



Federal Government's Not for Profit Reform Agenda

Updated 9 February 2015

[Recent events](#) – Post September 2013

[Summary of Not-for-Profit Reform Agenda](#) – May 2012 to September 2013

[Overview of Not-for-Profit Reform Agenda](#) – Pre May 2012

Recent Events (Post September 2013)

9 February 2015

Reprieve for ACNC

Scott Morrison is on the record as saying to journalists that closing down the ACNC was currently not on his agenda. In questions from the Fairfax Media he responded that axing the ACNC was a low priority and he would be focussing on the new families package.

View online: [Scott Morrison puts bill to abolish charity regulator on backburner](#) (SMH)

19 November 2014

ACNC's achievements and impact

ACNC's Second Annual Report

Despite working in an environment of considerable uncertainty the ACNC was able to report that they are finalising the Charity Register and the information technology platform for the Charity Portal, have achieved further red tape reduction initiatives and have worked with charities to improve governance practice in the sector.

View online: [Charity Regulator Airs Frustrations in Annual Report](#) (Pro Bono News)

Proposed amendment to Corporations Legislation

As part of the Federal Government's red tape reduction agenda, the *Corporations Legislation Amendment (Deregulatory and Other Measures) Bill 2014* was introduced to the House of Representatives. The Bill's amendments only apply to companies limited by guarantee who are not registered with the ACNC. These changes have already been turned off for companies that are charities registered with the ACNC.

Charity regulation – developments overseas

Ireland has announced that it is establishing an independent regulatory agency for its charity sector noting that this represents a critical first step in reforming and strengthening the Irish charity sector. In addition Charity regulators from across the United States are looking to the ACNC for advice on cutting the red tape burden that charities face.

View online: [Ireland Establishes Charity Regulator](#) (Pro Bono News)

View online: [USA Looks to Copy ACNC](#) (Pro Bono News)

12 September 2014

ACNC Interpretation Statement – Hunger Project

Interpretation statements are developed to provide guidance on how to ‘*understand the law that applies to charities, including to explain the law made by judges ('common law'), parliament (legislation) and any legal issues that may arise.*’ They reflect the ACNC’s current understanding of the law on charity and are binding on ACNC staff.

The statement provides an overview of the facts and the issues. It also states in Section 6 how the ACNC will apply the case when making decisions as to whether an organisation is a ‘public benevolent institution’ and as such can access the related tax exemptions.

View Online: [Commissioner’s Interpretation Statement: The Hunger Project case](#) (ACNC)

8 September 2014

Survey and consultation support the retention of the ACNC

Latest Pro Bono Survey on State of the NFP Sector

The latest survey held by Pro Bono in conjunction with Net Balance has found that the three biggest issues facing the sector are Federal Government policy, regulation and funding. The survey sampled the views of 1250 Not for Profit leaders and managers (including 800 CEOs), staff and volunteers.

The survey confirmed the sector’s support for the ACNC with 82% seeing it as having an important or extremely important role in developing a thriving Australian NFP sector and remains the preferred form of regulation for the sector for 60% of those surveyed. The survey also looked at the Sector’s performance, drivers of performance both now and over the past year and the outlook for the coming year and compared the results.

Download: [2014 State of the Not for Profit Sector Survey](#)

View Online: [State of the Not for Profit Sector Survey Revealed](#) (Pro Bono News)

View Online: [Support for the charities commission remains resolutely strong](#) (ALP Media release)

View Online: [Abbott Government causing deep concern across the NFP sector](#) (Greens Media release)

ACNC options consultation closed, what now?

Consultation on the Options Paper, [Australia’s Charities and Not-for-profits](#) has now closed. The Department of Social Services website states that they will provide a written summary of stakeholder feedback on their website in September. There appears to be no intention of making the individual submissions public however several can be accessed online, however much of what can be accessed supports the continuation of the ACNC in its current form. According to Pro Bono News around 88 submissions were received.

The final report on the National Centre of Excellence was due at the end of August. It is yet to be publically released.

Download: [ACOSS Submission: Australia’s Charities and Not-for-profits Options Paper](#)

Download: [NCOSS Submission: Australia’s Charities and Not-for-profits Options Paper](#)

Download: [Community Council for Australia Submission: Australia’s Charities and Not-for-profits Options Paper](#)

Download: [Justice Connect Submission: Australia’s Charities and Not-for-profits Options Paper](#)

7 August 2014

ACNC announces revocation of charity status

The ACNC has begun the process of deregulating organisations currently listed as charities that have failed to respond to communication from the ACNC or completed the Annual Information Statement. After being revoked, the charities will no longer have access to the charity tax concessions administered by the ATO. There remain a further 3,800 charities which the ACNC is still seeking to contact.

A further two charities will also have their charity status revoked following “a five month investigation into the charities’ activities and purposes, with the ACNC determining their operations were not solely charitable.” Both charities have the opportunity to object to the decision and can reapply for registration once they have addressed the ACNCs’ concerns.

View online: [Notice of intention to revoke](#) (ACNC -includes list)

View online: [Hundreds of NFPs to Lose Charity Status](#) (Pro Bono News)

View online: [ACNC revokes charities’ registration](#) (ACNC - Commissioner Column – 29 July)

4 July 2014

Next stage of NFP reform announced

Senate Inquiry Report on ACNC Repeal Bill released

The Senate Inquiry report has now been released and despite the high level of support for the ACNC expressed in the written submissions, the report concludes that:

The ACNC Act has significantly and unnecessarily increased red tape for many charities, thereby creating a burden with no apparent benefit either to those they serve or the wider community. Given the Commonwealth's limited legislative powers in this area, and the low probability of achieving nationally consistent regulation, the Act should be repealed. (Sec 2.39)

In part it justifies this decision on the grounds that the abolition of the ACNC was a pre-election commitment and “part of the government's effort to ‘remove the regulatory impost on the sector as soon as possible’, to ensure that organisations were not reporting unnecessarily” (Sec 2.4 of Report).

Despite the fact that the submissions supporting the repeal of the ACNC only accounted for 10% of the 155 submissions, there was a high reliance on these views in the final report. Of the 35 references to the written submissions, 15 were taken from these papers. However, the ACNC and Robert Fitzgerald were provided with the opportunity to respond.

The committee concluded that:

In the process of developing and administering the ACNC legislation, a great deal has been learnt about what constitutes effective regulation of the not- for-profit sector. The regulatory regime that replaces the ACNC Act can apply these lessons. (Sec 2.40)

The report includes two dissenting reports, one each from the Labor and Green senators.

View online: [Senate committee reports](#)

View online: [ACNC \(Repeal\) \(No. 1\) Bill 2014](#)

View online: [ACNC’s response to the Senate inquiry reports](#)

Consultation on the ACNC’s Replacement

An options paper is now available on the Department of Social Services website detailing the ACNC replacement arrangements and providing options on how key functions will be transitioned to the Australian Taxation Office and Australian Securities and Investments Commission. The website includes

links to a submission template and information on public consultation sessions. Sessions will only be held in capital cities. Sydney will have two sessions, one in the morning and one in the afternoon on Wednesday 23 July. Registration is online via the website.

View online: [Consultation on Australian Charities and Not-for-profit Commission Replacement Arrangements](#) DSS website

Download: [Australia's Charities and Not-for-profits](#) Options paper

Download: [Submission template](#)

Consultation into the Civil Society National Centre of Excellence

There is a separate online consultation being carried out by the Centre for Social Impact (CSI) into the creation of the Civil Society National Centre of Excellence (NCE). The regulatory functions of the ACNC are not part of the NCE's scope.

The survey can be accessed on the NCE website. CSI research along with the results of the survey will form the basis of the Interim Report to go to the Federal Government in July 2014. This will be used to feed into the second phase of consultation which will include workshops and a second online survey.

View online: [Civil Society National Centre for Excellence research and consultation](#) Civil Society website

View online: [Civil Society National Centre of Excellence Consultation](#) Survey

Tax – Full Federal Court confirms the Hunger Project Australia is a Public Benevolent Institution

The Federal Court has unanimously held that Hunger Project Australia (HPA) does not need to directly give aid in order to be endorsed as a Public Benevolent Institution (PBI). The Court also rejected all four arguments presented by the Commissioner. Makinson d'Apice Lawyers note that:

"This finding provides important guidance regarding what is a PBI and is likely to provide comfort for many charities who were awaiting the outcome of this appeal."

View online: [Full Federal Court unanimously confirms that Hunger Project Australia is a Public Benevolent Institution](#) Makinson d'Apice Lawyers

View online: [Court Decision Points the Way to DGR Category Simplification](#) Pro Bono News

The Unrelated Business Income Tax is gone

The Better Targeting of NFP Tax Concessions, or unrelated business income tax (UBIT), was introduced as part of the 2011-2012 Budget but there has been a delay for a number of years. The Acting Assistant Treasurer issued a press release stating *"the Government has considered alternatives to the previous government's better targeting of not-for-profit tax concessions measure. We have concluded that they are not required at this time"*.

View online: [More progress in restoring integrity in the tax system](#) Press release – Mathias Cormann

View online: [The Unrelated Business Income Tax is \(finally!\) dead](#) Makinson d'Apice Lawyers

28 May 2014

ACNC Senate Inquiry hearing

Respected Not for Profit legal expert Professor Ann O'Connell has noted that despite 80% of the written submission opposing the abolition of the ACNC, of the 12 organisations and individuals invited to give evidence before the Inquiry, seven supported the repeal of the ACNC Act.

She said:

“Several aspects of the inquiry suggest that the outcome of the inquiry is a foregone conclusion – that is, that the Committee report will follow party lines and recommend passage of the legislation. For example, there are concerns about the treatment of some submissions; the choice of persons invited to give evidence to the Committee not representing the balance of the submissions and the notion that the Department of Social Services has been engaged in consultation about the proposal.”

View online: [Ducks, Elephants, the ACNC and the Senate](#) (Professor Ann O’Connell – Pro Bono News)

View online: [Transcript of the Senate hearing](#)

View online: [Senate Inquiry Debates ACNC Future](#) (Pro Bono News)

16 May 2014

Sector strongly opposes abolishing ACNC

The Senate Inquiry into the Bill to repeal the ACNC has closed. Two bills are under consideration, one to repeal the ACNC Act, the second to establish new regulatory arrangements. The Inquiry received 145 submissions from organisations including peak bodies representing a broad range of membership, and individuals.

Based on analysis by Emma Tomkinson, Social Impact Analyst, 118(81%) opposed the Bill and 14 (10%) supported it. The remainder (13) commented on the Bill without taking a stand.

Tomkinson has provided a detail analysis of the submissions on her blog based on themes arising from the submissions. These include the value of the ACNC, its effectiveness in working towards its key objectives and its potential to build on these achievements.

