



**Submission to:**

**The Treasury**

***Scams Prevention Framework  
Exposure draft legislation***

**October 2024**

## **Introduction**

This brief submission outlines Community Council for Australia (CCA) concerns in relation to the proposed Scams Prevention Framework.

It's important to note that this submission doesn't override the policy positions outlined in any individual submissions from CCA members (see attached listing).

The content of this submission includes: a brief background to CCA; an overview of the current issues for the charities and not-for-profit (NFP) sector; a listing of our key concerns with the proposed legislation, and a conclusion.

CCA welcomes the Albanese Government's engagement with the issue of scams, but believes the proposed legislation adopts the wrong approach and falls well short of what is needed, particularly for charities and NFPs.

CCA welcomes this opportunity to provide input into the scams legislation process and is more than willing to engage in detailed discussion about any issues this submission raises.

## **The Community Council for Australia**

The Community Council for Australia is an independent non-political member-based organisation dedicated to building flourishing communities by enhancing the extraordinary work undertaken by the charities and not-for-profit sector in Australia. CCA seeks to change the way governments, communities and not-for-profits relate to one another. It does so by providing a national voice and facilitation for sector leaders to act on common and shared issues affecting the contribution, performance and viability of NFPs in Australia. This includes:

- promoting the values of the sector and the need for reform
- influencing and shaping relevant policy agendas
- improving the way people invest in the sector
- measuring and reporting success in a way that clearly articulates value
- building collaboration and sector efficiency
- informing, educating, and assisting organisations in the sector to deal with change and build sustainable futures
- providing a catalyst and mechanism for the sector to work in partnership with government, business and the broader Australian community to achieve positive change.

Our success will drive a more sustainable and effective charities and not-for-profit sector in Australia making an increased contribution to the well-being and resilience of all our communities.

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## **Context: charities, not-for-profits**

The charities and NFP sector encompass over 600,000 organisations - from large to very small – supporting and enhancing our society and contributing over 6% of GDP. Australia's 50,000+ charities employ over 1.4 million staff (around 11% of Australia's workforce), mobilise over 3.5 million volunteers and collectively turn over more than \$200 billion each year.

These facts tell only a small part of the story. The real value of the charities sector is often in the unmeasured contribution to Australian quality of life. Charities are at the heart of our communities, building connection, nurturing spiritual and cultural expression, and enhancing the productivity of all Australians. Collectively, they make us a more resilient society.

COVID19 highlighted the critical role played by charities and not-for-profits (NFPs) in Australia. Government acknowledged this role in extending a modified form of JobKeeper payments to charities as well as supporting increased giving during the pandemic. These measures were important to many charities, but the impact of inflation and economic pressures make the years ahead incredibly challenging.

At a time when we need to support resilience within our communities, the Australian Charities and Not-for-profit Commission Charities Report from 2022 found that increases in costs are roughly double increases in revenue across the charities sector. This increase cost squeeze is being compounded by uncertain income streams and reduced access to volunteers.

At the same time, charities need to invest in critical capacity, including training of staff, cybersecurity, data storage and use, and adaptation to respond to climate change.

In fact, there is an expectation from government and the community that charities and not-for-profit organisations will protect their personal information, invest in their capacity to address cybersecurity issues and prevent scams that might see charitable funds captured by fraudulent actors targeting what they may see as a vulnerable individuals and organisations. Yet there is no investment or support being provided to the sector to undertake this important work.

While Australia's charities represent a social and economic strength, a failure of government and funders to invest in organisational capacity acts as a handbrake on sustainability and realising more benefits for our communities.

