

## NATIONAL HEART FOUNDATION OF AUSTRALIA

### SUBMISSION – REVIEW OF ACNC LEGISLATION

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#### Responses to key questions

**1. Are the objects of the ACNC Act still contemporary?**

The Heart Foundation supports any change to the objects that enables the ACNC to strengthen its capacity to require charities and not for profits to use resources effectively and be more accountable to their donors and supporters.

**2. Are there gaps in the current regulatory framework that prevent the objects of the Act being met?**

Yes, the ACNC has limited powers to interrogate the operations of registered charities.

**3. Should the regulatory framework be extended beyond just registered charities to cover other classes of not-for-profits?**

Yes, if these organisations are “competing” for charitable funds, then they should be subject to the same regulatory requirements of ACNC registered charities.

Charities are facing an increasingly competitive environment – the latest ACNC data advises that there are over 55,000 charities currently registered in Australia (and this figure is growing all the time). There is more pressure to raise donor funds and more pressure on “the back of house” to respond to a changing environment and regulatory requirements.

**4. What activities or behaviours by charities and not-for-profits have the greatest ability to erode public trust and confidence in the sector?**

Misuse of donated funds and grants and poor governance and management processes have the potential to erode confidence in those charities and not for profits that are being managed effectively.

The ACNC currently has limited opportunity to interrogate back of house or administrative activities. The introduction of a standard set of benchmarks to report against could provide an opportunity to better assess the efficiency of registered charities and not for profits.

**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?***

Smaller charities, particularly those established by high profile individuals and celebrities often duplicate the Mission and Purpose of other more established charities and not for profits. This has the potential to dilute the activities of all those working to advance a particular cause or to deliver programs and activities. These smaller entities are often unable to build a sustainable future as their profile may be dependent on one high profile individual.

These charities also often lack the appropriate governance structure that ensures that the organisation is being managed in alignment with best practice good governance standards.

The capacity for the ACNC to consider and encourage collaborations and partnerships when charities are initially applying to be registered would assist in ensuring more efficient use of donor funds in alignment with Vision and Mission. This should be tied into continuing to hold approval for various tax concessions.

**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?***

As above, the ACNC currently has limited power to deregister charities.

There are major challenges currently facing the charitable and not for profit sector. For example, the use of new technologies present opportunities, however there are also risks associated with protecting donor data and managing negative social media commentary. There is an increasing focus on how donor data are managed and the need to ensure this information is well protected and in compliance with ever increasing privacy requirements.

In the smaller charities, these challenges and opportunities can present a greater risk.

**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?***

Refer to comments above.

**8. Has the ACNC legislation been successful in reducing any duplicative reporting burden on charities? What opportunities exist to further reduce regulatory burden?**

Somewhat. However, the sector needs to have an appropriate level of regulation to meet community standards.

**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?**

The Heart Foundation supports the continued evolution of the ACNC to provide a balance between supporting the important work of the charitable and not for profit sector and providing a level of regulation and oversight that meets the community's expectations.

A major consideration in bolstering the powers of the ACNC would be allowing the "privilege" of attracting tax concessions with various improved governance standards and economic efficiencies being complied with. There are currently too many charities with extremely poor governance standards. This is not in the community's interest.

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