



7 August 2025

Our Ref: ACNC2025SUB-7

Legislative Assembly Legal and Social Issues Committee
Parliament House
Spring Street
East Melbourne VIC 3002

Submission to the inquiry into the recruitment methods and impacts of cults and organised fringe groups

Dear Committee,

The Australian Charities and Not-for-profits Commission (**ACNC**) welcomes the opportunity to comment on the inquiry into the recruitment methods and impacts of cults and organised fringe groups.

I understand the inquiry is likely to examine the activities and regulation of a range of organisations, some of which may be charities registered with the ACNC.

For the Committee's benefit, this submission seeks to provide some information about:

- (a) the ACNC and Australia's charity sector,
- (b) governance and reporting requirements of charities registered with the ACNC,
- (c) the ACNC's regulatory approach,
- (d) the ACNC's enforcement powers, and
- (e) the secrecy provisions that apply to the ACNC and their relationship to our handling of concerns raised about charities.

I trust this information will assist the Committee in its work. If you have questions about this submission, or any matter that the ACNC could assist with please contact Suhanya Mendes, Director Legal & Policy via email to [REDACTED].

Yours sincerely,

A large black rectangular box redacting the signature of Cate Bennett.

Cate Bennett
Acting ACNC Commissioner

About the ACNC and Australia's charity sector

1. The ACNC is the national regulator of charities established by the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (**ACNC Act**). The objects of the ACNC Act are to:
 - (a) maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector,
 - (b) support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector, and
 - (c) promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.
2. Currently, the ACNC has oversight of almost 64,000 registered charities. Despite our agency's name and the language of our statutory objects, the ACNC does not have oversight of the wider not-for-profit sector.
3. To be recognised as a charity and registered with the ACNC, an organisation must:
 - (a) be a not-for-profit,
 - (b) have only charitable purposes that are for the public benefit,¹
 - (c) not have a 'disqualifying purpose' by having a purpose that is unlawful, contrary to public policy or political,²
 - (d) not be an individual, a political party or a government entity,³
 - (e) have an ABN, and
 - (f) not be a recognised terrorist organisation.⁴
4. Registration with the ACNC is required to be eligible for Commonwealth tax concessions and endorsement as a deductible gift recipient (**DGR**).
5. The charities regulated by the ACNC vary considerably in size, role and function. Charities are a vital part of our community and economy and employ around 1.54 million people⁵ and reported revenue of \$222 billion in the 2023 reporting period.⁶ While some charities are large and well-known entities, most charities are very small, volunteer-run organisations.⁷
6. For further information about the charity sector the ACNC publishes an annual [Australian Charities Report](#) on our website. The report draws upon data submitted to the ACNC by charities in their Annual Information Statements and provides a detailed analysis of the national charity sector. It showcases the broad and significant contribution that the sector makes to building social capital and connectedness in Australian communities. The latest (11th) edition of the Australian Charities Report was published in June 2025.

¹ For more information see: [Charitable purpose | ACNC](#).

² For more information see: [Disqualifying purpose | ACNC](#).

³ *Charities Act 2013* (Cth) s 5. For more information see: [Legal meaning of charity | ACNC](#).

⁴ For more information see: [Who can apply to be registered? | ACNC](#).

⁵ ACNC, *Australian Charities Report - 11th edition* (2025) 11, < <https://www.acnc.gov.au/tools/reports/australian-charities-report-11th-edition>>.

⁶ *Ibid*, 12.

⁷ *Ibid*, 12.

Governance and reporting requirements for charities

7. In order to maintain registration with the ACNC, charities must comply with a set of Governance Standards (and if conducting activities or sending funds overseas, a set of External Conduct Standards as well).
8. The Governance Standards are a set of core, minimum standards relating to charity governance and how a charity is run – including its processes, activities and relationships.⁸ The External Conduct Standards are a set of additional standards intended to ensure that Australian charities operating overseas are run responsibly and in a manner that protects vulnerable people and prevents charitable assets from being misused in fraudulent or corrupt ways, or for terrorism financing.⁹
9. The ACNC publishes a range of resources to support charities to comply with the Governance and External Conduct Standards and manage important risk areas, including safeguarding vulnerable people.¹⁰
10. Charities are also required to report annually to the ACNC. This annual reporting is completed through an Annual Information Statement. Some charities are also required to submit an annual financial report, which depending on a charity's size may or may not need to be audited.
11. With a small number of exceptions provided for in Division 40 of the ACNC Act, every Annual Information Statement and financial report submitted to the ACNC is published on the [Charity Register](#). The Charity Register exists to promote transparency, accountability and public trust in the sector.

