



Australian Government



Australian  
**Charities** and  
**Not-for-profits**  
Commission

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Red Tape Committee  
Department of the Senate  
PO Box 6100  
Canberra ACT 2600

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### **Submission to the Red Tape Committee – the effect of red tape on private education**

1. The Australian Charities and Not-for-profits Commission (**ACNC**) welcomes the opportunity to provide a submission to the Red Tape Committee. The ACNC notes that submissions are now only open on the subject of policy and process to limit and reduce red tape. This submission will provide further information to the effect of red tape reduction on private education. The ACNC's comments will be limited to those private education providers that are registered as charities with the ACNC (**non-government schools**).
2. In addition, the ACNC will provide a few brief comments on areas of red tape reduction initiatives across the entire charity sector, including non-government schools.

### **The ACNC's role**

3. The ACNC was established on 3 December 2012 by the *Australian Charities and Not-for-Profits Commission Act 2012* (Cth) (**ACNC Act**). The objects of the ACNC Act are to:
  - maintain, protect and enhance public trust and confidence in the Australian not-for-profit (NFP) sector;
  - support and sustain a robust, vibrant, independent and innovative Australian NFP sector; and
  - promote the reduction of unnecessary regulatory obligations on the Australian NFP sector.
4. The ACNC registers charities, as defined by the *Charities Act 2013* (Cth) (**Charities Act**). As at 11 October 2018, there were 56,498 charities registered with the ACNC. Approximately 2,000 of these charities are non-government schools. Non-government schools are a significant component of the charity sector in Australia – they receive over \$13 billion in government funding, and it is important that the public is able to ensure that these funds are spent appropriately.





## Regulation and accountability of non-government schools

5. The ACNC considers the Department of Education and Training (DET) to be the 'primary' regulator for non-government schools. Where we take any regulatory action, our approach is to work in conjunction with the primary regulator (in this case, DET). We do however, provide tailored support to non-government schools - this is outlined further below in paragraphs 8 to 12.
6. The ACNC maintains a free and searchable online public register of charities (**the Charity Register**). The Charity Register helps the public to understand the work of the charity sector and enables charities to be transparent by publicly publishing information about their governance, activities, operations, and finances.
7. While there are some similarities between the Charity Register and the [My School](#) website, the Charity Register contains additional information on a school's financial performance (total income and expenditure), financial position (assets and liabilities) and includes details provided by the schools in their Annual Financial Reports. This information provides greater transparency and accountability to parents, donors, funders and the wider community to give a more comprehensive financial picture of schools.

## Engagement with non-government schools

8. Since the establishment of the **ACNC** in December 2012 (and indeed, prior to the establishment - the ACNC Implementation Taskforce), the ACNC has dedicated significant resources to minimise duplicate reporting for non-government schools that are required to report to both the DET and the ACNC.
9. The ACNC chairs a non-government school working group (**working group**). The non-government school sector was the first to have a dedicated working group established by the ACNC in 2013. The purpose of the working group is to allow DET and the ACNC to collaborate and agree with sector representatives on reporting, disclosure and Charity Register display arrangements for non-government schools. Since creation, the ACNC has held eight meetings of the working group, which consists of:
  - The ACNC
  - DET
  - Independent Schools Council of Australia
  - National Catholic Education Commission
  - The Catholic Education Commission in each state and territory.
10. The working group is chaired by the ACNC Commissioner or Assistant Commissioner and meets at the request of members when there are issues to be considered. The working group provides the ACNC with an opportunity to engage, consult and listen to any issues from non-government schools and implement solutions with a focus on establishing a single data collection process to remove duplicative reporting.



11. The ACNC has also actively engaged with members of the working group through individual meetings to acknowledge the unique structures, issues and perspective of stakeholders representing non-government schools. Where a stakeholder requests to meet directly with the ACNC, we have always facilitated this.
12. Initially, working group meetings were held regularly to create a roadmap for non-government school reporting. As the ACNC's streamlined reporting arrangement (discussed below) has been implemented, these meetings have scaled back to an as-needs basis. The ACNC remains committed to the continuation of the working group on a needs basis.

### **Red tape reduction for non-government schools**

13. Under the ACNC Act, charities are required to submit an Annual Information Statement to the ACNC. Charities that are defined as medium (between \$250,000 to less than \$1,000,000 in annual revenue) and large (\$1,000,000 or above in annual revenue) are also required to provide the ACNC with an Annual Financial Report in accordance with the Australian accounting standards (**accounting standards**).
14. Part 4 of Schedule 1 to the *Australian Charities and Not-for-Profits Commission Consequential and Transitional Act 2012* allows the ACNC Commissioner to exercise discretion to treat a statement, report or other document given under an Australian law to an Australian government agency by a registered charity as meeting the requirements for an Annual Information Statement or Annual Financial Report (**transitional reporting arrangement**).
15. The ACNC Commissioner has exercised this discretion for each year up to and including the 2019 financial year. The ability to exercise this discretion will end after the 2019 financial year unless the Assistant Treasurer makes a regulation that allows the ACNC Commissioner to continue to exercise discretion on this matter.
16. This transitional reporting arrangement has allowed the ACNC to implement a streamlined reporting arrangement, which was agreed to by all working group participants. This arrangement allows non-government schools to provide financial information through one single data collection point – the DET Financial Questionnaire (**FQ**). DET shares the data collected through this process with the ACNC.
17. The ACNC has mapped the financial elements in the FQ with the financial elements required in the Annual Information Statement – this means that non-government schools provide financial information to DET without needing to provide it separately to the ACNC.
18. Over time, the ACNC and DET have worked collaboratively to improve the transitional reporting arrangement. DET now collects Annual Financial Reports on behalf of the ACNC, as well as financial information. The FQ has been updated to allow the ACNC to obtain more complete and accurate financial information for non-government schools, which reflects all activities undertaken by non-government schools. DET have also developed an 'ACNC preview screen' within the FQ, which allows non-government schools to view how the FQ data will be transposed to the financial section of the AIS for the ACNC.



