

Developing a Transparency Code

A consultation paper

July 2021



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Material used 'as supplied'.

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Consultation Process

Request for feedback and comments

You are invited to lodge a written submission addressing the consultation questions which can be found on page 8.

Closing date for submissions: 13 August 2021

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Developing a voluntary code to improve the transparency of charitable donations during natural disasters

Introduction

The Australian charity sector has historically played a key role in times of natural disaster. Charities deliver programs that support individuals and communities in need, both in the immediate aftermath of disasters and in medium and long-term recovery phases.

These activities are funded by the generous support of the Australian public, who recognise the sector's key role in recovery efforts and donate to fund crucial activities. This support is underpinned by the public's trust and confidence that their donations are funding critical recovery activities. Transparent communication from charities to the public around the use of donated funds is vital to providing this assurance and supporting public understanding of the disaster recovery process.

The Government has tasked a working group of charity representatives (the Australian Red Cross, BlazeAid, the Minderoo Foundation and RSPCA Australia) and Treasury officials to consider the merits of developing a voluntary code to improve the transparency of the use of charitable donations during natural disasters (the Transparency Code), and to develop its key features. The Transparency Code will provide charities which choose to become signatories with a framework for transparent reporting of disaster recovery fundraising and activities.

In developing early thinking on the Transparency Code, the working group has identified five features that it considers will be key to ensuring the Code is an effective solution to improving transparency. This paper seeks your views on these features, which will be used to shape the final proposal presented to Government.

Why improved transparency is needed

During the Black Summer bushfires of 2019-20, the public generously donated more than \$640 million for charities' relief and recovery efforts.

However, early into the recovery process it became evident that there was a mismatch between the expectations of donors around how their funds would be used and the obligations of the charities to use funds in line with their charitable purpose. It also became clear that there was a gap between donor expectations around the speed with which funds should be distributed and the challenges charities face in ensuring funds are used to support people in genuine need through both the immediate and long term impacts of a natural disaster, whilst operating in an uncertain environment.

The Australian Charities and Not-for-profits Commission (ACNC) has since published reviews¹ demonstrating that key charities responded to the disaster well, despite delivering support in an uncertain environment without full information of future funding and demand for services.

Greater transparency by charities would support public understanding of charity fundraising and the use of charitable donations in responses to natural disasters, strengthening public trust in the sector. Strong public trust will drive continued donations, allowing charities to provide crucial services to recovering communities.

¹ *Bushfire Response 2019-20 - Reviews of three Australian charities*, ACNC, October 2020

Key features of a Transparency Code

The Transparency Code will improve accountability to donors and the wider public by providing charities with a voluntary framework for transparent fundraising and reporting of the use of donations in response to natural disasters.

This framework will be designed to ensure charities which become signatories provide the public with a detailed understanding of how and why their donations are being distributed for disaster response activities.

At the same time, the Transparency Code will seek to minimise the reporting burden on the charities sector, recognising the importance of allowing charities to continue focusing their resources on responding to the disaster.

The working group has identified five potential features of the Transparency Code that will be key to achieving the objectives outlined above. These features are as follows:

1. The Transparency Code will require that signatories publish an appeal intent outlining how donated funds will be used in response to the natural disaster.
2. The Transparency Code will prescribe specific information for signatories to report.
3. The Transparency Code will set out minimum reporting frequencies for signatories to meet.
4. The Transparency Code will be voluntary and target charities involved in the response to a natural disaster and in receipt of substantial public donations.
5. The Commonwealth will facilitate but not administer or enforce the Transparency Code, with compliance driven by signatories.

The working group understands that the insights of the charities sector and the broader public are vital to ensuring that these key features are targeted correctly, and that the final Transparency Code is a workable and effective solution to improving transparency.

The five features are analysed below, with specific questions provided where the working group would particularly value your insights and feedback.

Appeal intent

The first step to guaranteeing that the use of charitable donations meets donor expectations is ensuring that the public understands why donations are being solicited, and how their funds can and will be used before making a donation. The Black Summer bushfires highlighted the loss of trust and confidence in the sector that can eventuate where charities are unable to use donations for the purpose the public intended.