View online: [The Charity sector want to keep its regulator: Analysis of submission to the ACNC\(Repeal \(No.1\) Bill 2014](#) (Emma Tomkinson – Blog)

View online: [Charities voice overwhelming opposition to ACNC Repeal Bill](#) (Emma Tomkinson – Pro Bono News)

View online: [Not-for-profit Regulation – A Longer Term View](#) (Better Boards)

1 April 2014

ACNC may be fatally wounded but survives another day

The proposed bill to abolish the ACNC, although introduced into Parliament on 26 March was not debated nor was it listed with the other red tape reforms during the highly publicised "Autumn Repeal Day" event. It has subsequently been announced that the bill has been referred to the Senate Economics Legislation Committee who will report back to the House on 16 June 2014.

It was speculated that the Minister would introduce a bill to repeal the *Charities Act 2013* (Cth) however this is yet to occur.

Minister Kevin Andrews has begun a consultation process where interested parties including the ACNC are making submissions to his department proposing future models for the ACNC.

View online: [ACNC – Breaking news: There is no news](#) (Hunt & Hunt)

View online: [ACNC Act may be fatally wounded but Charities Act survives red tape reduction](#) (Hunt & Hunt)

View online: [Not-for-profit March 2014 Newsletter](#) - What's happening with ACNC?

20 March 2014

NFP's open letter asking that ACNC be retained – Andrew's response

Signatories from 54 quite disparate organisations have vigorously argued in an open letter to the Commonwealth Government that they

“.....want to make it very clear to the Commonwealth Government and wider community that like most charities across Australia, we value the Australian Charities and Not-for-Profits Commission, and we want to see it continue its impressive work.”

and strongly reject the proposal to dismantle the national charity regulator.

Despite this call, the Federal Minister for Social Services, Kevin Andrews, remains intent on ensuring that the ACNC legislation will be repealed and the regulator abolished.

Andrews believes that the independent regulator had not proved to be the best use of government funding and maintains he has been in ongoing consultations with major stakeholders and heard overwhelming evidence that the ACNC needs to go.

To this effect he announced on 19 March that the repeal of the ACNC is the first stage of a two-stage process. The first Bill proposes to repeal the Australian Charities and Not-for-profits Commission Act 2012, while the substance of replacement arrangements will be dealt with in a later Bill.

The repeal day is scheduled to occur in the House of Representatives on Wednesday 26 March but because the Coalition does not hold the balance of power in the Senate it is unclear how, when or with what amendments the passage of the Bill will take.

For the time being, charities will still be required to lodge their Annual Information Statements and comply with all relevant provisions of the ACNC legislation.

View online: [Open Letter to Government: Retain Charity Regulator](#) (Community Council of Australia)

View online: [Two-stage Plan to Abolish ACNC](#) (Pro Bono News)

View online: [ACNC must go to free up red tape](#) (Media Release)

18 March 2014

Repealing of charity legislation unsuccessful

Attempts to repeal both the Charities Act 2013 and the Australian Charities and Not for Profits Commission Act 2012 was defeated in the Senate. However it is accepted that the Abbott Government has not walked away from its commitment to repeal the two Acts.

Academics from both Curtin University and the University of Melbourne have separately noted that the repeal may well result in unintended consequences.

David Gilchrist, Industry Professor within the School of Accounting at Curtin University notes that:

“the removal of the Charities Act from the statute books will not return the legal position of the Charities Sector to the position it was in before the Act was passed last year.”

University of Melbourne Professor of Law, Ann O'Connell and University of Melbourne Law Lecturer, Associate Professor, Matthew Harding observed that:

“The lack of a national regulator with a focus on reducing red tape will inhibit the reduction of red tape at the State and Territory level, mean a loss of graduated powers and a return to ATO compliance

and a return to under-regulation by State and Territory Attorneys-General and other bodies.”

View online: [Charities definition safe, for now](#) (Media release)

View online: [Academics Warn of Unintended Consequences of NFP Reform](#) (Pro Bono News)

View online: [Babies and Bathwater – Repealing is Not the Same as Fixing](#) (Pro Bono News)

28 February 2014

ACNC future, Support for ACNC, tax concession debate, red tape solutions

ACNC's future

Based on evidence presented at the Senate's Estimates Committee, the Australian Tax Office (ATO) has started planning to take over the regulatory role of the ACNC. Andrew Leigh MP, shadow Assistant Treasurer noted in his press release that neither Minister Kevin Andrews' promised discussion paper on the future of the Australian Charities and Not for Profits Commission, nor the formal consultation process are in evidence.

The Senate Estimates also heard that the ATO would need additional resources if it was to take on the charity regulator role, suggesting that there are no real cost savings in closing down the ACNC.

View online: [ATO Planning ACNC Takeover](#) (PBN)

View Online: Zero consultation as government prepares to scrap charities commission (Press Release)

Response to CIS' advice to remove the ACNC

Articles continue to be written in support of the ACNC. Krystian Seibert's, (Policy & Research Manager – Philanthropy Australia, formally a policy advisor in the previous Federal Labor Government) article for Pro Bono News (PBN) systematically analyses and responds to the CIS report.

Seibert notes that a major benefit of the ACNC is the possibility that there could be aggregated NFP sector wide data which would be a crucial resource. He concludes:

“Whatever happens to the ACNC, we certainly need a more effective means of data collection on the NFP sector. This will be critical to supporting the growth of philanthropy and the broader NFP sector going forward.”

View online: [Testing the Case Against Independent Charities Regulation](#) (Krystian Seibert – PBN)

Related articles

View online: [Government Should Keep the Australian Charities Commission](#) (Labor Shadow Assistant Treasurer, Andrew Leigh – PBN)

View online: [Too much regulation not too little?](#) (Prof Myles McGregor-Lowndes – ACNC)

View online: [Charities Still Waiting to be Heard?](#) (David Crosbie – PBN)

Tax Reform

The final report of the Not for Profit Sector Tax Concession Working Group (NFP Sector Tax Concession WP) has been released under Freedom of Information provisions. It includes a call for the extension of Deductible Gift Recipient Status (DGR) to all charities registered with the charity regulator.

View online: [Fairer, simpler and more effective tax concessions for the not-for-profit sector](#) (NFP Sector Tax Concession WP)

Red tape reduction and principles of good charity regulation

ACNC has released two documents. The first was produced by the ACNC Advisory Board outlining eight principles for effective regulation. They include independence of decision making, clarity, transparency and accountability amongst others.

The other document is a report based on the proceedings of the *Measuring and Reducing Red Tape in the Not-for-profit Sector* held on 4 December 2013 at the Australian National University. The report summarises the forum and includes the red tape reduction recommendations arising from it. It was prepared within the context of the Federal Government's system-wide deregulation agenda being implemented across Commonwealth departments and agencies and the proposed National Centre for Excellence for Civil society.

The 18 recommendations fall into five categories, National Approach, Risk, Outcomes, Funding Agreements and Reporting and Sector Capacity.

View online: [Principles of good charity regulation](#) (ACNC)

View online: [Measuring and Reducing Red Tape in the Not-for-profit Sector](#) (ACNC)

View online: [Deregulation Agenda](#) (Dept Prime Minister & Cabinet)

13 February 2014

Loss of ACNC is a loss to the future

Karen Mahlab argues that abolishing the ACNC is shortsighted. She points out that the information it could pull together over for example a five year period would be invaluable for government, policy makers, sector organisations, researchers, etc. She believes the ACNC is about much more than cutting red tape, harmonising fundraising legislation and prosecuting fraudulent charities.

View online: [ACNC – The loss for our future](#)

6 February 2014

CIS advises “slash” ACNC

Centre for Independent Studies has advised the Federal Government to act on its pre-election promise to abolish the ACNC it “is not achieving its main objectives, which were to improve public trust in the not-for-profit sector, reduce red tape, and police fraud and wrongdoing”.

View online: [Slash red tape for charities by slashing regulator](#)

30 January 2014

Proposed option to replace ACNC

Speaking at the Australian Institute of Company Directors' NFP Directors Lunch in Melbourne Social Services Minister, Kevin Andrews, has indicated that the ACNC would be replaced by a National Centre for Excellence with the ultimate aim being to transfer ownership to the social sector. He referred to [Charity Navigator](#), an independent United States NFP that posts charity evaluations and compiles charity lists as a possible model for an alternative to the ACNC.

View online: [‘Charity Navigator’ Model Tipped to Replace ACNC](#)

23 December 2013

Charity Act and the future of Not for Profit Reform

Charity Act - potential delay

Minister for Social Services, Kevin Andrews introduced a late amendment to the *Social Services and Other Legislation Amendment Bill 2013* to delay the introduction of the *Charities Act 2013* from 1

January 2014 to September 2014

The Government introduced the *Social Services and Other Legislation Amendment Bill 2013* to the House of Representatives in November. The Bill already covered a range of amendments including to the ACNC Act, gambling reform, the NDIS, Family Tax Benefit, Parenting Payment, Age Pension, Youth Allowance, and income management on Cape York and Child Care.

In early December it was introduced to the Senate where it was referred to a Senate Committee of Inquiry. The Committee reported on 12 December and the Bill was returned to the Senate for debate. However, it was not finalised before the Senate rose for the holidays.

Because the Bill was not passed, the Charities Act will commence from 1 January 2014 as originally legislated. It is unclear whether the Government will still attempt to amend or repeal the Charities Act now that it has commenced operation.

Future of the ACNC

The Minister for Social Services, Kevin Andrews, confirmed his plans to abolish the ACNC at the Disability Services CEO conference. He stated that “to benefit civil society as a whole, the Government has committed to abolishing the Australian Charities and Not-for-profits Commission, with repeal legislation to be introduced into Parliament next year”.

It is understood that the some of the ACNC’s functions will be replaced with a “Centre for Excellence”. However it is unclear which agency or department will perform the other functions of the ACNC (including determining charitable status). Changes to the ACNC in 2014 will not necessarily be tied to amendments to the Charities Act.

It should be noted that while the Government has said it will abolish the ACNC, this is yet to occur. Therefore organisations registered with the ACNC will still need to comply with the current laws, this includes submitting the Annual Information Statement due in March 2014.

NFP Tax reform

As part of the Government’s drive to address “the backlog of legislative matters and restore integrity to the Australian taxation system” three charity related measures were identified as requiring “further consultation”. The results of the consultation were:

1. Better targeting of not-for-profit tax concessions
Also known as the Unrelated Business Income Tax (UBIT), the Government will not be proceeding with the measure to ‘better target’ not-for-profit tax concessions at this stage.
2. Reforming the “in Australia” requirements
This legislation will proceed when Parliament resumes in 2014
3. Defining ‘not-for-profit’ in the tax laws.
The purpose of this measure was to standardise the term ‘not-for-profit’ across Commonwealth legislation. The definition will be removed from the “in Australia” legislation.

