



Review of Australian Charities and Not-for-profits Commission (ACNC) legislation

Terms of reference
20 December 2017

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This review will enable the Government to meet its statutory obligation that a review of the *Australian Charities and Not-for-profits Commission Act 2012* and the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012* (together, the **ACNC Acts**) must be undertaken after their first five years of operation.

The Review Panel will inquire into and make recommendations on appropriate reforms to ensure that the regulatory environment established by the ACNC Acts continues to remain contemporary, that the ACNC Acts deliver on their policy objectives and that the ACNC Acts do not impair the work of the ACNC Commissioner to deliver against the objects of the principal Act; being:

- (a) to maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector; and
- (b) to support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector; and
- (c) to promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.

The review should evaluate the suitability and effectiveness of the ACNC Acts. In particular, the review should:

1. Examine the extent to which the objects of the ACNC Acts continue to be relevant.
2. Assess the effectiveness of the provisions and the regulatory framework established by the ACNC Acts to achieve the objects.
3. Consider whether the powers and the functions of the ACNC Commissioner are sufficient to enable these objects to be met.
4. Consider whether any amendments to the ACNC Acts are required to enable the achievement of the objects and to equip the ACNC Commissioner to respond to both known and emerging issues.

The review should be informed by public submissions, by international experience, through round table discussions and by consultation on substantive issues identified before recommendations are made to Government.

A report on the review's findings and recommendations will be required to be made to the Government by 31 May 2018. This report will be laid before each House of the Parliament within 15 sitting days of its receipt.

Some issues may be identified by the review panel that fall outside the scope of a statutory review of the ACNC legislation. The review panel should advise government of these matters and recommend whether further examination should be undertaken.

Public submissions

Public submissions are invited in response to the issues raised in the terms of reference by sending through written submissions using the details below.

Some focusing questions for submissions could be:

1. Are the objects of the ACNC Act still contemporary?
2. Are there gaps in the current regulatory framework that prevent the objects of the Act being met?
3. Should the regulatory framework be extended beyond just registered charities to cover other classes of not-for-profits?
4. What activities or behaviours by charities and not-for-profits have the greatest ability to erode public trust and confidence in the sector?
5. Is there sufficient transparency to inform the ACNC and the public more broadly that funds are being used for the purpose they are being given?
6. Have the risks of misconduct by charities and not-for-profits, or those that work with them, been appropriately addressed by the ACNC legislation and the establishment of the ACNC?
7. Are the powers of the ACNC Commissioner the right powers to address the risk of misconduct by charities and not-for-profits, or those that work with them, so as to maintain the public's trust and confidence? Is greater transparency required and would additional powers be appropriate?
8. Has the ACNC legislation been successful in reducing any duplicative reporting burden on charities? What opportunities exist to further reduce regulatory burden?
9. Has the ACNC legislation and efforts of the ACNC over the first five years struck the right balance between supporting charities to do the right thing and deterring or dealing with misconduct?

It is also intended that there will be further opportunities for stakeholders to contribute views on substantive issues that are identified by the Review Panel, including through roundtables and face-to-face consultation.

Closing date for submissions: 28 February 2018

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