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Australian
Charities and
Not-for-profits
Commission

6 November 2025

Senate Standing Committees on Economics
Parliament House
Canberra ACT 2600

Via email: economics.sen@aph.gov.au

Our reference: ACNCSUB2025/4

Submission to the Inquiry into Treasury Laws Amendment (Strengthening Financial Systems and Other Measures) Bill 2025

Dear Committee,

The Australian Charities and Not-for-profits Commission (**ACNC**) appreciates the opportunity to comment on the Senate Standing Committee on Economics' Inquiry into *Treasury Laws Amendment (Strengthening Financial Systems and Other Measures) Bill 2025 (the Bill)*.

We have addressed only the terms of reference that we consider are relevant to the ACNC's role as the national charity regulator. Specifically, this relates to Schedule 2 of the Bill, which amends the *Australian Charities and Not-for-profits Commission Act 2012 (ACNC Act)* to provide two new exceptions for the public disclosure of ACNC information about new and ongoing investigations.

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

- a. the ACNC and Australia's charity sector
- b. the ACNC's regulatory approach
- c. the secrecy provisions that apply to the ACNC and their relationship to our handling of concerns raised about charities
- d. proposed amendments to the secrecy provisions to allow the ACNC to disclose information about ongoing or proposed investigations, in limited circumstances.

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

Yours sincerely,

Sue Woodward AM
Commissioner
Australian Charities and Not-for-profits Commission



GPO Box 5108 Melbourne VIC 3001
Tel 13 ACNC Fax 1300 232 569

acnc.gov.au

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About the ACNC and Australia's charity sector

1. The ACNC is the national regulator of charities established by the 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
 - c. promote the reduction of unnecessary regulatory obligations in the Australian not-for-profit sector.
2. Currently, we have oversight of almost 64,000 registered charities.¹ Despite our agency's name and the language of our statutory objects, we do not have oversight of the wider not-for-profit sector.
3. 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 people² and reported revenue of \$222 billion³ in the 2023 reporting period. While some charities are large and well-known entities, most charities are small, volunteer run organisations.

The ACNC's regulatory approach

4. The ACNC monitors how registered charities comply with their obligations as set out in the ACNC Act, the *Charities Act 2013* and the *Australian Charities and Not-for-profits Commission Regulations 2022 (ACNC Regulations)*.
5. We recognise that the vast majority of charities are committed to operating ethically and in accordance with the law. Our regulatory approach⁴ prioritises prevention, with a focus on reducing governance and compliance failures by equipping charities with clear information, tailored guidance, and practical support.
6. When we become aware of concerns relating to a charity's governance practices or compliance with law, we will seek to work with that charity's Responsible People⁵ to resolve issues and any underlying causes. Our response is proportionate to the nature and seriousness of the concerns identified.
7. We act swiftly and decisively in circumstances where:
 - a. vulnerable people are at risk of harm

¹ Australian Charities and Not-for-profits Commission, *ACNC Annual Report 2024-25* (2025) 13 <<https://www.acnc.gov.au/tools/reports/acnc-annual-report-2024-25>>.

² Australian Charities and Not-for-profits Commission, *Australian Charities Report – 11th edition* (2025) 11 <<https://www.acnc.gov.au/tools/reports/australian-charities-report-11th-edition>>.

³ *Ibid.*, 12.

⁴ Australian Charities and Not-for-profits Commission, *ACNC Regulatory Approach Statement* (Web Page) <<https://www.acnc.gov.au/raise-concern/regulating-charities/acnc-regulatory-approach-statement>>.

⁵ A Responsible Person is someone who is responsible for governing a charity. Generally, a charity's Responsible People are its board or committee members, or trustees (including insolvency trustees or administrators).



- b. significant charity resources are at risk of loss or misappropriation
 - c. there is evidence of serious mismanagement
 - d. there is a serious or deliberate breach of the ACNC Act or ACNC Regulations.
8. In such cases, we are likely to take a more interventionist approach. We will consider using available compliance and enforcement powers in a way that is proportionate to the risks or issues identified, and the charity's responsiveness in addressing those concerns.
9. In the most serious cases, we will revoke a charity's registration. This may affect a charity's eligibility for tax concessions and other government benefits, concessions or exemptions.