View online: Pro Bono Australia News [*NFPs Address Senate Committee on Charity Legislation*](#)

View online: Makinson d’Apice Lawyers [*Charities Act Delayed and ACNC to be Abolished*](#)

View online: Makinson d’Apice Lawyers [*Charities Act to Commence on 1 January 2014*](#)

View online: Makinson d’Apice Lawyers [*Government Announces more Legislative Changes for Charities*](#)

3 December 2013

ACNC post the Federal election

Following the Federal election, Susan Pascoe, the ACNC's Commissioner has now met with both the Assistant Treasurer, Senator Arthur Sinodinos AO, and the Minister for Social Services, Hon Kevin Andrews MP.

Her Column for 26 November 2013 briefly outlines the ACNC's relationship with the two Ministers and notes there will a formal consultation process with the NFP sector on how the Government's election commitments will be implemented before finalising their plans for the sector.

However the Minister for Social Services, Kevin Andrews, confirmed his plans to abolish the ACNC at the Disability Services CEO conference. He stated that "to benefit civil society as a whole, the Government has committed to abolishing the Australian Charities and Not-for-profits Commission, with repeal legislation to be introduced into Parliament next year".

View online: [ACNC Commissioner's Column, 26 November 2013](#)

18 September 2013

Office for the Not-for-Profit Sector disbanded

On 18 September 2013 the Prime Minister, the Hon Tony Abbott MP, was sworn in by the Governor-General. On this day, the Governor General signed the [Administrative Arrangements Order](#) and the Social Inclusion Unit and the Office for the Not-for-Profit Sector was disbanded.

[Return to top](#)

Summary of Not-for-Profit Reform Agenda

May 2012 to September 2013

Introduction

The following summary covers the period leading up to the transfer of government from Labour to the Coalition in September 2013. It builds on the developments outlined in the original [NCOSS Briefing Paper: Overview of the Federal Government's Not-for-Profit Reform Agenda](#) summarising the updates attached to the original paper.

Summary

During this period a number of bills were passed with the overriding aim of reducing red tape at the Federal Government level. This included:

- [Australian Charities and Not-for-profits Commission Act 2012 \(Cth\)](#) (the ACNC Act) and the related [Australian Charities and Not-for-profits Commission \(Consequential and Transitional\) Act 2012 \(Cth\)](#) (the ACNC Consequential and Transitional Act). Enabling the establishment of the Australian Charities and Not-for-profits Commission (ACNC) which was launched on the 3 December 2012.
- [Australian Charities and Not-for-profits Commission Regulation 2013 \(Cth\)](#) (the ACNC Regulations) setting out the required standards of governance, financial reporting and the details to be collected for the national register of charities, the latter information being collected via the Annual Information Statements.

- [Charities Act 2013 \(Cth\)](#) (the Charities Act) which applied from 1 January 2014, replacing the common law definition of charity with the intention of providing greater clarity and certainty about the term's meaning.
- [Not-for-profit Sector Freedom to Advocate Act 2013](#) or “no gag “ act which invalidated clauses in Commonwealth contracts that limit or prevent the NFP sector from advocating on Commonwealth law, policy or actions.

The establishment of the ACNC immediately impacted on the regulatory requirements of organisations registered as Companies Limited by Guarantee under the *Corporations Act 2001 (CTH)*. The changes set out in the ACNC Transition Act ‘switched off’ certain directors’ and officers’ duties once they were obliged to comply with the ACNC governance standards outlined in the ACNC Regulations. The ACNC also signed a Memorandum of Understanding (MOU) the Office of the Register of Aboriginal Corporations (ORIC) confirming that the ACNC would accept reports lodged with ORIC under the *Corporations (Aboriginal and Torres Strait Islanders) Act 2006 (CATSI Act)* as satisfying ACNC annual reporting requirements until at least 2014–15..

Both the South Australia and the ACT Governments agreed to align their regulatory frameworks for incorporated associations and fundraising with the ACNC. These changes meant that charities incorporated as associations in South Australia and the ACT would only report to the ACNC in line with charities incorporated as Companies Limited by Guarantee under the *Corporations Act 2001 (CTH)*.

Again, in response to the ACNC legislation the *Commonwealth Grant Guidelines* for the NFP sector were revised. Based on the ACNC’s ‘report-once, use-often’ philosophy, the guidelines aimed to reduce red tape and improve collaboration between Government and the NFP sector. In addition government agencies were encouraged to use longer-term contracts and develop a low-risk grant template.

The ACNC acquired the National Standard Chart of Accounts (NSCOA). Developed by the Australian Centre for Philanthropy and Nonprofit Studies at Queensland University of Technology (QUT) after broad consultation with the NFP and government sectors, the guidelines provide a common approach to capturing accounting information for use by NFPs, government agencies and other interested parties. The Commonwealth and State and Territory Governments have agreed to accept NSCOA being fit for purpose, achieve consistency and consolidate multiple definitions into a simpler classification system.

Two tax measures were announced during the period:

- Measures to better target NFP tax concessions in relation to commercial activities. The measures applied to new unrelated commercial activities applied from 1 July 2012, however measures as they apply to existing activities are yet to be enacted.
- The *Tax Laws Amendment (Special Conditions for No-for-profit Concessions) Bill 2012* was also introduced to Parliament on 23 August. This Bill re-states the ‘in Australia’ special conditions for income tax exempt entities and codifies the ‘in Australia’ special conditions for deductible gift recipients.

In January 2013, the Council of Australian Governments (COAG) released the *Regulatory Impact Assessment of Potential Duplication of Governance and Reporting Standards for Charities*. It requested submissions to assist in identifying regulatory duplication between the draft Commonwealth governance and reporting standards and existing State and Territory requirements for charities registered with the ACNC. The final report is still to be released. In April 2013, COAG established, the Not-For-Profit Working Party tasked with reviewing, developing and recommending NFP regulatory reform options to COAG including:

- considering the adoption or application of a Commonwealth statutory definition of charity

- a nationally consistent approach to fundraising regulation
- reviewing legal, governance and reporting regulation for the NFP sector
- considering approaches to harmonise the test for determining non-charitable activities of charities.

As of January 2014, the Working Party is yet to report back.

The Nation Compact, part of the Office of the Office for the Not-for-Profit Sector attached to the Office of Prime Minister and Cabinet, released for consultation a draft Code of Best Practice for Engagement with the NFP sector entitled *Engaging today for a better tomorrow*. A final document has not been released.

In the lead up to the election the Coalition was clear in its intention to dismantle much of the reform including:

- returning the regulatory functions of the Australian Charities and Not-for-profits Commission (ACNC) to the ATO, ASIC and other similar bodies
- the ACNC to be replaced by or become a small, educative, research and advocacy body, fostering innovation
- the Public Benefit Test to be maintained.

[Return to top](#)

NCOSS Briefing Paper: Overview of the Federal Government's Not-for-Profit Reform Agenda

Prepared for Sector Development Forum, February 2012 and updated for FONGA, April 2012. Following April 2012 until the Federal election in September 2013, the briefing paper was regularly updated outlining developments as they occurred. Click for [UPDATES](#)

Introduction

Since 1995 there have been seven major reviews of the Not-For-Profit Sector, including the Productivity Commission Research Report on the *Contribution of the Not-for-Profit Sector* released in 2010. The Federal Government made an election promise to support a reform agenda which lead to the establishment of the Office for the Non-Profit Sector in the Department of Prime Minister and Cabinet.

Background

There are currently three bodies working towards reform of the Not-for-Profit Sector at the Federal level. These include the:

- Office for the Not-for-Profit Sector (Office)
- Not-for-Profit Reform division within Treasury.
- Australian Charities and Not-for-Profits Commission (ACNC) Implementation Taskforce.

Work of the Office of the Not-for-Profit Sector

The Office is part of the government's broader Social Inclusion agenda. In December 2010 it

established the Not-for-Profit Sector Reform Council. Chaired by Linda Lavarch, it supports the Office to drive and coordinate the Federal Government's not-for-profit sector reforms.

Reforms primarily include:

- *Establishing a national 'one-stop-shop' regulator for the not-for-profit sector (the Australian Charities and Not-for-profits Commission) to remove the complex regulatory arrangements currently in place and streamline reporting arrangements;*
- *Greater harmonisation and simplification between Commonwealth, State and Territory Governments on not-for-profit issues, including regulation; and*
- *Reducing red tape for government funded not-for-profit organisations, including streamlining, contracting and funding arrangements.*¹

Much of the Office's work relates directly to the activities of the Not-for-Profit Reform division within Treasury and the ACNC Implementation Taskforce.

Work of the Not-for-Profit Reform division within Treasury

Consultation papers

Since January 2011, Treasury has released consultation papers in relation to NFP reform on:

- Charitable Fundraising Regulation Reform (closing date for submissions 5 April 2012)
- Review of Not-For-Profit Governance Arrangements (closed 27 Jan 2012)
- A Definition of Charity (Closed 28 Oct 2011)
- Better Targeting of Not-for-profit Tax Concessions (Closed 8 July 2011)
- Scoping Study for a National Not-for-profit Regulator (Closed 25 Feb 2011)

Exposure drafts

- Establishing the Australian Charities and Not-for-profits Commission (Closed 20 Jan 2012)
- Legislative framework for public ancillary funds (Closed 1 August 2011)
- Restating the 'in Australia' Special Conditions and Defining 'Not-for-profit' for Tax Purposes (Closed 12 August 2011)

The exposure draft on the reformed definition of charity is expected to be released mid 2012, with implementation 1 July 2013.

Work of the Australian Charities and Not-for-Profits Commission (ACNC) Implementation Taskforce

[The Final Report on the Scoping Study for a National Not-for-profit Regulator](#) led to the establishment of the ACNC Implementation Taskforce in July 2011. Lead by Susan Pascoe, the Interim Commissioner and Head of the Taskforce, its role is to set up the Australian Charities and Not-for-Profits Commission. It is envisaged the ACNC will be:

- advised by an Advisory Board chaired by Robert Fitzgerald AM
- report to Parliament through the Treasurer
- staffed by around 90 officers, with potential for growth if additional functions are added
- supported by the ATO in the provision of back-office services.

¹ <http://www.notforprofit.gov.au/office-not-profit-sector>

The Taskforce is working with the Treasury, the Australian Taxation Office (ATO) and the Department of the Prime Minister and Cabinet (specifically the Office for the Not-for-Profit Sector and the NFP Reform Council) toward the formation of the ACNC by 1 July 2012. A recent announcement has led to the postponement of the implementation date by three months to 1 October 2012.