To inform donation decisions, the working group proposes that signatories to the Transparency Code should publish an appeal intent on their webpage when they become involved in a natural disaster response. The appeal intent should indicate the natural disaster that the charity is responding to and outline the types of activities the charity will support with donated funds.

Greater transparency around how funds will be used will inform donor decisions and give them the confidence to continue donating.

The appeal intent should also reference, in simple language, the charity's operating parameters, including binding governance rules and legal obligations. This will help donors to understand the limits on how their donations can be used.

An example of an appeal intent can be found below, written from the perspective of a fictional charity responding to a cyclone in Western Australia.

'Food Support Australia' is raising funds in response to Cyclone Archie which crossed the WA coastline in January 2021. Your donations will be used to provide food and water to members of impacted communities. A list of the locations we are operating from, and the items we are supplying, can be found here: www.fsa.com/wa-response. We currently plan to provide this emergency support until the end of the year. Any funds not used in this initial response will be put towards our ongoing soup kitchens operating in impacted communities, which we hope will help in alleviating some of the longer term socioeconomic effects of the cyclone.

Our response to the cyclone is governed by our trust deed, which specifies that we must use donations to provide food and water to communities, or to fund the administration costs of our programs. Importantly, our trust deed does not allow us to use donations for grants, spend on rebuilding community infrastructure or redistribute donations to other charities. As with all of our programs, we guarantee that less than 10 percent of the total donations made to this appeal will be spent on administration costs.

To maximise the benefits of the appeal intent, the Transparency Code could encourage signatories to make it prominent on their webpage and social media for the duration of the appeal.

Question 1: Would an appeal intent similar to the example above provide sufficient information for donors? What additional information should be included?

Trigger for reporting

The working group considers that the reporting set out in the Code should be triggered by a national emergency declaration by the Commonwealth Government.

The provision for the Australian Government to declare a state of national emergency was legislated in late 2020 in response to the Royal Commission into National Natural Disaster Arrangements. The declaration gives the Australian Government the ability to communicate the seriousness of a natural disaster.

The Australian Government may make a national emergency declaration where an emergency has occurred (or is likely to occur) in Australia causing nationally significant harm that requires a collective response from the Commonwealth and impacted State and Territory governments.

Using the declaration as the trigger for reporting requirements will ensure that the Transparency Code only comes into effect in nationally significant times of natural disaster. This will target reporting to situations where transparent communications will be most important, minimising the additional reporting obligations created by the Code.

Although reporting under the Code would be triggered following a national emergency declaration, charities would be encouraged to sign up to the Transparency Code at any time. This would mean that in the event of a natural disaster, signatories would already have the systems and procedures in place to report on how donations are being used, consistent with the Transparency Code's framework.

The national emergency declaration trigger would be a minimum starting point for reporting. The Transparency Code would encourage signatories to report before a formal declaration wherever they felt it was appropriate. This could be where they had already begun an appeal for a natural disaster response, or where they did not anticipate that the natural disaster would result in a national emergency declaration.

Reporting content

The working group considers that the information reported by a charity under the Transparency Code should achieve the following:

1. Inform the public on the response activities and support provided by the charity to date.
2. Outline the steps the charity will take to continue providing support.
3. Provide broader context around the operating environment for the charity through the recovery process.

To ensure that signatories provide information sufficient to achieve these objectives, the working group considers that the Transparency Code should be prescriptive about the information that would be reported by charities during natural disasters.

The working group proposes the Transparency Code requires signatories to report the following information:

- indication of the natural disaster the report refers to
- a copy or link to the appeal intent for any fundraising efforts conducted specifically in response to the natural disaster
- a summary of the charity's role in the recovery process, including reference to the charity's operating parameters
- amount of donations received to date
- donations received since the last report
- funds distributed to date, split by response activity, with relevant context
- funds committed to future response activities, with relevant context
- funds not yet committed, with relevant context
- spending on administration costs

The working group has developed two sample reports (at Attachment A) with different formats to illustrate what reporting in line with these requirements could look like, depending on the size and administrative capabilities of signatories.

