

20 August 2021

Director  
Not-for-profits and Tax Administration Branch  
The Treasury  
Level 7, 530 Collins Street  
MELBOURNE VIC 3000

Via email: [charitiesconsultation@treasury.gov.au](mailto:charitiesconsultation@treasury.gov.au)

Dear Director,

### **Reform of the Australian Charities and Not-for-profit Commission secrecy provisions**

Anglicare Australia appreciates the opportunity to provide input to the reform of the Australian Charities and Not-for-profit Commission's (ACNC) secrecy provisions and the implementation of the recommendations of the ACNC Review.

Anglicare Australia supports a strong, independent and transparent ACNC. Transparency builds confidence in community services, and in the regulator itself. Conversely, secrecy fosters mistrust.

Sustaining public trust in charities and community service organisations is crucial. Community service organisations' relationships with communities and service users are built on trust.

We support reform to the secrecy provisions to generate greater transparency. But these reforms must be balanced with care to ensure organisation's reputations are not damaged without cause.

We note that the Productivity Commission has previously found that the sector is well-governed and enjoys a very high level of trust throughout the community.<sup>1</sup> Compliance actions of the type considered in the discussion paper are rare. But these reforms do not occur in a vacuum. Amendments to the governance standards in the ACNC regulations grant sweeping new powers to the ACNC Commissioner to deregister charities, or apply penalties, in situations including hypothetical future offences. These changes unfairly target charities in a way unparalleled in the business or private sector. We strongly oppose their introduction.

*[www.anglicare.asn.au](http://www.anglicare.asn.au)*

Misuse of these new powers could result in more investigations, making it even more important the changes to disclosure rules are fair and balanced.

## Recommendations

### **Allow increased disclosure of reasons for registration decisions**

Publishing decisions about registration and deregistration would benefit the community and the not-for-profit sector. It would provide organisations and the public with more information and guidance about how and why decisions are made.

### **Continue to limit disclosures about new or ongoing investigations**

The ACNC is prevented from disclosing information about new or ongoing investigations, unless information is already in the public domain.

Anglicare Australia is wary of the potential risks of broadening disclosure about ongoing investigations. There is a significant risk of reputational damage to organisations. It could have a negative impact on organisation's relationship with their community, funding partners, volunteers, stakeholders and members. In a worst case scenario, it could threaten their future viability.

Organisations should be provided with natural justice and a fair and thorough investigation. But proper investigations take time. Disclosure of an ongoing investigation could mean many months of negative public and media scrutiny before any findings are made. The organisation could eventually be cleared of all wrongdoing, but if information has been released to the public, the reputation and trust damage may be irreversible.

As the discussion paper notes, disclosure about new or ongoing investigations is not the norm for many other regulators, including those that govern businesses.

If the ACNC is granted increased ability to disclose information about new or ongoing investigations, tight conditions should be imposed. Disclosures should be limited to situations where there is a risk to public health or safety if information is not shared with the community, or where it is in the charity's interest to disclose (for example, if incorrect information is circulated through the media).

### **Allow increased disclosure of information about finalised investigations and resulting compliance action**

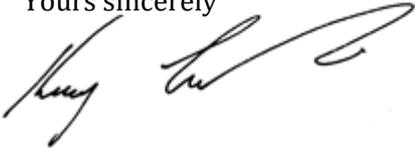
The ACNC is only able to disclose information about finalised investigations in limited circumstances. For example, they are unable to disclose where they investigate a charity but make no findings and take no action against the charity. They are also unable to disclose information about why a charity's registration has been revoked.

Information about finalised investigations can help restore the reputation of organisations who have been cleared of any wrongdoing. It can also build public confidence that charities who are engaging in misconduct are being appropriately held to account, which benefits organisations that are doing the

right thing.

Anglicare Australia supports transparency and good governance. We look forward to working with Treasury and the ACNC to make sure the changes achieve these aims. We would welcome the opportunity to discuss the matters raised in this letter further or answer any questions that you may have.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kasy Chambers', written in a cursive style.

Kasy Chambers  
Executive Director

---

<sup>i</sup> Productivity Commission (2010) [Contribution of the Not-for-Profit Sector](#).