The Taskforce has released a *Discussion Paper – Implementation Design* (submissions close on 27 February 2012) and is currently holding community consultations across the country outlining its future role as the national regulator. It is defining this role as being to:

- Register Charities (ATO apply tax concessions)
- Establish and maintain publicly searchable register of charities
- Establish a one-stop-shop which enables charities to:
 - apply for charity registration
 - apply for an ABN
 - access Commonwealth tax concessions
 - access state and territory tax concessions,
 - with the potential to access other services
- Work with Commonwealth & States and Territories to implement a ‘report-once, use-often’ *passport*
- Promote public trust and confidence in the sector.

The Taskforce has maintained the Commission’s approach will be principle-based where the emphasis is on the outcome rather than the mechanism to achieve it. Principles-based governance requirements will take into account proportionality, allowing smaller NFPs, who often lack the resources to develop detailed and prescriptive governance policies, to be able to uphold good governance procedures and meet ACNC requirements.

A summary of the public submission on the proposed operation of the ACNC have been released. They maintain that generally there has been support for the establishment of the ACNC and its regulatory functions however there is concern that without harmonisation between the Commonwealth and State and Territory Governments, the ACNC’s activities could increase compliance requirements. The summary is available at:

<http://acnctaskforce.treasury.gov.au/content/Content.aspx?doc=communityengagement/submissions/proposedops/subsummary.htm>

Response from the Community Sector

The COSS network has made submissions (accessible from the NCOSS website) on the following consultation papers:

- [*Definition of Charity and Review of Not-For-Profit Governance Arrangements*](#)
- [*Establishing the Australian Charities and Not-for-profits Commission draft exposure bill.*](#)

In relation to the definition of charity, the COSS submission noted, amongst other issues that:

The COSS network would like to see the adoption of the 2001 Inquiry recommendations as part of this process. Our support for the statutory definition of charity rests strongly on the principles established by that Inquiry and we reaffirm its centrality to the current reform.²

The COSS network’s primary concerns in relation to the *Review of Not-For-Profit Governance Arrangements* consultation paper and the draft exposure bill *Establishing the Australian Charities and Not-for-profits Commission* were summed up as:

² <http://www.ncoss.org.au/projects/eneews/downloads/111216-COSS-charity-def-submission.pdf>

The tenor and detail of aspects of the exposure draft and governance arrangements paper leave us with grave concerns about the following issues:

- i. The over-reaching scope of the enabling legislation for the Commission;*
- ii. The lack of clarity about the independence of the Commission; and*
- iii. The prescriptive tenor of the governance arrangements proposed.*

Our concerns about the exposure draft are heightened by the absence of elements of the legislation that will eventually be included in the exposure draft, for example on governance. Most significantly, we are concerned that the sector's hitherto support for the establishment of a national regulator is being undermined by the rapid process of drafting with key points of departure from the blueprint for a national NFP regulator set down by the Productivity Commission (2010); and by the inadequate amount of time provided for consultation on these changes, notably at a time when many organisations are closed or unable to consult with their members and boards on these important reforms.³

Next Steps

The Reform Council in its final meeting for 2011 identified the focus for 2012 as overcoming barriers currently facing the NFP Sector, including :

- *Funded organisations are not provided with the ability to plan for the future, as evidenced by the use of short rather than longer term funding arrangements;*
- *Boards are often required to enter into agreements that are inconsistent with their directors' fiduciary duty under the Corporations Act, for example, organisations continuing to provide services on an unfunded basis for a period while new arrangements are negotiated;*
- *Risk is often passed to the funding recipient without appropriate compensation or negotiation;*
- *Reporting requirements which are not consistent with the amount funded or the level of risk; that is, frequently too onerous given the level of funding provided.⁴*

It can be assumed that the focus of the Treasury is the completion of the necessary steps needed to have the *Establishing the Australian Charities and Not-for-profits Commission Bill* enacted before 1 July 2012 when the ACNC becomes operational.

Major issues/concerns from the Sector's perspective

Both COSS and PilchConnect (Victoria) noted their concerns regarding the speed with which the ACNC is being established in their submissions on the *Review of Not-For-Profit Governance Arrangements* consultation paper and the draft exposure bill *Establishing the Australian Charities and Not-for-profits Commission*. The announcement of the three month postponement of the establishment of the ACNC was welcomed across the sector.

Both referred to the inadequate time given for consultation and noted a range of issues including lack of clarity around what "high level principles-based requirements" are and how they will be enforced (ie by legislation or voluntary codes of best practice). PilchConnect recommended "*The aim should be for any agreed reforms, such as uniform core legislative duties, to be ready for commencement as part of a more cohesive package of changes on 1 July 2013.*"⁵

³ http://acoss.org.au/images/uploads/Final_COSS_sub_ACNC_exposure_draft_and_governance.pdf

⁴ <http://www.notforprofit.gov.au/node/199>

⁵ <http://www.probonoaustralia.com.au/news/2012/01/pilchconnect-warns-nfp-governance-reforms>

The involvement of the ATO through the provision of back office functions to the ACNC has also caused concern and raised questions as to whether this could impact on the independence of the ACNC.

The ATO has been perceived as having a negative culture in relation to NFPs and charities and have not always been able to recognise the range and diversity of activities that constitute legitimate charitable purpose.

Further information

The Not-For-Profit Sector Reform Council meets four times a year and publishes a Communiqué regarding each meeting at:

<http://www.notforprofit.gov.au/about-office/not-profit-sector-reform/not-profit-sector-reform-council/communiques>

National Compact produces a regular electronic newsletter, 'Joined Up', which provides information and links relevant to the Not-for-Profit Sector and can be subscribed to at:

<http://www.nationalcompact.gov.au/subscribe>

Not-for-Profit Reform – Treasury website provides updates on the progress of the NFP reforms as well as links to its NFP newsletter, fact sheets, public consultations, media releases and relevant reviews and inquiries held since 1995 at:

<http://www.treasury.gov.au/Policy-Topics/PeopleAndSociety/NFP-reform>

They also provide an email alert service which can be accessed by emailing your name, phone number and, if applicable, your entity to NFPReform@treasury.gov.au.

Australian Charities and Not-For-Profit Commission provides information on how to [subscribe to their update service](#) which includes the Commissioner's weekly column on ACNC activity as well as newsflashes.

[Return to top](#)

Original Updates

The original overview [NCOSS Briefing Paper: Overview of the Federal Government's Not-for-Profit Reform Agenda](#) covered the period up to April 2012. The following updates followed developments as they occurred until the Federal election in September 2013.

17 July 2013

New Legislation and progress towards red tape reduction

Charity Bill passed

The Bill was passed in the last days of the Parliament and has a start date of 1 January 2014. There are few changes from the exposure draft including an addendum to the explanatory memorandum (See below) which incorporates recommendations from the Sector concerning the distinction between purposes and activities of an entity.

ACOSS' media release in welcoming the new legislation noted that:

Until this reform, the definition of charity relied on over 400 years of caselaw. While the community's notions of what is charitable have changed significantly in that time, the taxation structures that show society's support for charitable work have struggled to keep pace with this change.

While this reform does not broaden the access to tax concessions that leave many charities still struggling, it is a critical first step.

View online: [Explanatory Memorandum – Charities Bill 2013 \(Consequential Amendments and Transitional Provisions\) Bill 2013](#)

View online: ACOSS media release - [ACOSS welcomes statutory definition as first step to a truly modern approach to charity](#)

View online: ACNC media release - [Historic Act clarifies meaning of 'charity'](#)

Governance Standards

The Governance Standards have been passed and came into effect on 1 July 2013 for all organisations registered with the ACNC - with the exception of Basic Religious Charities. The final governance standards reflect only minor changes to the draft standards released for community consultation in 2012.

The ACNC is confident that few organisations will be required to change their governance practices to meet the new standards however support and education will be available to assist where necessary.

The ACNC website has detailed information on its phased approach to monitoring compliance.

View online: Minter Ellison [Analysis of ACNC Governance standards](#)

View online: ACNC [Governance Standards – ACNC's approach to governance standards](#)

View online: [ACNC Governance Standards Guidance July 2013](#)

ACNC report on 2014 Annual Information Statement (AIS) Consultation

The report assesses both the consultation process and the actual submissions. 160 submissions were received either written (44) or via the online survey (116). They also collected data during face to face consultations and teleconferences.

As a result of the consultation:

- Two proposed questions have been removed to allow for further consideration of the issues – separate disclosure of related party transactions by medium and large registered charities and separate disclosure on business activities by all charities.
- The question requesting information on reserves held by medium and large charities has been removed
- The 2014 AIS has been simplified for small charities and additional guidance has been provided for organisations using cash accounting.
- Optional questions will be included.

A more detailed analysis is available on the ACNC website including a link to the written submissions.

The above changes *do not* apply to the 2013 AIS. For more information on the 2013 AIS see below.

These changes apply to the 2014 AIS (covering the period July 2013 to June 2014) which is not due

until 31 December 2014 or later if a substituted accounting period has been approved by the ACNC.

View Online: ACNC [Analysis of the 2014 Annual Information Statement Consultation](#)

View Online: ACNC [Sample 2013 Annual Information Statement](#)

View Online: ACNC [Guide to 2014 AIS requirements](#)

View Online: ACNC [NSCOA factsheets for small, medium and large charities](#) (Download the PDF for large charities)

MOUs signed

The ACNC has signed a Memorandum of Understanding (MOU) with both the Australian Securities and Investment Commission (ASIC) and Office of the Register of Aboriginal Corporations (ORIC).

The MOU with ASIC covers an agreement between the two agencies to create structures to streamline regulatory requirements for registered charities that are also registered under the *Corporations Act 2001* (Cth) as companies limited by guarantee. The terms of the agreement will allow for information sharing, staff secondments, mutual training arrangements, joint taskforces and service agreements. This will not affect either agency's legal requirements regarding what may or may not be disclosed to the other agency and both remain subject to existing privacy, confidentiality and secrecy provisions.

The second MOU with ORIC confirms that the ACNC will accept reports lodged with ORIC under the *Corporations (Aboriginal and Torres Strait Islanders) Act 2006* (CATSI Act) as satisfying ACNC annual reporting requirements until at least 2014–15.

View Online: ACNC [The Commissioner's Column 19 June 2013 – Working across Government - Memorandum of understanding with ASIC](#)

View Online: ACNC media release: [Registrar and the ACNC work together to support Aboriginal and Torres Strait Islander charities](#)

National Standard Chart of Accounts (NSCOA)

NSCOA was developed by the Australian Centre for Philanthropy and Nonprofit Studies at Queensland University of Technology (QUT). Under an agreement with QUT, it is now the property of the ACNC.

The guidelines were developed after broad consultation with the NFP and government sectors.