By specifying a set of minimum reporting standards, but not limiting information to this minimum, the Transparency Code will allow charities to report additional information where they feel transparency is valuable. For example, the working group recognises that non-financial donations are pivotal to the sustainability of many charities. The first sample report includes information on non-financial donations such as volunteer hours which goes beyond the proposed minimum requirements of the Transparency Code.

Administration costs

Noting that administration costs are a key area of public interest and therefore highly scrutinised, the working group supports including the administrative costs of responding to the natural disaster as one of the items which should be reported. However, the group acknowledges that there is no widely accepted definition for administrative costs. To ensure consistency and comparability of reporting, the group considers there may be use in including a definition for administrative costs in the Transparency Code. Consistent reporting of administrative costs would contribute to the broader understanding of their importance to charities' operations.

The working group has observed the different approaches to reporting administration taken in the sector which suggests that the Transparency Code could specify that administration costs include (but are not limited to) the following:

- audit and accounting fees
- legal fees

- information technology expenses
- human resource expenses
- accommodation expenses (e.g. rent, maintenance, depreciation, utilities, etc.)
- finance expenses
- staff training expenses

Question 2: Do you think the reporting elements proposed are appropriate?

Question 3: Is there additional information that should be reported under the Transparency Code?

Question 4: Would your charity have the capability to publish the proposed reporting content during a natural disaster?

Question 5: Should administration costs be included in the Transparency Code? Do you have suggestions for what should be included in the definition of administration costs?

Frequency of reporting

A key part of assisting donors and the public to understand how funds are being used is ensuring that reports are regular and timely. The frequency of reporting required under the Transparency Code should balance the public’s need for current information with the cost to charities of providing it.

The Transparency Code could specify minimum reporting timeframes that signatories must meet. For example, the Code could require signatories report at least quarterly for the two years following an emergency disaster declaration.

In addition, the Transparency Code could specify that those signatories with the ability to report more often can choose to do so. These signatories could choose to commit publicly to a more frequent set of reporting timeframes and would then be accountable to their donors and the general public for meeting this frequency.

Signatories would also be encouraged to continue reporting after the initial two year timeframe where they were still involved in relief and recovery activities.

Question 6: Do you consider the quarterly minimum reporting will meet donors’ expectations of transparency? Would you suggest a different approach?

Targeting

Becoming a signatory to the Transparency Code will be voluntary. Charities will be motivated to become a signatory due to the benefits of the Code. Greater transparency about the use of donations will likely stimulate the allocation of public donations to the charity allowing them to provide vital services to the community impacted by the natural disaster. It will also help to build public trust and confidence in the organisation, reducing the likelihood of reputational damage.

However, the working group considers that reporting should be adopted by the following charities:

1. Charities working in response to the natural disaster covered by the national emergency disaster declaration; and
2. in receipt of donations above a threshold of \$3 million for a particular appeal.

This will help to ensure that the burden of the Transparency Code is targeted to those charities who have received significant donations during a disaster and are subject to heightened public scrutiny.

Question 7: Should there be an expectation that charities who receive donations in excess of \$3 million from a disaster specific appeal should be a signatory to the Transparency Code?

Compliance

Charities benefit when they increase the transparency of their operations. If donors and the broader public can see that a charity is using funds appropriately and meeting its operating obligations, their trust and support for the charity strengthens.

This not only provides an incentive to become a signatory to the Transparency Code, but also to comply with the Code on an ongoing basis. Members of the public will be able to raise concerns directly with a signatory where they feel the charity is not meeting its obligations under the Code and that sufficient information on the charity's response activities is not being provided. In this way transparency will drive accountability and compliance with the Transparency Code.

Given this, the working group proposes that charities self-regulate their compliance with the Transparency Code.