The ACNC's regulatory approach

12. We will always focus on conduct that could erode risk to public trust and confidence in the charity sector. We prioritise matters where there is a risk to people, or charitable funds and assets; and we consider the following matters to be so detrimental that we will always regard them as a priority:
 - (a) conduct that harms people, particularly children and vulnerable adults,
 - (b) misuse of a charity for terrorist purposes or to foster extremism, indirectly or directly,
 - (c) financial mismanagement including fraud and significant private benefit, and
 - (d) activities that put a charity at risk of having a disqualifying purpose, so they are no longer eligible to be registered with the ACNC.
13. That said, the ACNC recognises that the vast majority of charities both want to, and do, operate ethically and in compliance with the law.
14. When charities do not meet their obligations, we take proportionate action to resolve the problem(s) we seek to address.
15. This means much of our work is focused on preventing charity governance and legal compliance failures by providing charities with information, guidance and other support. When we become aware

⁸ ACNC Act Div 45; *Australian Charities and Not-for-profits Commission Regulations 2022* Div 45.

⁹ ACNC Act Div 45; *Australian Charities and Not-for-profits Commission Regulations 2022* Div 50.

¹⁰ ACNC, *Governance Hub* (Web Page) <<https://www.acnc.gov.au/for-charities/manage-your-charity/governance-hub>>.

of concerns or issues relating to a charity's governance practices or compliance with law, we will seek to work with that charity's Responsible People¹¹ to resolve those issues and any underlying causes.

16. However, the ACNC will act firmly in circumstances where:
 - (a) vulnerable people are at risk of harm,
 - (b) significant charity resources are at risk of loss or misappropriation,
 - (c) there is evidence of serious mismanagement, or
 - (d) there is a serious and/or deliberate breach of the ACNC Act or ACNC Regulations.
17. In those circumstances, the ACNC is likely to take a more interventionist approach to dealing with a charity. We will consider using available compliance and enforcement powers in a way that is proportionate to the risks or issues we see and the responsiveness of the charity in addressing those risks or issues we raise with them.
18. When our intelligence work uncovers activity that is outside of our remit, we promptly refer these matters to appropriate authorities.
19. Further information about the ACNC's regulatory approach and areas of focus is [published on our website](#), and set out in our [Regulatory Approach Statement](#).

Enforcement powers

20. The ACNC Act confers a range of enforcement powers on the ACNC Commissioner: starting with the right to issue regulatory advice or directions to take (or stop taking) particular actions. In serious cases the ACNC Commissioner can suspend or remove Responsible People from a charity or revoke a charity's registration with the ACNC (which will then impact a charity's entitlement to tax concessions and other benefits including DGR endorsement).

Constitutional limitations

21. The application of most of the ACNC's enforcement powers is subject to constitutional limitations. In particular, most of the ACNC's enforcement powers can only be exercised in relation to registered charities that are also federally regulated entities (**FREs**).¹²
22. Assessing whether a charity is an FRE is a point-in-time assessment that must be undertaken with the legal advice of the Australian Government Solicitor. In some instances, the ACNC is unable to establish whether a charity is an FRE or not because we don't have an explicit legislative power to require a charity to provide information that is necessary to make that assessment – we can request charities to provide such information voluntarily, but we cannot require them to do so.
23. Where the ACNC becomes aware of a serious or deliberate issue of non-compliance involving a charity that is not or can't be confirmed as being an FRE, the only regulatory action available to the ACNC may be the power to revoke that charity's registration. This is a particularly blunt approach – though revocation will result in the loss of applicable tax concessions and other benefits that come with registration, the charity may continue to operate – albeit outside of the ACNC's framework (i.e. without the same regulatory oversight).

¹¹ For more information see: [Responsible People - board or committee members | ACNC](#).

¹² ACNC Act Part 4-1 and s 205-15.

Basic Religious Charities

24. Of the almost 64,000 charities registered with the ACNC, 13,872 have the sole subtype of 'advancing religion' and 7,742 of those charities self-identify as Basic Religious Charities (**BRCs**).¹³

25. A BRC must:

- (a) only be registered (and only be eligible to be registered) with the charity subtype of 'advancing religion',¹⁴
- (b) not be incorporated under certain legislation,¹⁵
- (c) not report to the ACNC as part of a group,
- (d) not be endorsed, as a whole, as a DGR (or operate DGR funds with an aggregated revenue of greater than \$500,000)¹⁶ where DGR refers to being entitled to receive donations that are deductible from the donor's income tax,¹⁷
- (e) not receive more than \$100,000 in government grants (Commonwealth, state or territory) in the reporting period or in the previous two reporting periods, and
- (f) participate in the [National Redress Scheme for Institutional Child Sexual Abuse](#) if the charity has been identified as being involved in the abuse of a person under the National Redress Scheme (or in response to a request for information from the National Redress Scheme Operator) and the redress application has not been withdrawn.¹⁸

26. BRCs differ from all other registered charities in that:

- (a) the ACNC Governance Standards do not apply to them,¹⁹
- (b) the ACNC Commissioner is not empowered to suspend or remove a Responsible Person from a BRC,²⁰ and
- (c) they have different reporting requirements. Specifically, BRCs are not required to:
 - (i) answer the financial questions in the Annual Information Statement that all charities must complete and submit to the ACNC; or
 - (ii) submit annual financial reports to the ACNC.

