

Adviser Forum – Wednesday 19 February 2025

Agenda Item 1: Welcome and housekeeping

Rachel Smith, Acting Assistant Commissioner, opened the meeting with an Acknowledgement of Country and welcomed Adviser forum members.

Cate Bennett, Assistant Commissioner, declared a conflict of interest. Cate noted that in her previous role, she was a member on the NFP Legal and Governance Network. Cate also noted that, she had provided legal advice on matters concerning compliance with the ACNC Act.

Agenda Item 2: Commissioner Update

Commissioner Sue Woodward AM:

- Welcomed new Assistant Commissioner - Operations and Engagement Cate Bennett and acknowledged Rachel Smith for her efforts in acting as Assistant Commissioner - Operations & Engagement since August 2024.
- Provided an overview of the ACNC's key areas of focus and activity since the last Advisor Forum took place, including:
 - The deployment of multifactor authentication (**MFA**) on the Charity Portal, which saw over 12,500 users voluntarily take up the additional security measure (with Sue asking Forum members to encourage their clients to enable this feature on their Charity Portal accounts).
 - Substantial reductions in both the time taken to allocate and process/make a decision on new charity registration applications received due to additional staff and improved processes. Around 50% of applications relate to the self-assessing income tax exempt reforms (**SAITE reforms**) being administered by the ATO. An anticipated peak in applications is expected ahead of the 31 March 2025 due date for many NFPs to submit their first self-assessment and/or apply for charitable registration (**the SAITE deadline**). This will put pressure on the ACNC's ability to meet our 15-day service standard.

Agenda Item 3: ACNC Director Update

Registration Directorate

Acting Director Carina Mitsinikos updated the Forum that:

- the team remains focused on delivering a positive applicant experience while striving to meet the 15 day service standard.
- application rates have remained relatively steady over the last few months and we will continue to proactively manage SAITE work by:

- proactively engaging with peak bodies to encourage NFPs to apply for charitable registration as early as possible
- simplifying our bulk application submission form
- maintaining a close relationship with ATO to improve the NFP sector's understanding of the SAITE measures.

Advice Services, Education and Public Affairs (EPA)

Acting Director Karen Coghlan spoke about the support provided by the ACNC to assist charities to meet their obligation to submit the 2024 Annual Information Statement (the first due date was 31 January).

Karen also provided an overview of recent guidance published by the ACNC, including:

- harmonised guidance material prepared by both the ACNC and ATO for charities impacted by the SAITE reforms (noting that the ACNC's [guidance](#) is due for release in the week commencing 3 March 2025).
- updated guidance material on [charity advocacy](#) in anticipation of the coming federal election.
- updated guidance material on [double defaulter charities](#).
- that the ACNC is in the process of shifting online learning materials from a previous learning management system so that they sit on the ACNC website directly.

Karen also promoted the value in following the ACNC on social media, and signing up for the ACNC's Newsletter "[The Charitable Purpose](#)" for keeping up to date with new guidance material as it is published.

Reporting, Red Tape Reduction and ACNC Corporate Services

Acting Director Tim Liu:

- provided an update on 2024 Annual Information Statement submissions, with 72% submitting their AIS by the due date of 31 January
- advised that work is underway on the next (11th) edition of the Australian Charities Report – which will have a focus on volunteering across the sector.

Tim also encouraged members to participate in the Australian Accounting Standards Board's recent consultation on changes to the NFP financial reporting ([Outreach: Developing a Simpler Reporting Framework for NFP Entities in Australia](#)).

Compliance

Director Michelle Cozadinos reported to the Forum that:

- the misuse of complex structures, effective management of cybersecurity risks and supporting newly registered charities to comply with their obligations to the ACNC remains a focus
- the ACNC's [Regulatory Approach Statement](#) is currently being reviewed to ensure it remains contemporary and fit-for-purpose.

- the ACNC looks at case trends to identify emerging areas of concern or priority focus, and Forum Members were encouraged to get in touch should they have any suggestions on trends or issues.

Digital Services

Director Rob Jackson updated the Forum that:

- in addition to MFA, the ACNC had made significant changes to the sign-in section of the Charity Portal, and this included coding and infrastructure updates at the website's back-end. These security improvements result in less blocked emails which often result in causing calls to the contact centre.
- like most organisations, the ACNC is continuing to focus on improving and maintain a strong cyber security posture.
- the ACNC is subject to a directive recently announced by the Australian Government to block AI product DeepSeek on all government devices.

Legal and Policy

Acting Director Legal and Policy Caitlin Edwards spoke about:

- the ACNC's public consultation on [Decision Impact Statement: Equality Australia Ltd and updates to the Commissioner's Interpretation Statement: Public Benevolent Institutions](#) (see agenda 8)
- the ACNC' plans to consult on further changes to the template constitution for Companies Limited By Guarantee (**CLG template**)
- the Bill that implements parts of the ACNC's secrecy reforms project is still before the Parliament. That Bill also contains some minor red tape reduction measures around updating Director details for those charities who are registered with Australian Securities and Investments Commission (**ASIC**).
- the Australian Government has published its [response](#) to the Statutory Review of Meetings and Documents Amendments made to the *Corporations Act 2001* (Cth) in 2021. Recommendation 8 of the statutory review is particularly relevant to charities and not-for-profits.

