governance.
- When adverse information about a charity is relevant to other government agencies, we will make a referral to them. This includes the ATO, state Attorney-General's responsible for fundraising, and grant/funding-giving departments.

- In 2021-22 the ACNC completed 78% of its investigations within 12 months, exceeding the service target of 75%

	2021-22	2022-23 to 30 Sept
Finalised investigations	96	19
Finalised Compliance Reviews	55	-
Finalised Objections		-
Finalised Self-Audits	37	13
Finalised Self-Evaluations	316	-
Revoked – Compliance issues	15	2
Concerns received	2522	466

Additional all-time figures to 30 Sept 2022

- **125** charities were revoked as a result of investigations
- Over **12,948** charities revoked in total (majority are double defaulters)
- **7** enforceable undertakings
- **4** directions
- **3** warnings
- **49** compliance agreements (only 1 made public)

Most common risk areas leading to investigation

- The ACNC receives 2,000-2,500 complaints per year from the public, media and other sources.
- We initiate compliance investigations on the basis of risk, a component of which is whether we have received information about a charity's governance.
- When we initiate a compliance investigation that involves a complaint, the most common reasons for the complaint are:
 - Private benefit for charity's responsible persons
 - Duties of responsible persons, particularly poor financial management
 - Fraudulent or criminal activity
 - Harm to beneficiaries
 - Political advocacy

Penalties

- The ACNC has the power to apply penalties to charities that do not lodge their AIS on time. This year, and last year, the ACNC has taken an educative approach to increase AIS on time lodgement rather than apply penalties.

Political Advocacy

- Charities can advocate if it furthers their purpose, and they don't endorse a particular party or candidate.
- The ACNC provides advice to charities that may be undertaking political advocacy. We take an education first approach.
- In the lead up to the last federal election, we received nearly 500 concerns from the public about charities who were perceived to be promoting various political candidates or parties.
- In 2022 we spoke with 20 charities to ensure they understood the difference between endorsing a specific candidate or party and advocating in line with their stated mission— their charitable purpose. 19 of the conversations happened in the lead up to the last Federal election.
- Our guidance on [advocacy](#), and on [charities, elections and political advocacy](#), explain the rules in detail.

Government funding – Compliance Review Program

Australian Charities and Not-for-profits Commission Review Program

Payments (\$m)

	2020-21	2021-22	2022-23	2023-24
Australian Taxation Office	0.5	1.2	1.2	-

The Government will provide \$2.9 million over three years from 2020-21 to implement a program of field-based compliance reviews to intervene early where charities are at high risk of failing, to meet the obligations under the governance standards of the Australian Charities and Not-for-profits Commission (ACNC).

The review function will strengthen the ACNC's ability to provide greater assurance to Government and the public that charities have appropriate governance structures in place and are using their income for charitable purposes, including when responding to natural disasters.

- The former Government funded the ACNC to undertake Compliance Reviews from 2020-21 as per the budget extract above.
- In 2020-21 we completed 23 reviews across two cohorts. The reviews focused on:

Topic: Compliance

- Charities response to the 2019-20 bushfires
 - Charities with more than 10 responsible people
- In 2021-22 we met our target of 50 completed reviews across three cohorts:
 - charities supporting vulnerable children overseas
 - charities with high assets / low activities
 - the governance of recently registered charities
- In 2022-23, we plan to complete 50 reviews across to two review cohorts focused on:
 - charities with only one responsible person
 - how charities mitigate the risks of founder syndrome.
- The funding enables the ACNC to undertake quick reviews of risk in the sector, intervene with charities before significant issues arise, and where possible and appropriate, provide assurance to the public to maintain confidence in the sector.
- We conduct reviews in cohorts of charities with similar risks to establish whether an issue is widespread. If we find that many charities are experiencing an issue, we may provide information or guidance for those charities and the public to support better understanding and improvements to charity practices.
- The program of reviews also enabled us to address recommendations made by the [Australian National Audit Office](#) to improve our risk-based approach to managing compliance in the charity sector. We published a [Compliance Reviews Report](#) about this work.

Working with other agencies

- Where we have cross jurisdictional investigations and other agencies have an interest, the ACNC works collaboratively to ensure the best placed agency takes a lead, that information is shared where appropriate and where legislation allows – e.g. AUSTRAC, AFP, DFAT and State Regulators.
- We have memoranda of understanding (MOU) with other agencies to more formally articulate cooperation with information sharing and intelligence, including:
 - The Australian Taxation Office (ATO)
 - The Australian Securities and Investments Commission (ASIC)
 - The Office of the Registrar of Indigenous Corporations (ORIC)
 - Australian Transaction Reports and Analysis Centre (AUSTRAC)
 - The Australian Business Register (ABR)
 - The Department of Prime Minister and Cabinet (PM&C)

Information referred to other government agencies

- Under subdivision 150-C (section 150-40) of the ACNC Act, the ACNC may disclose protected information to an Australian government agency if (in particular):
 - the ACNC is satisfied the information will enable or assist the agency to perform or exercise any of the functions or powers of the agency
 - the disclosure is for the purposes of enabling or assisting the agency to perform or exercise any of its functions or powers, and the disclosure is reasonably necessary to promote the objects of this Act.
- From 1 July 2022 to 30 September 2022, we made 12 referrals to other government agencies where our staff considered there may be possible action under the legislation of the other agency.