¹³ ACNC, *Australian Charities Report 11th edition: Charity Data Explorer* (Web Page, 2025) <[Australian Charities Report 11th edition: Charity Data Explorer | ACNC](#)>.

¹⁴ A religion involves a belief in a supernatural being, thing or principle, and acceptance of canons of conduct which give effect to that belief. Advancing religion involves promotion of those beliefs, principles, observances and standards of conduct. For more information see: *Church of the New Faith v Commissioner of Pay-Roll Tax* (Vic) 154 CLR 120.

¹⁵ For example, the *Corporations Act 2001* (Cth) or legislation relating to incorporated associations.

¹⁶ Updated from \$250,000 to correct figure of \$500,000 on 10 November 2025.

¹⁷ The ATO has published guidance about DGR endorsement, for example, [DGR categories | Australian Taxation Office](#) and [Tax concessions for ACNC registered religious institutions | Australian Taxation Office](#). A charity's tax concessions can be viewed on the Australian Business Register's webpage here: [ABN Lookup](#).

¹⁸ *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (**ACNC Act**) s 205-35.

¹⁹ ACNC, *Governance Standards* (Web Page) <<https://www.acnc.gov.au/for-charities/manage-your-charity/governance-hub/governance-standards>>.

²⁰ ACNC Act s 100-5.

27. Some BRCs choose to provide this information to the ACNC voluntarily. In 2024 more than 7,700 BRCs did not.²¹
28. These reduced reporting obligations and the inapplicability of the Governance Standards significantly impacts the manner in which the ACNC can apply our regulatory approach and enforcement powers when concerns are raised, or issues arise in relation to BRCs.
29. We understand the differences between the obligations of BRCs and other registered charities could impact on the public's trust and confidence in the charity sector as a whole. Previous reviews have considered the BRC exemptions.²²

Secrecy provisions in the ACNC Act and complaint handling

Secrecy provisions

30. Division 150 of the ACNC Act imposes strict obligations to protect confidential and personal information relating to the affairs of charities.
31. These legislated definitions as to what information is 'protected ACNC information' is broad. It is information that:
 - (a) was disclosed or obtained under, or for the purposes of, the ACNC Act, and
 - (b) relates to the affairs of an entity, and
 - (c) identifies the entity, or is reasonably capable of being used to identify, the entity.²³
32. The secrecy provisions apply to all ACNC officers, contractors and subcontractors performing services for the ACNC, any individual working for the Commonwealth or a Commonwealth agency or authority, and members of the Advisory Board.²⁴
33. Subdivision 150-C of the ACNC Act provides for the disclosure of protected ACNC information in limited circumstances. Unlawful disclosure or use of protected ACNC information has penalties of imprisonment for 2 years or 120 penalty units, or both.²⁵

Complaints and concerns raised about charities

34. The secrecy provisions affect how we communicate information relating to complaints or concerns about charities that the ACNC receives and responds to.
35. It's very rare that the ACNC could publicly confirm or comment on any complaint or concern that it has received about a charity, including information as to whether or not the ACNC is investigating any particular matter. This also means that once a concern is raised, the ACNC cannot keep the person who

²¹ ACNC, *Australian Charities Report - 11th edition* (2025) 13, < <https://www.acnc.gov.au/tools/reports/australian-charities-report-11th-edition>>.

²² Productivity Commission, *Future foundations for giving*, Inquiry Report (2024) Ch 7, <<https://www.pc.gov.au/inquiries/completed/philanthropy/report/philanthropy.pdf>>; Australian Government the Treasury, *Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislation Review*, Report and Recommendations (2018) Part B, Ch 7, <<https://treasury.gov.au/publication/p2018-t318031>>.

²³ ACNC Act s 150-15.

²⁴ ACNC Act s 150-10.

²⁵ ACNC Act s 150-25.

raised it informed about how we are responding and the outcome of any potential investigation or enforcement action.

36. However, information from the public provides us with valuable insight about the charities we regulate and contributes to our understanding of how charities are governed. The ACNC takes concerns about registered charities seriously; we review every concern we receive to understand the issues raised and we respond in alignment with our Regulatory Approach Statement. This includes referring matters to other agencies if needed.