Questions and feedback on Directors' updates

With an open floor for Q&As and feedback from Forum members on the preceding updates, the following topics were discussed:

- **Complex structures** - the Commissioner spoke to this point, noting that it is not a problem in and of itself for a charity to have a complex corporate structure where it may be needed, but it is important that charities' governance practices are appropriate to manage the challenges that can come with complex structures (for example in the management of related party transactions or conflicts of interest, etc).
- **Red tape reduction measures around updating Director details** - Following on from her earlier update, Caitlin elaborated that charities registered with the ACNC aren't required to notify ASIC of changes to Directors/Responsible People so long as they have met their obligation to notify the ACNC. However, there are currently some issues around the effectiveness of Director resignations which is an unintended consequence of earlier illegal

phoenixing reforms. The *Treasury Laws Amendment (Better Targeted Superannuation Concessions and Other Measures) Bill 2023* currently before parliament will go some way to rectifying this issue by treating notification of Director resignation to the ACNC as notification to ASIC.

- **The Commissioner’s Interpretation Statement (CIS) on the provision of housing by charities** - Assistant Commissioner General Counsel, Natasha Sekulic spoke to this discussion point and noted that if specific questions or issues indicated that further guidance may be necessary on this topic, amending the CIS may not be the first port of call but supplementary guidance could be prepared if needed.
- **Consultation timeframes for the CLG template** - Caitlin advised that the ACNC planned to consult from around March 2025. Caitlin noted that its likely at least two template documents will be published – one suitable for charities seeking ATO endorsement as a deductible gift recipient, and one suitable for charities who are not.

Agenda Item 4: Update from the Department of the Treasury

Pete Robgent, Director Personal, Indirect Tax and Charities Division of the Australian Department of the Treasury reported to the Forum that:

- The *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Regulations 2025* were expected to be registered in coming days. These regulations would extend existing transitional reporting arrangements applying to approximately 3,000 registered charities to FY28/29.
- There would be the appointment of new ex-officio members to the ACNC Advisory Board
- The *Taxation Administration (Community Charity) Guidelines 2025* were also expected to be registered in coming days. Pete noted that Treasury received 30 submissions through public consultation and thanked those who participated.
- Work is underway to start consultation on proposed guidelines to update the use of the term “auxiliary funds” for better clarity, with timing for this consultation still to be determined.

Agenda Item 5: Update from the Australian Tax Office (slides attached)

ATO Assistant Commissioner Jennifer Moltisanti spoke to a tabled 15-page slide deck outlining the ATO’s role in administering the tax and super obligations of all NFPs including registered charities.

In speaking to the slides Jennier covered key guidance on:

- How charities and NFPs may or may not be tax exempt
- Areas of focus for the ATO’s current and foreseeable tax compliance activities
- New reporting requirements for non-charitable NFPs, and the need for these NFPs to complete a self-review return.

Agenda Item 6: Update from the Australian Business Registration (ABR) (slides attached)

Michael Flynn, Acting Assistant Commissioner Business Registration Strategy of the ABR reported:

- That ABN maintenance is the key to facilitate corporate entities' ability to interact with the ATO's online services. ABN holders are required to provide updates to their details within 28 days of any change occurring, including changes to the identity of any associates or authorised contacts.
- About improvements the ABR have made that make the online services more user friendly.

In response to Michael's update, Forum Members asked about the timing of changes made and notified to the ABR and how they're shown on ABR records, and some practical challenges as to how ABN applications are made using the ABR's online forms. Some of the individual examples on these matters were taken offline for further discussion and action between Forum members and Michael on a 1:1 basis.

Agenda Item 7: Forum Member discussion

With an open floor for Q&As and feedback from Forum members, the following topics were discussed:

- A request for further guidance on what constitutes unacceptable private benefit, specifically in the context of a social enterprise that seeks charitable registration.
- A request for consideration of ways it may be made easier to update the ACNC approved entity types for older organisations.
- How information captured in the ACNC's AIS is shared and used by NSW Fair Trading for red tape reduction.

Agenda Item 8: Overview of the Equality Australia Decision Impact Statement (DIS) and Commissioner's Interpretation Statement (CIS) on Public Benevolent Institutions (PBIs)

Caitlin Edwards, Acting Director Legal and Policy and Suhanya Mendes, Legal Counsel provided a high-level overview of the draft Equality Australia DIS and updates to the CIS on PBIs.

No material feedback was provided on the draft documents in this discussion, but it was noted that consultation would remain open until 20 March 2025. Forum members were encouraged to provide feedback and to share this with their clients and networks

Meeting close

Rachel concluded the meeting and thanked members for their contributions.