The working group considers that the Government's role in administration of the Transparency Code should be focused on maximising take-up. Initially this could be done through invitations to key charities or a targeted communications campaign. On an ongoing basis, the Government could incentivise participation by publicly recognising those charities which have signalled that they are complying with the Transparency Code, for example by enhancing information on the ACNC website.

This approach will also mean that implementation of the Transparency Code can commence as soon as possible. Charities will be able to continue publishing reports through their traditional channels (i.e. official websites) rather than via a regulator, removing any need for new IT systems.

Question 8: Are there sufficient incentives for charities involved in disaster responses to adopt the Transparency Code voluntarily?

Question 9: Do you see any risk with allowing signatories to self-regulate compliance with the Transparency Code?

Conclusion

Reports published under a Transparency Code with the features proposed above will provide a source of high quality, consistent and current information on charities' contributions to recovery efforts. The information will demonstrate charities' roles in supporting impacted communities, and their plans to provide further assistance as time progresses. This will provide assurance that donations are being used to fund critical recovery activities, inform decisions by future donors and drive greater understanding of the long-term nature of recoveries from natural disasters.

The voluntary nature of the Transparency Code means that charities can choose to comply based on the benefits of enhanced trust. Given these benefits are likely largest for those charities heavily involved in response activities and receiving substantial amounts of donations, this will target the administrative burden to those charities with the greatest capacity to absorb it. Given that reporting

will be published on individual charity websites, there will be no need for charities to develop new IT systems. Importantly this will allow for swift implementation.

Question 10: Is there anything further you think the working group should take into account in developing a proposal for the Transparency Code?

Finalisation of the Transparency Code

Throughout the document we have sought your feedback on key elements of the Transparency Code. The working group will receive your input until 13 August 2021. This feedback will inform a report to Government on key elements of the Transparency Code.

Consolidated list of consultation questions

1. Would an appeal intent similar to the example provide sufficient information for donors? What additional information should be included?
2. Do you think the reporting elements proposed are appropriate?
3. Is there additional information that should be reported under the Transparency Code?
4. Would your charity have the capability to publish the proposed reporting content during a natural disaster?
5. Should administration costs be included in the Transparency Code? Do you have suggestions for what should be included in the definition of administration costs?
6. Do you consider the quarterly minimum reporting will meet donors' expectations of transparency? Would you suggest a different approach?
7. Should there be an expectation that charities who receive donations in excess of \$3 million from a disaster specific appeal should be a signatory to the Transparency Code?
8. Are there sufficient incentives for charities involved in disaster responses to adopt the Transparency Code voluntarily?
9. Do you see any risk with allowing signatories to self-regulate compliance with the Transparency Code?
10. Is there anything further you think the working group should take into account in developing a proposal for the Transparency Code?

Attachment A – sample Transparency Code reports

The working group has drafted two sample reports that would meet the proposed features of the Transparency Code. The reports are written from the perspective of two fictitious charities involved in the response to an unfolding bushfire crisis on the Australian east coast and are intended to help guide your feedback on the reporting content prescribed under the Code.

Sample Report 1 – Community Rebuild

The first report is from ‘Community Rebuild’, a fictitious volunteer run charity involved in repairing damaged infrastructure in rural communities impacted by natural disasters. The charity has chosen to report in line with the quarterly minimum reporting frequency. This sample report shows the type of reporting that organisations with relatively low administrative capabilities could produce to comply with the proposed features of the Transparency Code. ‘Community Rebuild’ has also chosen to voluntarily report information on non-financial donations given the importance of such donations to the charity’s operating model.

Sample Report 2 – Natural Disaster Inc

The second report is from ‘Natural Disaster Inc’, a fictitious charity operating with the sole purpose of assisting families and communities affected by natural disasters by ensuring their basic and essential needs are met. ‘Natural Disaster Inc’ has committed to reporting monthly. This provides an example of what those charities with significant resourcing and administrative capabilities could produce.

Report 1 – Community Rebuild

Community Rebuild bushfire response report – March 2021

Data current as at 31 March 2021

Community Rebuild is a volunteer run charity involved in repairing and constructing key infrastructure in rural communities impacted by natural disasters.