The ACNC Commissioner Susan Pascoe noted that:

NSCOA provides a common approach to capture accounting information for use by not-for-profits, government agencies and other interested parties. Although use of the NSCOA is optional for charities the Commonwealth and State and Territory Governments have agreed to accept NSCOA. Adopting it can relieve charities of administrative burden as it is fit for purpose, achieves consistency and consolidates multiple definitions into a simpler classification system.

View Online: [The Commissioner's Column 19 June 2013 – NSCOA has a new national home](#)

View Online: ACNC [NSCOA factsheets for small, medium and large charities](#) (Large charities - download PDF)

ACNC Register launch

The Register was launched on 11 July by the Assistant Treasurer Hon David Bradbury MP. The Register ensures a level of transparency and accountability for the Charity sector. The community can freely access up-to-date information from a dedicated and trusted source and in doing so promote public

trust and confidence in the sector.

It currently contains 11 search fields enabling access to 23 pieces of information and will be progressively updated as information is collected. The most recent update was in response to the ACNC's request for organisations to confirm their details. It will be further enhanced on the return of information from the 2013 Annual Information Statements.

View Online: Find a charity on the ACNC Register: quick search - [About the ACNC Register](#)

ACNC Progress Report

The report outlines the ACNC's achievements during its first six months of operation under the headings of:

- Reporting and red tape reduction
- Charity registration
- Advice services
- Guidance
- Communications and engagement
- Compliance and strategic intelligence

View online: ACNC [Six month progress report](#)

Coalition's position

At the recent Associations Forum Conference in Sydney, Kevin Andrews confirmed that that Coalition plans to dismantle the ACNC. He maintained that it is the Coalition's strong, principled belief that the political community – the State, the Government and its bureaucratic agencies – should be at the service of civil society. He stated:

The current Government's approach to civil society has been a paternalistic mix of treating the sector as a mere extension of government – an agent of social service delivery – and as an otherwise obedient servant and at times mouthpiece of government..... Regulation would return to the arrangements in place before the creation of the new big regulator – a new bureaucracy that is all about regulation and enforcement – that is all about looking over the shoulder of civil society, rather than empowering it.

In its place we will establish a new, small, centre for excellence.

View online: Pro Bono News [Coalition wants new NFP 'Philosophy'](#)

View online: Pro Bono News [Future of the ACNC under a Federal Coalition](#)

31 May 2013

Charity Bill before Parliament and ACNC's regulatory approach

Introduction of Charity Bill to Federal Parliament

The Federal Government introduced the Statutory Definition of Charity Bill on 29 May 2013 with only four sitting weeks before the next election. If it is passed it will take effect from 1 January 2014 as advised in the Federal Budget. It was originally to take effect from 1 July 2013. The new start date will provide time for the ACNC to develop guidance for charities regarding the definition.

There are eleven key changes in the Bill which are outlined in the Pro Bono Australia article *Charity definition bill reaches Parliament*.

View Online: [Charity definition bill reaches Parliament](#)

No gag clauses: Not-For-Profit Sector Freedom to Advocate Bill 2013 passed

The *Not-for-profit Freedom to Advocate Bill 2013* was passed by Parliament on 28 May 2013. The “no gag” Bill invalidates clauses in Commonwealth contracts that limit or prevent the NFP sector from advocating on Commonwealth law, policy or actions. Unfortunately in NSW gag clauses in State contracts with Community Legal Centres are still being considered.

View online: [Not-For-Profit Sector Freedom to Advocate Bill 2013](#)

The future of the NFP Reform Agenda

Centre for Independent Studies have released a paper, *In the pay of the piper: governments, not-for-profits, and the burden of regulation* which outlines an alternative view on the current NFP reform agenda. It argues that the proposed Bill introduces a broader statutory definition of charity that threatens to debase the concept of charity. It also argues that ‘progressive’ reforms, such as the ACNC, will impose a regulatory burden weightier than anything proposed by the Productivity Commission and amount to little more than a pretext to extend government control over the sector.

Download: [In the pay of the piper: governments, not-for-profits, and the burden of regulation](#)

Kevin Andrews and David Bradbury have both released commentary on the future of NFP Reform under a Coalition Government.

View online: [Kevin Andrews - Future of the ACNC Under a Federal Coalition](#)

View online: [David Bradbury - Coalition Plan for Charities: Slash Your Funding and Give Up on Smarter Regulation](#)

ACNC Publications – Guidance for Board Members

The Policy and Education unit within the ACNC has release a guide for people who are or are thinking of becoming, members of a board. It is a succinct yet comprehensive guide on what it means to be member of a board of a charity. It provides a brief explanation of governance, the role of the ACNC, and the roles, responsibilities and obligations of boards and their members. They have also produced a poster of the their top ten tips to achieve good governance

Download: [Governance for good - the ACNC's guide for charity board members](#)

Download: ACNC’s poster [Governance for good – top 10 tips](#)

ACNC Publications – Regulatory Approach Statement

With the completion of its community consultation, the ACNC has released its final version of its Regulatory Approach Statement outlining the key principles. It has based its approach on an understanding that the purpose of charities is to benefit the public, “*as they contribute to our society in vital ways, including addressing disadvantage, enabling people to live meaningful and rich lives, and in strengthening the fabric of our communities and environment.*”

Download: [ACNC regulatory approach statement](#)

Download: [ACNC Consultation results and contributions](#)

Reporting requirements for Companies Limited by Guarantee registered with the ACNC

Charities that are Companies Limited by Guarantee currently have reporting obligations to the Australian Securities & Investments Commission (ASIC). Some of these obligations will no longer apply after 1 July 2013 if the company is registered with the ACNC.

The Chartered Secretaries of Australia (CSA) has developed a table showing reporting requirements under the Corporations Act 2001 (Cth) that will be switched off from 1 July 2013.

View online: [What has been switched off under the Corporations Act for the officers of a company limited by guarantee that is a charity?](#)

6 May 2013

Release of legislation and future directions

Statutory Definition of Charity draft legislation finally released

The Commonwealth announced on 8 April that the Statutory Definition of Charity draft legislation and related material had been released for public consultation. This closed on 3 May 2013. This follows on from the 2011 consultation paper on the definition of charity which received over 200 submissions which were taken into account in the drafting of the legislation. It is proposed that the start date for the legislation will be 1 January 2014.

Download: [Exposure Draft – Charities Bill 2013](#)

Download: [Exposure Draft – Charities Bill \(Consequential Amendments and Transitional Provisions\) 2013](#)

Download: [Explanatory Material](#)

Download: [Treasury Factsheet – Statutory Definition of Charity](#)

Media Release: [Public consultation on a statutory definition of charity](#)

Download: [2011 Consultation Paper – A Definition of Charity](#)

ACNC Governance standards released

The proposed standards have been tabled in Parliament as regulations however it has been subject to a Motion to Disallow. This will be dealt with during sitting of Parliament however if the motion is not passed the standards will apply to charities from 1 July 2013. Further information and resources are available on the ACNC website.

ACNC website: [Governance and external conduct standards](#)

Governance for Good –guide for board members.

As part of its education program the ACNC has produced a guide for people who are or thinking of becoming a board member. Available as a PDF or online it is a brief but quite comprehensive source of information on boards with links to further information.

ACNC Website: [Governance for Good](#)

ACNC Strategic Plan for 2012-15.

The plan covers the ACNC's first three years of operation. Its priorities for the period are:

- *Maintaining and enhancing public trust and confidence in charities*

- *Supporting charities to be healthy and sustainable*
- *Making it easier for charities by driving regulatory and reporting simplification*
- *Developing an independent, transparent and well governed organisation which is enhanced by a positive internal culture*

The document outlines how this will be achieved and includes critical success factors.

Download: [ACNC Strategic Plan](#)

Recent Submissions to Federal Government

ACOSS submission to Treasury: [Governance Standards for the Not-for-profit Sector](#)

NCOSS Submission to ACNC: [2014 Annual Information Statement Public Consultation](#)

ACOSS Submission to Office for the Not-for-profit Sector:
[Code of Best Practice for Engagement with the Not-for-profit Sector](#)

NCOSS Submission to COAG:
[Regulatory impact assessment of potential duplication of governance and reporting standards for charities](#)

25 March 2013

Active strategies to reduce red tape

Draft NFP Code of Best Practice

The Federal Government has released for consultation a draft Code of Best Practice for Engagement with the NFP sector entitled *Engaging today for a better tomorrow*. Submissions may be received until 29 April 2013.

Through the National Compact, the Government has committed to improving its relationship with the NFP sector based on mutual trust, respect, collaboration and partnership to develop and deliver better policy and programs and strengthen sector viability.

Consulting with the NFP sector enables the Government to be better informed and therefore make better decisions. Ultimately, the National Compact and its Code(s) will bring about mutual benefits for the sector and Government through an improved relationship, better designed policies, more effectively implemented service delivery and stronger public communication and community ownership. In turn, this will also have a positive impact on communities and individuals.

Media Release: [Best practice code for engagement with not-for-profits released](#)

Download: [Engaging today for a better tomorrow](#)

2014 Annual Information Statement (AIS)

The ACNC has begun consultation on the *2014 Annual Information Statement (AIS)* and has released a preview of the 2013 AIS. Organisations are not required to submit their first AIS until six months after their 2012–13 reporting period, which for most organisations will be 31 December 2013.

To assist charities prepare for the 2013 AIS, the ACNC has created a sample and guide. Registered charities do not need to provide any financial information to the ACNC for the 2013 reporting period.

The *2014 Annual Information Statement Draft Consultation Paper* outlines the proposed requirements for the 2014 reporting period onwards and how to provide feedback.

It is proposed that the 2014 AIS will:

require charities to provide both financial and non-financial information (in addition to any financial reporting obligations depending on the size and type of the charity):

- *allow for small charities to provide less information than medium and large charities;*
- *not require basic religious charities to answer financial questions in the 2014 AIS and for future years; and*
- *require small charities to identify whether they use cash or accrual accounting and provide details of basic financial information.*

The consultation closes 26 April 2013. Written submissions in response to the seven consultation questions may be emailed to consultations@acnc.gov.au or feedback may be provided by completing the online survey.

Further information is available from the ACNC website.