Secrecy provisions in the ACNC Act

10. Division 150 of the ACNC Act imposes strict obligations to protect confidential and personal information relating to the affairs of charities (**the secrecy provisions**). The legislated definition as to what 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.⁶
11. 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.⁷
12. Protected ACNC information can only be disclosed when an exception in Subdivision 150-C of the ACNC Act applies. The exceptions are narrow. Using or disclosing protected ACNC information when no exception applies is an offence under section 150-25 of the ACNC Act and carries penalties of imprisonment for 2 years or 120 penalty units or both.⁸

Disclosure in relation to investigations of registered entities

13. The secrecy provisions significantly limit how we communicate information about the actions we take in response to concerns raised about charities. Currently, while we can publish certain details, our ability to share information about investigations is limited unless certain enforcement action is taken or a charity consents to disclosure.⁹
14. We do publish the fact of a charity's registration revocation on our online public register. However, due to the restrictions imposed by the secrecy provisions, we do not publish details about the grounds or reasons for the revocation.

⁶ ACNC Act s 150-15.

⁷ ACNC Act s 150-10.

⁸ ACNC Act s 150-25.

⁹ ACNC Act s 150-45.



15. Additionally, we are required to publish details of each exercise of the Commissioner's enforcement powers under Part 4-2 of the ACNC Act. This ensures transparency about compliance actions. However, unless the charity is a federally regulated entity¹⁰ or the concerns relate to overseas activities, these enforcement powers cannot be used.
16. Where we do not have this full 'tool kit' of enforcement powers, we rely on alternative compliance approaches, such as issuing regulatory guidance or negotiating (with the agreement of the charity) a compliance agreement. Both of these actions cannot be published on the register, nor (with very limited exceptions) can we speak publicly about them because of our secrecy provisions. As a result, the public has limited visibility of these regulatory actions, despite their important role in addressing non-compliance.
17. In situations where there is public or media interest in a charity and allegations of non-compliance by a charity (or its leaders or staff), our inability to comment on the nature of the concerns and any regulatory action underway may be perceived as inaction. This, in turn, may have an adverse effect on public trust and confidence in the ACNC's ability to effectively regulate the sector. Maintaining public trust and confidence is essential to ensuring that individuals and organisations continue to feel confident in donating their time, money and resources to support the work of charities.

Proposed new exceptions for the public disclosure of protected ACNC information

18. Schedule 2 of the *Treasury Laws Amendment (Strengthening Financial Systems and Other Measures) Bill 2025* amends the ACNC Act to provide two new exceptions for the public disclosure of protected ACNC information about new and ongoing investigations, where the disclosure would prevent or minimise the risk of significant harm.
19. The Commissioner can authorise an ACNC officer to disclose the fact that the ACNC is carrying out a recognised assessment activity, and/or a description of a recognised assessment activity, in limited circumstances. A 'recognised assessment activity', as defined in section 55-10 of the ACNC Act, includes an ongoing or proposed investigation.
20. If passed, the ACNC will only be able to publicly comment on an ongoing or proposed investigation where there is a clear public benefit that outweighs the potential impact to entities or individuals who are, or may become, the subject of that investigation. Transparency is particularly important where there is a risk of:
 - a. significant harm to public health, public safety or to an individual
 - b. significant mismanagement or misappropriation of funds or assets of the charity, or contributions to the charity.
21. In situations such as this, the ability to respond publicly supports our role as an effective regulator and reinforces the first object of the ACNC Act of maintaining public trust and confidence in the charity sector. Where appropriate, disclosure of information relating to an ongoing or proposed investigation may also serve an educative function, providing guidance to other charities and reinforcing expectations around compliance. It may also

¹⁰ ACNC Act, s 205-15.



encourage members of the public with relevant information to come forward, knowing that the ACNC is actively investigating matters of concern.

22. If the amendments are passed in their current form, in deciding whether to make a public statement about whether we are investigating (or not), the ACNC is required to consider a range of factors, including the risk and significance of public harm (or mismanagement or misappropriation), the seriousness of the suspected contravention or non-compliance and the strength of the available evidence, and whether the suspected contravention or non-compliance is likely to be the result of an act or omission of the charity or an individual acting without the authority of the charity.
23. The ACNC recognises the importance of carefully weighing the benefits of disclosure with the potential reputational and other impacts for the charity and those involved in it (including employees and volunteers).
24. We note that if a disclosure is made under proposed section 150-51 that the Commissioner is carrying out a recognised assessment activity, the Bill does not include an exception allowing the Commissioner to publish a disclosure about the outcome of that activity. Therefore, if the ACNC wished to provide an update, we would need to consider whether it came within another exception to the secrecy provisions. There is an existing exception which allows the ACNC to make a disclosure with the consent of the entity involved,¹¹ but there is no provision that connects more closely with proposed section 150-51.
25. Where, under the proposed new exceptions, we have publicly confirmed that an investigation is underway, we consider it desirable to be able to provide an update on the outcome (including where we have decided no further action is required). Doing so promotes transparency (including where there has been no wrongdoing found), helps recognise any corrective action taken by the charity, and reinforces public confidence in the regulatory process.

¹¹ ACNC Act, s 150-45.