Our volunteers are currently working to clear debris and identify structures for rebuilding in areas of NSW and VIC impacted by the ongoing bushfires.

Fundraising for these activities began in November 2020 under our East Coast fires appeal [[link to appeal intent](#)].

Total donations to date	\$18 million
Donations since last reporting period (1 January – 31 March)	\$5 million
Relevant non-financial donations (Information reported voluntarily)	Steel posts, barbed wire and fencing ties for 30 km of fencing Total of 12,000 volunteer hours across all programs
Total spending to date	
Activity	Spent
Construction materials	\$4 million
Safety gear for volunteers	\$1 million
Tools and other equipment	\$2.5 million
Administration costs ¹	\$0.5 million
TOTAL	\$8 million
Total committed funds to date	
Activity	Committed
Construction materials	\$4 million
TOTAL	\$4 million
Uncommitted funds	\$6 million

¹ Administration costs are defined as including audit and accounting fees; legal fees; information technology costs; human resource expenses; accommodation expenses (e.g. rent, maintenance, depreciation, utilities, etc.); finance; and staff training.

Report 2 – Natural Disaster Inc

Natural Disaster Inc. bushfire response report – March 2021

Data current as at 31 March 2021

Who we are

Natural Disaster Inc exists to assist families and communities affected by natural disasters by ensuring basic and essential needs are provided to those in need.

Disaster responses we're involved in

We are currently providing assistance to regions of South-West New South Wales and Northern Victoria in response to the impacts of the 2021 summer bushfires.

What we do

Our services include the provision and distribution of:

- food and water;
- care packages (containing general essentials such as toiletries, blankets, etc.);
- clothing; and
- direct financial support to individuals.

This is an exhaustive list of our services – our governing trust deed dictates that the donations we receive must be used on the four services above, or administration costs generated in providing these services. Importantly this means we cannot contribute to rebuilding community infrastructure or re-donate funds to charities who do so. Any excess funding which is not deployed in our short term response efforts (approximately the next two years) will be deployed later through a direct financial support program targeted at alleviating the long term impacts of the bushfires on affected communities. We will develop the specifics of this program as the long term impacts of the disaster and the total amount of public donations become more certain.

Our fundraising

We began fundraising for our response to the bushfires in November 2020 under our 'NSW and VIC community aid appeal'. The appeal intent (linked [here](#)) outlined that our contribution to the bushfire response efforts would be built on the key services listed above.

