

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2014 - 2015

Department/Agency: Australian Charities and Not-for-Profits Commission

Question: BET 31

Topic: Australian Charities and Not-for-Profits Commission Complaints

Reference: Hansard page no. 8 - 02 June 2015

Senator: Siewert, Rachel

Question:

Senator SIEWERT: You are doing exactly what you were designed to do—in other words: look at the serious end of charities?

Ms Pascoe: If we were to emphasise a take-home message, if you like, it would be that when we engage with a charity and alert them to the complaint, overwhelmingly they want to rectify the situation and to work with us. It is a very small minority where we need to use the powers that we have in the act. You will notice that in the listing of the powers, there are a number that we simply have not used. For example, we have the power to suspend or remove directors. We simply have not used that because we would far rather engage with a charity and work toward improvement.

Senator SIEWERT: Of the 596, are you able to give us numbers on how many were large, how many were medium and how many were small?

Ms Pascoe: That is in the report. One of the interesting issues in the report is, for example, large charities are disproportionately represented in the complaints, and that is probably what we would not have expected. DGR charities are disproportionately represented in the complaints. Charities that are public companies are disproportionately represented in the complaints. It is the first year of our analysis. It is across a two-year period, and we will do it annually from now on, but this is data that we will treat with caution because it is the first year; however, it that has shown some interesting trends.

Senator SIEWERT: Yes. Are you doing any work looking into that, to look at why?

Ms Pascoe: Absolutely. Some of the work that is done in the compliance area is to look where there are cases of systemic non-compliance. There are subcategories of charities, charities dealing with a particular area, where we can see—we are dealing with one at the moment where there appears to be a pattern of setting up scam charities for fundraising, typically by phone or in shopping areas, in an area that will touch people's heartstrings. We have a very active class, if you like, investigation looking into that at the moment.

Senator SIEWERT: From one of the 10 that have been revoked?

Ms Pascoe: It is a different set of issues.

Senator SIEWERT: A different set? So this is the one that has not been resolved?

Ms Pascoe: This is almost like a franchise of scamming. Someone has a good model for a scam, and they are replicating it and getting others involved. So we are now looking at it on a system-wide basis.

Senator SIEWERT: Okay. How many of those are fraud as opposed to, as you said, governance issues that can be fixed with some assistance?

Ms Pascoe: I think we will take that one on notice. I just do not have that, off the top of my head.

Senator SIEWERT: Okay. If you could, that would be appreciated.

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Answer:

Allegations of fraudulent or criminal activity make up 6% of complaints about charities. A further 33% of complaints about charities allege private benefit, where a charity's assets are being misused for non-charitable purposes.

These issues have the potential to have a substantial impact on public trust and confidence.

Complaints

Compliance information from December 2012 to June 2015 shows that the ACNC has received approximately 1,600 complaints about charities.

The most commonly identified risk types from complaints are:

- Private benefit (33%)
- Governance standards (25%)
- Other issues (19%)
- Activities outside of the charity's purpose (7%)
- Fraudulent or criminal activity (6%)

Approximately 1,000 of these complaints were resolved by the ACNC's Advice Services Directorate through the provision of guidance and education. In instances where the complaint is out of the ACNC's jurisdiction, Advice Services will refer the complainant to the appropriate regulator.

Compliance assessments

The remaining 600 complaints were assessed by the ACNC's Compliance Directorate.

Large charities (of annual revenue of \$1 million or more) were the focus of approximately one quarter of these assessments, which is higher than their proportion of the charities on the Charity Register (17%).

Registered charities with deductible gift recipient (DGR) status were the focus of approximately 60% of the assessments, despite only 30% of the charities on the Charity Register having DGR status.

The most common issues identified from substantiated investigations and reviews are:

- Record keeping issues
- Managing financial affairs
- Working toward charitable purpose and remaining not-for-profit
- Acting with reasonable care and diligence
- Acting in the best interests of the charity
- Accountability to the charity's members

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- Not meeting reporting requirements

Investigations

These assessments have resulted in approximately 100 investigations and reviews, in which 120 serious matters have been substantiated and addressed.

Eleven of the 100 compliance cases have resulted in revocations (and one show cause notice is currently on issue).

In these instances there was serious misconduct or serious breaches of the ACNC Act which the charities were unable to, or refused to, address.

Of the remaining compliance cases, most of the breaches were addressed by the charities immediately or they undertook to address the issues over an agreed period of time. This includes cases where, as a result of our intervention, the charities reported fraud committed against them to the Police and ensured the individual involved was no longer employed by the charity.

To help provide a perspective on the size of our compliance casework, which has become more complex over time, out of 13 charities currently being investigated, four are large, four are medium sized and five are small charities.

We are also assessing compliance risks for 21 charities, of which six are large, five are medium sized and 10 are small.