ACNC Website: [Reporting](#)

Download: [Sample 2013 Annual Information Statement \(AIS\) \[PDF 302KB\]](#)

Download: [Step-by-step guide to the sample 2013 AIS \[PDF 126KB\]](#)

ACNC Survey: [Online survey](#)

Download: [2014 AIS Public Consultation Paper \[WORD 432KB\]](#)

Download: [Attachment \(i\) - Proposed 2014 AIS additional questions for small charities \[WORD 216KB\]](#)

Download: [Attachment \(ii\) - Proposed 2014 AIS additional questions for medium and large charities \[WORD 234KB\]](#)

Download: [Attachment \(iii\) - Proposed additional guidance notes in the 2014 AIS \[WORD 200KB\]](#)

Download: [Attachment \(iv\) - National Standard Chart of Accounts \(NSCOA\) \[WORD 267KB\]](#)

Revised Commonwealth Grant Guidelines

The Government has released the revised *Commonwealth Grant Guidelines* for the NFP sector. Based on the 'report-once, use-often' philosophy, it aims to reduce red tape and improve collaboration between Government and the NFP sector.

Minister for Finance and Deregulation, Senator Penny Wong noted that in future "agency staff should not seek information from grant applicants and grant recipients when that information is already collected elsewhere in Commonwealth government. In particular, agency staff must not request information provided to the Australian Charities and Nonprofits Commission by registered charities."

The Guidelines also propose further red-tape reduction strategies by encouraging government agencies to use longer-term contract and the development of a low-risk grant template.

An overview of the changes to the Guidelines has been released by the Australian Government Solicitor.

Download: [Commonwealth Grant Guidelines for the NFP sector](#)

Download: [Overview of changes to Grant Guidelines](#)

Australian Capital Territory joins South Australia to sign up to the ACNC

Mark Butler MP, Minister for Social Inclusion and Andrew Barr MLA, ACT Deputy Chief Minister

announced that the ACT has agreed to align its regulatory framework for incorporated associations and fundraising with the ACNC. The changes will mean that charities that are incorporated as associations in the ACT will only need to report to the ACNC and not the ACT Office of Regulatory Service. Amendments will also be made to the *Charitable Collections Act 2003* (ACT).

Press Release: [ACT signs up to new charities regulator](#)

Governance standards to be tabled in Parliament

The Federal Government announced that the new governance standards for organisations registered with the ACNC will be tabled in the next sitting week of Parliament.

A number of changes were made to the draft *Governance Standards* in response to the public consultation process. These are outlined in the Assistant Treasurer's [press release](#) .

The final standards specified in the Regulations are:

- Purposes and not-for-profit nature of a registered entity
- Accountability to members
- Compliance with Australian laws
- Suitability of responsible entities
- Duties of responsible entities.

Press release: [ACNC governance standards to support our charities and our community](#)

Download: [Governance Standards](#)

Download: [Explanatory material](#)

BDO Not-for-profit Tax Concession Survey 2013

The question has been raised whether the Federal Government's Not-for-profit Sector Tax Concession Working Group's discussion paper outlines meaningful reform for the NFP sector or is just another element of uncertainty?

BDO tested this idea for one month between 8 January 2013 and 8 February 2013 by providing NFP organisations the opportunity to communicate their views on the Working Group's discussion paper. Collectively, the respondents conveyed a clear message - there is a resounding lack of confidence in the Government's ability to effectively support the sector if the key tax concessions were to be removed.

It has been suggested that, rather than outlining meaningful reform for the NFP sector, the discussion paper adds just another element of uncertainty. BDO, an accounting and advisory network, tested this hypothesis for one month between 8 January 2013 and 8 February 2013 by providing NFP organisations the opportunity to communicate their views on the Working Group's discussion paper. Collectively, the respondents conveyed a clear message - there is a resounding lack of confidence in the Government's ability to effectively support the sector if the key tax concessions were to be removed.

BDO National Tax Director Lance Cunningham said

It is clear the sector is particularly concerned about the proposed changes to Fringe Benefits Tax concessions, with almost 92 per cent of respondents saying it should continue to be provided to employees, FBT concessions are a key means for Not for Profits to attract and retain talented staff and many said it should be increased by some degree.

Download: [BDO Not-for-profit Tax Concession Survey 2013](#)

11 March 2013

Submissions. ACNC presentations. ACNC Advisory Board.

Consultation submissions

There were four consultations, listed below, all now closed:

[Governance Standards for the Not-for-profit Sector](#)

[ACNC - financial reporting requirements](#)

[ACNC regulatory approach consultation - How can I participate?](#)

[Regulatory Impact Assessment of Potential Duplication of Governance and Reporting Standards for Charities](#)

The Governance Standards paper received 96 submissions which are available on the Treasury website. The ACNC Regulatory Approach Statement received 250 submissions, eleven of which were written. The ACNC notes that 80-90 percent agreed with the Statement. [Further information](#) and a summary of the survey results are available from the ACNC website.

Submissions for the other two consultations are yet to be made publically available.

Australian Treasury: [Governance Standards Submissions](#)

ACOSS Submission: [Submission to Consultation Paper on the development of governance standards](#)

ACNC Survey results: [Summary of Regulatory Approach Survey results as at 2 March](#)

ACNC Community Presentations

The ACNC has concluded its national community presentations. The presentations were designed to inform charities and NFPs about the changes under the new regulator and answer any questions. The sessions ran for three hours and included:

- an introduction to the ACNC, role, impact and benefits
- the ACNC regulatory approach consultation
- general question time
- governance standards and financial reporting consultation.

The ACNC has released three videos of ACNC Commissioner Susan Pascoe presenting a session in Shepparton, Victoria on 1 February 2013. The slides from this presentation and from a Regulatory Approach Consultation held at the same time are also available.

Videos: [ACNC Community Presentation](#)

ACNC Powerpoint: [ACNC community presentation](#)

Australian Treasury Powerpoint: [Governance and financial reporting standards for charities](#)

In addition, the ACNC is currently visiting all states and territories running seminars to provide practical guidance and support to explain how the ACNC will affects individual charities.

These sessions will provide more detailed information about the ACNC, including:

- why the ACNC was set up
- how the ACNC affects your charity

- the benefits of registering your charity
- the ongoing obligations of registered charities.

Seminars, in partnership with PILCH NSW and NCOSS, were held in late February in Sydney, Dubbo and Coffs Harbour. It is anticipated there will be further seminars in regional NSW later in the year.

For those organisations that have missed or are unable to attend these seminars, the ACNC has developed factsheets and timelines outlining the transitional arrangements, ongoing obligations, information on governance standards and the top tasks that will need to be managed to comply with the ACNC legislation.

ACNC website: [Manage my charity – Transitional arrangements for charities](#)

ACNC Advisory Board

Membership of the Advisory Board was announced by the Minister for Social Inclusion, Mark Butler MP. The Board will be led by Robert Fitzgerald and includes a range of individuals with significant experience within the non-government sector. The board will also include representatives from the Governments of New South Wales, South Australia, Tasmania and Northern Territory as ex-officio members

Media Release: [ACNC Advisory Board Appointments](#)

4 February 2013

Start date for “Better Targeting of NFP Tax Concessions” postponed. COAG and additional ACNC consultation.

Better targeting of NFP tax concessions

The start date for the introduction of new measures to reform tax concessions provided to NFP organisations to ensure they are only targeted at activities that directly further the purpose they were established for, have been deferred to 1 July 2014.

"This extension will enable further consultation and engagement with the NFP sector on this measure and ensure there is an opportunity for detailed stakeholder input to be provided." (Minister for Social Inclusion, Mark Butler MP)

Media Release: [Later Start Date for Better Targeting of Not-For-Profit Tax Concessions](#)

Regulatory Impact Assessment of Potential Duplication of Governance and Reporting Standards for Charities

The Regulatory Impact Assessment (RIA) was released on 25 January 2013. Its purpose is to identify regulatory duplication between the draft Commonwealth governance and reporting standards and existing State and Territory requirements for charities registered with the ACNC. The RIA enables stakeholders to provide feedback on the proposed options.

Closing date for submissions is 21 February 2013.

Regulatory Impact Assessment: [Regulatory Impact Assessment of Potential Duplication of Governance and Reporting Standards for Charities](#)

ACNC Regulatory Approach: Statement for Consultation

ACNC released the *ACNC Regulatory Approach: Statement for Consultation* in December. Stakeholder

forums in capital cities and regional centres will be conducted by the ACNC from late January to early February. The NSW consultations were held on 30 & 31 January 2013.

For those unable to attend the consultations, the ACNC has provided alternative methods including online forms and telephone access.

The formal consultation closes 1 March 2013.

Consultation Paper: [ACNC regulatory approach consultation - How can I participate?](#)

New ACNC publications

The ACNC has released since December 2012 an extensive range of materials including an overview of the Federal Government's NFP reform agenda and a guide to the ACNC Act which has been developed as a resource to assist organisations understand their requirements and how to interact with the ACNC and will be updated as required. There is also an extensive list of factsheets including information on the compliance obligations of Charities registered under the NSW Associations Incorporation Act 2009.

Publications: [Report: Not-for-profit reform and the Australian Government](#)

[Guide to the ACNC Act \(Version 1\)](#)

[Factsheets](#)

10 January 2013

Draft standards & regulations consultation. ACOSS response to tax consultation.

Release of draft standards and financial reporting regulations for public consultation

Treasury has released the *Development of governance standards Consultation Paper December 2012* and the *Exposure Draft – ACNC Financial Reporting Requirements* (including explanatory material) for public consultation. Submissions regarding both documents can be lodged electronically or by post on or before 15 February 2013.

The ACNC is also undertaking a community presentation program across the country which will include:

- an introduction to the ACNC, role, impact and benefits
- the ACNC regulatory approach consultation
- general question time

They will also use the sessions to consult on the governance standards. Sessions will be held in Sydney on 30 January 2013 and Lismore on 31 January 2013. More [information and to register](#) is available on the ACNC website.

It is also possible to [participate in the consultation process](#) online, by phone or by mail until the end of February 2013.

Media Release: [Public consultation on ACNC governance standards and financial reporting regulations](#)

Governance Consultation Paper: [Governance Standards for the Not-for-profit Sector](#)

Financial reporting requirements: [ACNC - financial reporting requirements](#) (includes links to the draft regulations and the explanatory material)

Discussion Paper on Tax Concessions: ACOSS Response

The Australian Council of Social Service (ACOSS) made a submission on behalf of the COSS network in response to the Not-for-profit Reform Council discussion paper *Fairer, simpler and more effective tax concessions for the not-for-profit sector*.

The working party is expected to report back to the Commonwealth Government in March 2013. For further information see entry for 6 November 2012

[ACOSS Response](#) to the Discussion paper

11 December 2012

ACNC launched. Consultation process for regulations announced.

ACNC opened 3 December 2012

Australia's first independent charities regulator, the Australian Charities and Not-for-profits Commission (ACNC) commenced operation on 3 December 2012. The formal launch was held on 10 December in Melbourne.

The [Australian Charities and Not-for-profits Commission](#) website can now be accessed. Information on the website includes:

- Which organisations are required to register?
- How to register
- Ongoing obligations
- The role of the ACNC in the national not-for-profit reform agenda

There is also a link to the ACNC Register enabling organisations to check if their details have been moved across automatically from the ATO or whether they will need to register.