Donations received

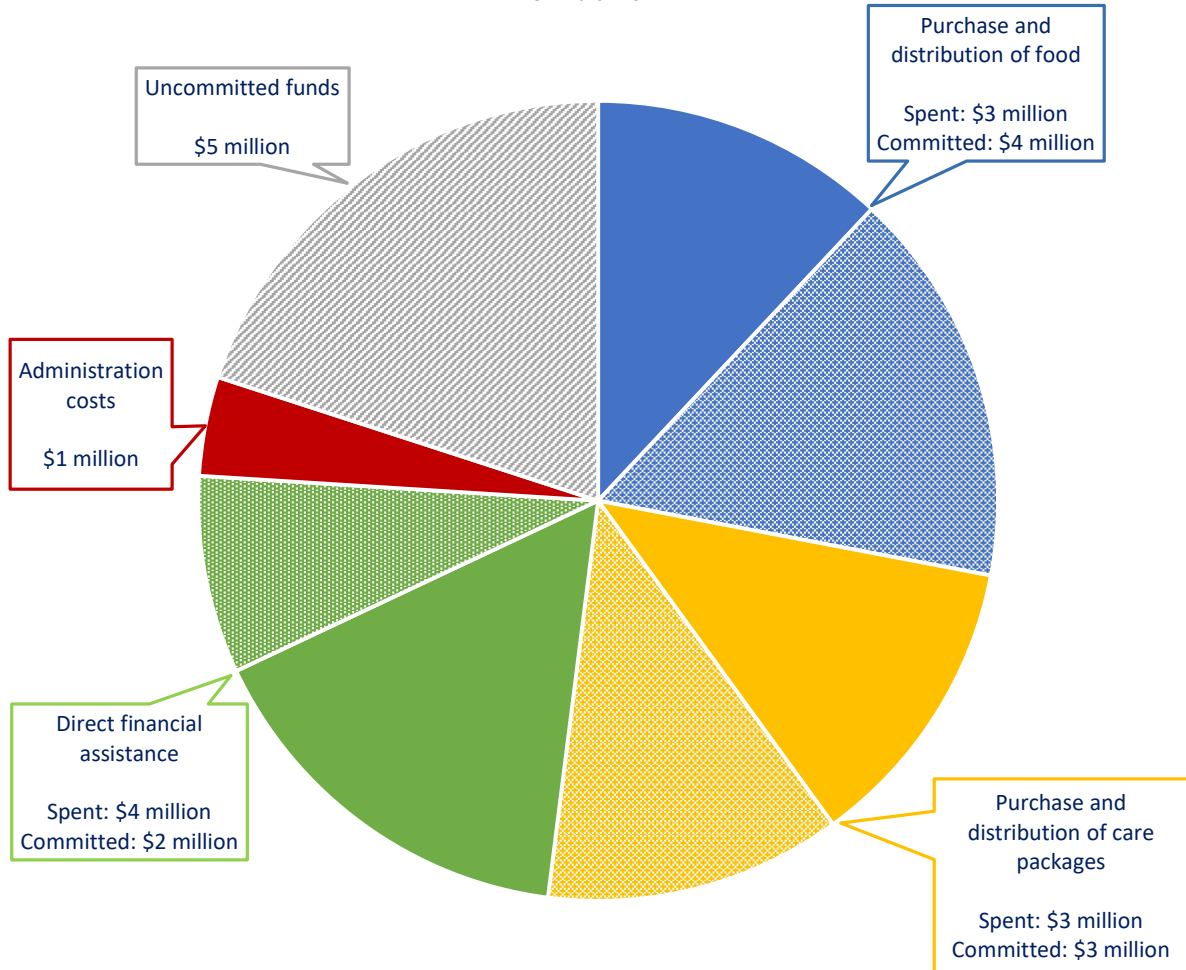
Total donations to date: \$25 million

Donations received since last reporting period (February 28 – March 31): \$4 million

How we are spending your donations

Figure 1: Use of donations in response to the East Coast Bushfires

31 March 2021



Total spending to date

Activity	Spent
Purchase and distribution of food	\$3 million
Purchase and distribution of care packages	\$3 million
Direct financial assistance	\$4 million
Administration costs ¹	\$1 million
TOTAL	\$11 million

To date we have spent \$11 million of our funds for disaster relief activities that have taken place in New South Wales and Victoria over the period of December 2020 to March 2021. We have distributed funding equally between our three core services: food, care packages, and direct financial assistance; in order to appropriately meet needs in disaster-affected communities. We have hired local halls and buildings in impacted communities to serve as bases for our operations, which is represented in our administrative costs.

Total committed funds to date

Activity	Committed
Purchase and distribution of food	\$4 million
Purchase and distribution of care packages	\$3 million
Direct financial assistance	\$2 million
TOTAL	\$9 million

Given the majority of our disaster relief efforts are focused on providing immediate assistance and support to communities, most of our unspent funds have been allocated to short term activities including providing food and care packages. Of the donations we have received to date, \$2m will be used to provide direct financial assistance to impacted individuals through a grants program. This program will run until these funds have been exhausted.

Total remaining funds to date

Uncommitted funds: \$5 million

We have made a conscious decision not to commit 20 per cent of the total donations we have received to date. This is a contingency plan to ensure we have funding available to provide support to those communities still threatened by the ongoing bushfires. We regularly review our contingency plans, including our uncommitted funds, and will do so as events develop.

¹ Administration costs are defined as including audit and accounting fees; legal fees; information technology costs; human resource expenses; accommodation expenses (e.g. rent, maintenance, depreciation, utilities, etc.); finance; and staff training.