Given the size of the sector, its critical role in our community and the foundation it provides to achieve so much more, the Federal Government should prioritise strategic investment in the charities and NFP sector. As the Assistant Minister for Competition, Charities and Treasury said pre-Election, *The future of the charity sector is too important to our economy and our communities to grow and develop without planning or strategic investment. Even a one per cent productivity increase would add \$1.4 billion to the resources available to the sector, creating more jobs and providing services to more Australians.* ([Labor to ensure strong future for Australia's charities - Media Release, 22 April 2022](#))

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## **Key Issues for charities with the proposed scam prevention framework**

### **1. Scams are acts of fraud and it shouldn't be up to every charity and NFP to prevent, police and recover the costs of criminal behaviour.**

The traditional 'scam' behaviour involves criminals pretending to be someone they are not. In the charities and NFP sector it's not that unusual to see criminals portraying themselves as charities, whether it is dressing up in a CFA uniform and carrying a bucket seeking donations during a bushfire appeal, or creating a sophisticated online or telco presence, the criminal behaviour is the same.

It may suit banks and some governments to pretend that fraudulently obtaining funds by pretending to be a toll company (for instance) is not an act of fraud, and should be described as a kind of separate event called a scam. This is wrong at many levels. The claim that scams are not fraud is simply not consistent with the actual behaviour involved.

The act of scamming is an act of fraud. Those who experience fraud should not be held to account for the behaviour of the fraudsters. They should not be expected to police or recover money that has been obtained by criminal behaviour. They should not have to initiate their own actions to recover their losses.

### **2. Those who hold our funds or offer communication services should bear the costs if they fail in their duty to protect our funds and prevent criminals stealing our money.**

A small community organisation has very limited capacity to develop and implement strategies to reduce the ability of international crime syndicates targeting their organisations through sophisticated fraudulent activity.

Obtaining funds by deception is no different than stealing funds.

The reason charities and NFPs pay banks to use their services is about keeping their money safe. If banks fail to keep the money safe, the problem should not be shifted on to individuals, charities and NFPs.

It makes no sense that individuals, charities and NFPs who have the least capacity to pay should bear the cost of banks and telcos failing to provide safe and secure services.

### **3. When scams occur, individuals, charities and NFPs should be reimbursed their losses unless there are exceptional circumstances (UK model).**

Blaming charities and NFPs if they are the subject of international criminal activity is not only unfair, it also fails to provide an incentive for banks and telcos to ensure they fulfill their role of keeping our funds secure.

Unless there are real and significant costs involved in banks and telcos failing to fulfill their core role, there will be diminished economic incentives to actively ensure they are putting in place the most effective measures possible to prevent fraud.

In exceptional circumstances where the individual, charity or NFP has actively contributed to the fraud by not following bank procedures, there may be a case for banks to appeal to an independent body and seek not to have to reimburse losses. But this action should be paid for by the bank to ensure it is only used in exceptional circumstances.

CCA understands this is the model now being adopted in the UK.

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#### **4. Governments and funders failing to provide adequate funding to charities and NFPs are contributing to the problem**

Many government departments have significant budgets to train their staff in identifying potential fraud and possible hacks of their organisation.

Small businesses across Australia not only receive tax incentives for investment in these areas, but they can also access government funded programs including multimillion-dollar programs run by the Council of Small Business Organisations Australia including the Cyber Warden Program and the Stop the Hack Campaign.

Charities and NFPs have received nothing from governments to address the increasing threat posed by criminals using sophisticated frauds to illegally obtain funds.

There are no cybersecurity funds available to charities to train their staff and no funding to support these activities. This is despite charities and NFPs often holding financial information (donors, memberships, etc.) and very important personal information (details about health and wellbeing, as well as issues and events many people would want and expect to be kept private).

Whenever a charity or NFP invests in being better equipped to deal with fraud (including scams) they need to find the money by reducing other expenditure, usually cuts to the services they provide their communities.

It's not surprising that charities and NFPs are especially vulnerable to fraud (scams) given the lack of support in addressing this issue.

### **Conclusion**

The proposed Scams Prevention Framework is woefully inadequate and adopts the wrong approach. It fails to meet the policy objectives and may actually exacerbate scams rather than reduce them.