The ACNC provides an advice line able to answer general enquiries and provide access to other relevant ACNC services and guidance information on topics ranging from registration matters to reporting.

Phone: 13 ACNC (13 22 62)

Email: advice@acnc.gov.au.

The ACNC can also be followed via social media:

YouTube: youtube.com/ACNCvideos

Twitter: twitter.com/@acnc_gov_au

Facebook: facebook.com/acnc.gov.au

For additional information subscribe to the [ACNC email updates and e-newsletter](#)

Consultation papers on governance standards and financial reporting to be released

The Office for the Not-for-Profit Reform has announced that consultation papers on governance standards regulations and financial reporting regulations will be released in early 2013 and will be open until mid-February 2013.

23 November 2012

ACNC to open early December

It has been announced that the ACNC will begin operation in early December; the actual date is still to be established. In the interim, [A guide for board members and others who manage charities](#) has been released providing key information about the ACNC for charities (eg charity tax concessions, the ACNC Register, ongoing obligations of registered charities, and a calendar of key dates).

The [Interim Commissioner's Column for 23 November](#) provides a brief overview of what to expect from day one of the Commission.

6 November 2012

Tax Concessions & Not-for-profits' Discussion Paper

Fairer, simpler and more effective tax concessions for the not-for-profit sector

The Not-for-Profit Sector Tax Concession Working Group (Not-for-profit Reform Council) has released their discussion paper *Fairer, simpler and more effective tax concessions for the not-for-profit sector*. The paper considers the tax concessions currently provided to the sector by the Federal Government and a range of options that could reform the current approach with the aim of making it "fairer, simpler and more effective".

Written submissions are requested by 10am on Monday 17 December 2012. Information on [how to make a submission](#) and [the discussion paper](#) are available on the Treasury website.

Submissions will inform the final report which should be available to the Government by March 2013.

5 November 2012

Online forums on government consultation and governance standards

Developing a Consultation Code under the National Compact

The NFP Reform Council and Office for the NFP Sector have held workshops in all capital cities seeking feedback from the NFP sector on the development of the Consultation Code. The main areas for discussion were the current barriers to good consultation, what things work well and recommendations for how Government and the NFP sector can do things differently. Feedback received will be available on the [National Compact website](#).

An online discussion forum will be open until 16 November 2012. To join the conversation, go to the [Consultation Code Forum](#).

Governance Forum

The NFP Reform Council has opened an online forum to ask NFPs about appropriate governance standards that work well in the NFP sector. To be involved in the conversation, go to the [Governance Forum](#).

1 November 2012

Passing of Bill and positive steps towards red tape reduction

Bill passed by both Houses

The Senate has passed the third reading of the Bill however it included 23 amendments in addition to the nine amendments passed by the House of Representatives. Consequently the Bill was returned to the House of Representatives where they agreed to the Senate amendments and passed the Bill. It will now be prepared for assent by the Governor-General. For further information go to the *Parliament of*

Australia's "Australian Charities and Not-for-profits Commission Bill 2012" webpage. This includes the schedule of amendments and the final text of the bill. See also the ACOSS media release of 1 November 2012, *ACOSS welcomes landmark step towards nationally consistent regulation for charities*

[Australian Charities and Not-for-profits Commission Bill 2012](#)

[ACOSS welcomes landmark step towards nationally consistent regulation for charities](#)

Reporting and Red Tape Reduction Directorate

One of the amendments to the ACNC Bill introduced by the House of Representatives was the addition of a third Object that being "to promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector."⁶ The ACNC has responded to this with the establishment of the Reporting and Red Tape Reduction Directorate. The Directorate brings together pre-existing staff already working towards the reduction of unnecessary regulatory obligations. In a recent speech the Assistant Treasurer noted that the ACNC will be required to publish and deliver on a 'red-tape reduction timeline and plan' and report to Parliament on its progress against this timeline via their annual report where the Reporting Directorate will have ownership of these responsibilities. For further information see the [Interim Commissioner's Column 26 October 2012](#)

Changes to Commonwealth Grant Guidelines

Hon. David Bradbury MP, Assistant Treasurer, Senator Penny Wong, Minister for Finance and Deregulation and Mark Butler MP, Minister for Social Inclusion announced that the Commonwealth Grant Guidelines will be amended to support the implementation of a 'report-once, use-often' reporting framework for the not-for-profit (NFP) sector. The changes will benefit organisations that are registered with the ACNC and receive Commonwealth agency grants. Commonwealth agencies will now be required to assess what information is already being collected by regulators such as the ACNC when determining what acquittal or reporting requirements are required for a grant. In addition Commonwealth grant recipients will no longer be required to provide an annual audited financial statement where it has already been provided to the ACNC or the grant activity is considered high risk.

Companies Limited by Guarantee

The Taskforce has been working with ASIC to ensure that charities registered as companies limited by guarantee will not see an increase in their reporting requirements with the establishment of the ACNC. For further information go to the [Interim Commissioner's Column 12 October 2012](#)

South Australian response to ACNC

South Australia has announced it will amend its state-based rules governing non-profits to defer to the incoming Australian Charities and Not-for-profit Commission (ACNC). It will amend its incorporated associations and charitable collections legislation to harmonise reporting requirements and authorise charities to collect charitable donations in South Australia, once they have formally registered with the new national regulator. It is hoped that NSW will follow this lead.

24 September 2012

Delay to commencement of ACNC

The delay to the planned commencement of the ACNC is official, as announced in the [ACNC Taskforce](#)

⁶ Australian Charities and Not-for-profit Commission Bill 2012 pt 1-2 div 15-5 (1)(c)

[media release of 21 September.](#)

The legislation is now before the Senate however it is expected that the Bills will not be considered again until the next Parliamentary sitting, week commencing 9 October 2012. It is understood that both the Government and the Greens are proposing certain amendments in the Senate which suggest that the passage of the Bills is more likely to occur at that time.

Also of interest is an August 2012 article by Linda Lavarch, Chair of the Not For Profit Sector Reform Council, on the potential of the ACNC From [Haphazard to Harmony.](#)

18 September 2012

Parliamentary Committee Reports handed down

Both Parliamentary Committees have completed their public consultation and reported on their findings. The reports can be found at:

[The Parliamentary Joint Committee on Corporations and Financial Services report](#)

[The Senate Standing Committee on Community Affairs report](#)

In both cases

- the majority recommendation is that the legislation should be passed
- the Coalition have put forward a dissenting reports which recommend that none of the legislation should not be passed
- in relation to the first report the Greens put forward “Additional Comments” with recommended changes to the Bills. In relation to the latter report they put forward a dissenting report which again included recommended changes.
- In the second report from the Senate Standing Committee on Community Affairs, Senator Xenophon provided “Additional Comments”.
- Both inquiries attracted a number of written submissions. The Parliamentary Joint Committee on Corporations elicited [46 public submissions](#) and the Senate Standing Committee on Community Affairs elicited [48 submissions](#).
- The Second Reading debate which began in August is currently continuing in the House of Representatives.

ACOSS support for the proposed Regulator

[ACOSS media releases](#) have made their support for the ACNC Bill very clear. Whilst noting that there are concerns that the legislation could go further to reduce red tape and improve financial reporting, they also noted that the concerns by the sector have been listened to and many relevant changes have been made. They made specific reference to the [Directors Social Impact Study 2012](#) commissioned by the Australian Institute of Company Directors released on 17 September, which observed in its findings that [Directors sceptical about impact of ACNC](#) (AICD media release). The ACOSS media release noted that the study was completed prior to these changes being made.

6 September 2012

ACOSS Submission to the reviews of the ACNC Bill and consequential amendments

[ACOSS submission](#) to the Senate Community Affairs Committee and the Corporations and Public Administration Joint Standing Committee reviews of the ACNC Bill and consequential amendments.

23 August 2012

ACNC Bill introduced to Parliament – referred to Parliamentary Committees

The Commonwealth Government today introduced the *Australian Charities and Not-for-profits Commission Bill 2012* to Parliament. This most recent version of the Bill takes into account the recommendations made in the House of Representatives Standing Committee on Economics Report. (See below)

In the Bill's [second reading speech](#), the Assistant Treasurer David Bradbury said:

“The work of the NFP sector has a profound impact upon the lives of so many individuals and the communities that we all comprise. The Government is committed to working collaboratively with this important sector to implement a series of important regulatory reforms to support and strengthen the sector for the future. The establishment of the ACNC is a key step in this process.”

In the [media release](#), Mark Butler, Minister for Social Inclusion was noted as saying:

This is about letting NGOs and charities get on with what they do best, rather than being weighed down by regulation and red-tape.

Further to this, the Bill, along with the related *Not-for-profits Commission (Consequential and Transitional) Bill 2012*, is currently being considered by the [Senate Standing Committee on Community Affairs](#) and the [Parliamentary Joint Committee on Corporations and Financial Services](#) which will report back on 12 September and 10 September 2012 respectively.

The [Bill](#) and [Explanatory Material](#) are available on the Parliament of Australia website.

“In Australia” Special Conditions Amendment before Parliament

The *Tax Laws Amendment (Special Conditions for No-for-profit Concessions) Bill 2012* was also introduced to Parliament on 23 August. This Bill re-states the ‘in Australia’ special conditions for income tax exempt entities and codifies the ‘in Australia’ special conditions for deductible gift recipients.

Release of the House of Representatives Standing Committee on Economics Report on the ACNC Bill

The [Report on the Exposure Draft of the ACNC Bill](#) was tabled in Parliament on 15 August. It made 11 recommendations many of which reflected the concern noted in the submissions by ACOSS, PilchConnect and the Not-for-Profit Project at the University of Melbourne Law School.

One of the most fundamental recommendations was that red tape reduction be included as an object of the ACNC Act. Other recommendations include the redrafting of the section dealing with obligations, liabilities and offences (eg director’s liability) and addressing issues around procedural fairness and natural justice. It also recommended that the “Government consider incorporating existing or sector-developed governance standards into the Bill through regulation, in addition to a default set of governance standards”.⁷

Coalition’s dissenting report

⁷ Recommendation 4 from the House of Representatives Standing Committee on Economics (2012) *Report on the Exposure Draft of the Australian Charities and Not-for-profits Commission Bills 2012* p xiii

The [Report on the Exposure Draft of the ACNC Bill](#) also included the Liberal Members of the Committee's *Dissenting Report*⁸ which recommended that the Bill not be supported on the grounds that it:

- Adds another layer of regulation while ever the States and Territories retain their regulatory powers; questions the capacity to achieve progress with key Commonwealth agencies
- Elements crucial to the practical operation of the legislation have been left for the minister to determine by regulation
- Penalties are excessively onerous, short-sighted and will deter volunteerism
- Erosion of the privacy of Private Ancillary Funds
- Failed to address concerns raised by sector agencies throughout the consultation process.