19. The transitional reporting arrangement has significantly reduced duplicated reporting for non-government schools and represents an example of the ACNC's 'report once, use often' framework in practice.

### **Accrual accounting**

20. As noted in paragraph 13, the ACNC Act requires medium or large charities to prepare Annual Financial Reports in accordance with accounting standards. Accrual accounting is mandatory under these standards.
21. Currently, the transitional reporting arrangement will end in 2019 (refer to paragraph 15). This means that non-government schools will be required to adopt accrual accounting from the 2020 period. Working group members have previously advised the ACNC that they needed until 2020 to adopt accrual accounting, and at the most recent working group meeting in October 2018, we confirmed to all working group members that all accounting standards (including accrual accounting) will be a requirement from the 2020 period (as the transitional arrangements will have ceased).
22. Accrual accounting enhances transparency, accountability and financial management for all charities. For example, it requires accounting for and monitoring of liabilities and makes provision for staff entitlements that are not reported when cash accounting is used.

### **Additional red tape reduction initiatives by the ACNC**

23. The establishment of the ACNC also 'switched off' various provisions for charities including non-government schools that were registered with ASIC. These charities now report directly to the ACNC and are no longer required to submit an annual return (and pay the associated fee) to ASIC.
24. The ACNC has also introduced a 'bulk' Annual Information Statement for a range of charities, including non-government schools. This submission process allows for ten or more Annual Information Statements to be submitted on behalf of multiple registered charities using a single form, saving thousands of charities time and money.
25. We note that the ACNC legislation was recently subject to a review. The report, *Strengthening for Purpose: The Australian Charities and Not-for-profits Commission Legislation Review*, was published in August 2018.<sup>1</sup> In our own submission to this review, we recommended that the current transitional reporting provisions be made permanent, and the report supported this. However, legislative change is required to implement this.

### **The ACNC's Regulator Performance Framework**

26. The ACNC continues to support the reduction of red tape across the charity sector, including non-government schools. Our commitment and performance has been

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<sup>1</sup> *Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislative Review 2018*, <https://treasury.gov.au/publication/p2018-t318031/>



reflected in the ACNC's Regulator Performance Framework results, which are discussed below.

27. As part of the Government's deregulation agenda, the ACNC complies with the Regulator Performance Framework (**Framework**). This Framework consists of six outcomes-based key performance indicators covering reducing regulatory burden, communications, risk-based and proportionate approaches, efficient and coordinated monitoring, transparency, and continuous improvement.<sup>2</sup>
28. Each year, the ACNC prepares a report that details our assessment against the key performance indicators. These reports must be endorsed by an approved consultation mechanism that has been endorsed at Ministerial level. For the ACNC, the external approved consultation mechanism consists of the ACNC Professional User Group and Sector User Group (**SUG**).<sup>3</sup> Non-government school stakeholders from both the Independent and Catholic systems are part of the SUG.
29. Since the Framework commenced from 1 July 2015, the ACNC's performance against the Framework (which has been endorsed by the external consultative body) has been rated as 'very good, with minor room for improvement' for the 2016 and 2017 reporting periods. We continue to work collaboratively with all stakeholders to ensure that the ACNC does not impose unnecessary regulatory burden on charities.

#### **Broader red tape reduction**

30. The ACNC continues to work with Commonwealth, state and territory regulators to reduce the burden on registered charities.
31. As part of the ACNC's 'report-once, use often' framework, the ACNC has developed the Charity Passport, an online tool which enables government agencies to access charity data directly from the ACNC. This reduces the amount of information that charities must provide to other government agencies.
32. Although we acknowledge that there is more to be done in reducing red tape for charities, the ACNC has successfully worked with other jurisdictions to reduce red tape for a range of charities, including:
  - charities that are also regulated by the Office of the Registrar of Indigenous Corporations
  - charitable ancillary funds that are also regulated by the Australian Taxation Office

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<sup>2</sup> Australian Government Regulator Performance Framework, <https://www.jobs.gov.au/australian-government-regulator-performance-framework>

<sup>3</sup> The Sector User Group comprises representatives from peak bodies in the charity sector, ACNC representatives and other government agencies that interact with the charity sector. The Professional User Group comprises professional advisers, legal and financial officers of charities, ACNC representatives, and invited representatives of other government agencies that interact with the charity sector. Both groups provide feedback on matters of procedure, policy, strategy, performance and the ACNC's regulatory approach. In 2017–18, we convened three meetings of both groups.



- charities that are incorporated associations in Tasmania, South Australia, the ACT, Victoria and NSW
- charities that fundraise in South Australia and the ACT.

**Further information**

33. The ACNC can provide further information on any the above, should this be useful to the Committee.

Hon Dr Gary Johns  
Commissioner  
Australian Charities and Not-for-profits Commission

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