Scams are fraud. Scams are crimes. While it may suit banks and telcos to blame the victim of criminal actions for being susceptible to the crime, this approach is unfair and makes no economic sense.

Those who are paid to keep our money safe, who have the resources, and are clearly in the best position to prevent loss of funds to international crime syndicates, should have to meet their obligations.

The systems we put in place should promote comprehensive anti-fraud activity by banks, not give them a leave pass by outlining some principles while putting the emphasis back on individuals, charities and NFPs.

To suggest, as the proposed Anti Scams Framework legislation does, that individuals should have to launch their own investigations and actions at their own cost to recover any losses seems completely at odds with any notion of fairness or justice.

It's important to note that part of the new UK legislation in this area is called "Failure to Prevent Fraud Legislation". This framing of anti-scams legislation clearly communicates where the problem lies, not with individuals, charities and community organisations who have lost money to international crime syndicates, but with the organisations who are paid to keep our money and our accounts secure. When banks and telcos fail, it is totally unreasonable that individuals, charities and NFPs should bear the cost.

CCA believes the government should go back to the drafting table using the UK legislation as a starting point. [APP fraud: The UK's mandatory reimbursement requirement - Thomson Reuters Institute](#)

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## **Current Membership – Community Council for Australia *Attachment A***

**Adult Learning Australia**

**Alannah & Madeline Foundation**

**Alliance for Gambling Reform**

**AMP Foundation, Nicola Stokes, General Manager (CCA Board Director)**

**Arab Council Australia**

**Australian Conservation Foundation**

**Australian Council for International Development, Marc Purcell, CEO (CCA Board Director)**

**Australian Environmental Grantmakers Network**

**Australian Scholarships Foundation**

**Australians Investing in Women**

**Australian Red Cross**

**Barnardos Australia, Deirdre Cheers, CEO (CCA Board Director)**

**Benefolk Foundation**

**Brave Foundation**

**Brotherhood of St Laurence**

**Camp Quality**

**Carers Australia**

**Centre for Social Impact**

**Chain Reaction Foundation**

**Christians Against Poverty**

**Churches of Christ in Victoria and Tasmania**

**Community Broadcasting Association of Australia, Jon Bissett, CEO (CCA Board Director)**

**Community Colleges Australia**

**Connecting Up**

**Drug Arm Australia**

**Ethical Jobs**

**Everyman**

**Feenix Foundation**

**Fitted for Work**

**Foundation for Alcohol Research and Education**

**Fragile X Association of Australia**

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**Girl Guides Australia**

**Good Samaritan Foundation**

**Good2Give**

**HammondCare**

**InfoXchange**

**Justice Connect**

**Kilfinan Australia**

**Learning Links**

**Life Without Barriers, Claire Robbs, CEO (CCA Deputy Chair)**

**McGrath Foundation**

**Menslink**

**Mission Australia, Sharon Callister, CEO (CCA Board Director)**

**Missions Interlink**

**Non Profit Alliance**

**Our Community**

**OzHarvest**

**Prison Network**

**Philanthropy Australia**

**Public Interest Journalism Initiative, Anna Draffin, CEO (CCA Board Director)**

**Queensland Water & Land Carers**

**Ronald McDonald House Charities**

**RSPCA Australia, Richard Mussell, CEO (CCA Board Director)**

**Saba Rose Button Foundation**

**SARRAH**

**Save the Children Australia**

**Settlement Services International**

**Smith Family**

**Social Leadership Foundation**

**Social Ventures Australia, Suzie Riddell, CEO (CCA Board Director)**

**St John Ambulance Australia**

**Social Leadership Foundation**

**Starlight Foundation, Louise Baxter, CEO (CCA Board Director)**

**The Centre for Volunteering**

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**Variety – the Children’s Charity of Victoria**

**Volunteering Australia, Mark Pearce, CEO (CCA Board Director)**

**Wesley Mission**

**Workplace Giving Australia**

**World Vision Australia**

**World Wide Fund for Nature Australia**

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