1 August 2012

ACOSS' submission to the House of Representatives Economics Committee Inquiry into the ACNC Exposure Draft Bill

ACOSS has released two submissions on behalf of the COSS network. The first outlines 12 key points of concern including the Independence of the ACNC, their role in reducing red tape, drafting of the legislation, charity definition, procedural fairness and proportionality of sanctions, etc

The second, the supplementary submission reiterates the main points whilst providing additional support material and draft wording for clauses in the proposed legislation, etc.

[Submission to House of Reps Inquiry into the ACNC Exposure Draft Bills](#)

[Supplementary Submission to House of Reps Inquiry into the ACNC Exposure Draft Bills](#)

Submission's referred to in the ACOSS submissions:

[PilchConnect](#)

[Not-for-Profit Project, University of Melbourne Law School](#)

Other [Submissions](#) can be accessed on the *House of Representatives Standing Committee on Economics Inquiry into the ACNC Exposure Draft Bill* website.

Coalition's position on the NFP Reform

Kevin Andrews addressed the Associations Forum Conference in July. He outlined the Coalition's platform in relation to the NFP sector or "civil society", including their assessment of the proposed national regulator (the ACNC) and their future directions ie the ACNC would be an educative, research and advocacy body, fostering innovation. He noted the ATO, ASIC and other similar bodies would retain their current regulatory role as well as the Common Law definition of "Charity". They would also maintain the Public Benefit Test.

Full text of [Kevin Andrew's speech](#)

Federal Government's response to Coalition's position

The Assistant Treasurer, David Bradbury's speech at the *Defining, taxing and regulating not-for-profits in the 21st century Conference in Melbourne* included a response to the Coalition's platform. He noted

⁸ Ibid pp77-90

that the sector does not support the ATO retaining its regulatory position and that there is a need to improve the current regulatory environment which is fragmented, inconsistent and uncoordinated.

Full text of [David Bradbury's speech](#)

10 July 2012

Inquiry into the Australian Charities and Not-for-profits Commission Exposure Draft Bills

On 5 July 2012 the exposure draft legislation establishing the new national regulator for the charity and non-profit sector was referred to the House of Representatives Standing Committee on Economics for parliamentary scrutiny over the winter parliamentary break. The Enquiry will also provide for additional public consultation. The Treasury's [Not-For-Profit Consultation](#) page provides access to the two draft bills, the explanatory material and a factsheet which provides a summary of the two bills.

The Committee is inviting interested persons and organisations to make submissions addressing the terms of reference by Friday, 20 July 2012. Information on [how to make a submission](#) is available on their website.

Further information on the inquiry (including timeframes, public consultation dates and processes for making submissions) will become available on the House of Representatives Standing Committee on Economics' [website](#).

ACNC Implementation Report

One of Susan Pascoe's first acts as ACNC Commissioner was to announce the release of the ACNC Taskforce Implementation Report. The report clarifies a number of issues that have been raised by the sector and sets out an implementation plan for the establishment of the ACNC.

It includes details on how the ACNC will:

- determine charitable and public benevolent institution status for all Commonwealth purposes
- provide education and support to the sector
- begin the implementation of a 'report-once, use-often' general reporting framework for charities, and
- establish a public information portal with a searchable database on charities.

The [Report](#) and related [Factsheets](#) are available on the [Taskforce website](#).

NFP Reform Resources

PilchConnect in Victoria have produced a number of resources to help NFP organisations understand the reform process. This includes what the key changes are and how they will be implemented. It also provides a concise, plain language summary of the Federal reform agenda.

The reform package for not-for-profits and charities covers:

- [the ACNC](#);
- [the statutory definition of charity](#);
- [changes to NFP tax concessions](#); and
- [The national charitable fundraising reform](#).

Coalition's response to NFP Reform

Kevin Andrews at an address to the Menzies Research Centre announced that the Coalition wishes to *“encourage a culture of philanthropy and giving in Australian life through re-establishing the Community Business partnership to assist Australian charities and community groups by removing unnecessary red tape and costs.”* They want to *“shift the focus of the new ACNC away from endless compliance and regulation to one that encourages innovation, education and best practice in the sector”* whilst supporting the ATO as the primary regulator of charities.

In general the Coalition’s support for the sector was welcomed; however considerable concern has been expressed regarding the ATO’s continuing in its current role of regulating charities. ACOSS and CCA have responded in a [media release](#).

Public Submissions in response to a Discussion Paper on ACNC’s Proposed Operations

The Taskforce has released a [Summary Paper](#) of the public submissions that were received in response to the Discussion Paper. Basically there is general support for the establishment of the ACNC however there are a number of concerns around the reporting framework, the information portal and the need to be able to access support and education. There is also concern on how effective the Commission will be if harmonisation cannot be achieved within Commonwealth agencies and between the Commonwealth and State and Territory Governments, particularly regarding the potential of the ACNC adding to the existing compliance burden.

Deloitte Presentation on ACNC Reform

Gale Pearce from Deloitte recently spoke at a Macquarie/Deloitte/Aon session for the community sector on the ACNC Reform. She believes that since there has been a delay in implementing the full framework until July 2013, the NFP sector has a duty to shape the outcome of the ACNC reforms by providing significant input and feedback. She identified several concerns:

- Commercial activities potentially taxed
- The question of whether true harmonisation can actually be achieved
- Risk of duplicated reporting
- Definition of charity
- “In Australia” provisions
- Impact on NFP entities that are not charities

ACNC Frequently Asked Questions

The Implementation Taskforce’s Policy and Education Team has continued to develop further [FAQs](#) and now covers the following items:

- About the ACNC
- Registration
- Reporting
- ACNC Register
- Guidance
- Compliance

They have also established the [ACNCTaskforceMailbox](#) to answer more specific questions.

NFP Sector Tax Concession Working Group

Linda Lavarch, the Chair of the NFP Sector Reform Council is chairing the NFP Sector Tax Concession Working Group. The working group includes representatives from the NFP sector and technical experts. It was established in response to discussions at the 2011 Tax Forum regarding whether current support provided through tax concessions to the sector can be better delivered. It is examining NFP tax concessions in terms of their fairness, simplicity and effectiveness, as well as previous inquiry recommendations and ideas presented at the Tax Forum.

Better targeting of not-for-profit tax concessions

The measures to better target NFP tax concessions for new unrelated commercial activities now apply. See [Updated 18 April](#) below for further information.

Announcement of ACNC Commissioner

Susan Pascoe, the Interim Commissioner of the ACNC Implementation Taskforce will be the Inaugural Commissioner of the Australian Charities and Not-for-Profits Commission (ACNC).

22 May 2012

Staged Introduction of Not-For-Profit Regulatory Reform

David Bradbury, the Federal Assistant Treasurer, has announced the staged (or delayed) introduction of the new regulatory framework. The starting date for the ACNC remains 1 October 2012. However, governance standards, (including the external conduct standards) and the financial reporting framework will now commence on 1 July 2013 with the first financial reports for medium and large registered entities due after 1 July 2014. The ACNC will initially only register charities.

The Government will refer the draft ACNC legislation to the House of Representatives Standing Committee on Economics, for an inquiry over the winter parliamentary break. This will allow for further targeted public consultation on the ACNC legislation throughout the rest of May and early June. Government will then have time to consider any recommendations the Committee makes before introducing the legislation later in the year, ahead of the ACNC's 1 October 2012 start date.

Further information is available from the [ACNC Commissioner's Column](#) dated 22 May 2012

ACNC Frequently Asked Questions

The Commission has developed a number of FAQs about the ACNC, including why it is being set up, what it will and won't do, who needs to register with the ACNC, etc. The [FAQS](#) are available for the ACNC website.

New COAG Working Party - Not for Profit Reform

At the most recent COAG meeting in April the Terms of Reference and the *2011-12 Work Plan for the Not-For-Profit Working Party* were endorsed. It is tasked with reviewing, developing and recommending NFP regulatory reform options to COAG including:

- considering the adoption or application of a Commonwealth statutory definition of charity
- a nationally consistent approach to fundraising regulation
- reviewing legal, governance and reporting regulation for the NFP sector

- considering approaches to harmonise the test for determining non-charitable activities of charities.

The [Working Party](#) has been asked to report to COAG at or before its next meeting and ahead of the Commonwealth introducing the Australian Charities and NFP Commission legislation.

4 May 2012

Revised Draft of Tax Concessions

Following the initial public consultation in 2011, a revised [Exposure Draft](#) and [Explanatory Material](#) of the *Restating and standardising the special conditions for tax concession entities (including the 'in Australia' conditions)* has been released and submissions are due on 11 May 2012. It is anticipated that the draft legislation will be introduced to Parliament in mid-2012.

Treasury has developed a [Fact Sheet](#) outlining the content of the revised draft and the main changes.

Further [information](#) is available including how to make a submission.

18 April 2012

2011-12 Budget measure to better target NFP tax concessions

The Federal Government has announced that the start date for the 2011-12 Budget measure to better target NFP tax concessions in relation to commercial activities will be extended from 1 July 2011 until 1 July 2012. The extension will provide additional time for consultation and will reduce the uncertainty for those in the sector who have commenced commercial activities since the 2011-12 Budget.

The extended start date of 1 July 2012 will only apply to new unrelated commercial activities that commenced after 7:30 pm (AEST) on 10 May 2011. Existing unrelated commercial activities that commenced prior to that date will continue to be covered by transitional arrangements as announced in the 2011-12 Budget.

ACNC Developments

Staffing of the ACNC is now being announced with several names well known within the human services sector, notably Sue Woodward, Director of Policy and Education (previously Director of PILCHConnect in Victoria) and Shirley Southgate, Director Legal (previously Manager, Policy and Good Practice at Office of the Information Commissioner New South Wales and before that Principal Solicitor at Kingsford Legal Centre, UNSW).

The [organisation structure](#) has also been released.

The Compliance Framework is currently being developed and the next steps include:

Developing a risk based approach to ensure our resources are focussed on those areas that present the greatest risk to the sector and the ACNC's objectives

Developing policies, processes and procedures in relation to the use of enforcement powers. The ACNC's use of enforcement powers will be based on principles of proportionality, procedural fairness and transparency

Building effective working relationships with key law enforcement and intelligence agencies to ensure the ACNC will be in a position to exchange relevant information.

Concurrently with this process they are developing material to ensure that the sector has the information it needs to understand and comply with the Compliance Framework when it is finalised. As part of the "road testing" they are continuing to consult with sector representatives.

[Return to top](#)