

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Treasury Portfolio
Additional Estimates
2014 - 2015

Department/Agency: ACNC

Question: AET 117-122

Topic: Australian Charities and Not-for-Profits-Commission

Reference: written - 06 March 2015

Senator: Ketter, Chris

Question:

- 117. How many staff does the ACNC currently have?
- 118. It was recently reported that 23 per cent of ACNC's staff have left the agency in the past year – what do you attribute that rate of attrition to?
- 119. Social Services Minister Scott Morrison was recently quoted as saying that abolishing the ACNC is not a high priority for him – what advice have you had from the Minister or representatives of the Department of Social Services about the ACNC's future since Mr Morrison took over the portfolio?
- 120. Have ACNC representatives met with Mr Morrison to discuss the organisation's future?
- 121. Is the ACNC and its staff still operating under the assumption that it will be abolished in the near future?
- 122. What impact has the continuing uncertainty about the ACNC's future had on the not-for-profit sector?

Answer:

117. At the end of February 2015, the ACNC had 89.45 fulltime equivalent employees (FTE).

118. The ACNC has experienced a decline in staff morale with the introduction of legislation to repeal the ACNC Act.

The sustained period of uncertainty has hindered staff retention and has made organisational planning difficult.

The ACNC recruited highly skilled and motivated staff from the not-for-profit sector, the private sector and a range of state and federal government departments.

All ACNC staff have a commitment to the sector and remain determined to provide the very best service that they can to the public and charities.

The ongoing uncertainty has caused confusion among the charities the ACNC regulates, with many unsure if they are still required to meet their reporting obligations. This is further discussed in response to question 122.

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119. The Assistant Treasurer is the Minister responsible for the ACNC, as the *ACNC Act 2012* sits within the Treasury portfolio. On 23 December 2014 the Hon Josh Frydenberg MP was appointed as the new Assistant Treasurer.

On 8 January 2015 the ACNC sent the new Assistant Treasurer's office an Incoming Minister brief. The brief included an overview of the ACNC's role and functions, the administrative arrangements, the policy and regulatory environment, and future engagement opportunities.

The ACNC Commissioner has requested a meeting with the new Assistant Treasurer.

On 23 December 2014 the Hon Scott Morrison MP was appointed as the Minister for Social Services. Administrative Arrangements Order C2015Q00002 (23 December 2014) states that the *Charities Act 2013* is legislation administered by the Minister for Social Services, except to the extent administered by the Treasurer. The Treasurer administers the *Charities Act 2013* 'only to the extent of its application to taxation and corporations law'.

The ACNC has not received formal advice on the future of the ACNC from the Assistant Treasurer or the Minister for Social Services.

The ACNC Advisory Board Chair, Robert Fitzgerald AM, wrote to the Assistant Treasurer and Minister for Social Services on 20 March 2015 to seek clarification on the future of the ACNC and to request a meeting.

120. The ACNC provided the new Minister for Social Services' office a carbon copy of the Incoming Minister brief, which was sent on 8 January 2015 to the Assistant Treasurer. The ACNC Commissioner and her representatives have not met with the new Minister for Social Services.

121. The ACNC and the Australian Taxation Office continue to work closely on potential arrangements to transition functions should legislation to repeal the ACNC Act pass both Houses of Parliament.

The Government introduced a Bill on 19 March 2014, the Australian Charities and Not-for-profits Commission (Repeal) (No. 1) Bill 2014, which would repeal the ACNC Act 2012.

On 27 March 2014 the Bill was referred to the Senate Economics Legislation Committee for inquiry and report. The public hearing was held on 2 May and the reporting date was 16 June 2014.

The Bill was debated a second time on 3 December 2014 but was not voted on by the House of Representatives.

The ACNC notes the comments made by the Minister for Social Services made to Fairfax media in February 2015 indicating that the abolition of the ACNC is no longer a priority. However, at this time the ACNC has not received formal advice as to the future of the ACNC.

The ACNC has and will continue to administer the ACNC Act 2012 and work toward achieving the Objects of the Act until the Parliament decides otherwise.

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To this end, since the establishment of the ACNC we have:

- Delivered the ACNC Charity Register – Australia’s first free, searchable, online database of all 60,000 registered charities. Since the establishment of the ACNC to the end of January 2015, the Charity Register has been viewed over half-a-million times.
- Achieved an estimated compliance rate of 85% for the first cycle of Annual Information Statements – a primary source of information that is made available to the public on the Charity Register.
- Established the Charity Passport – the means of transferring information charities are required to provide the ACNC to other authorised government agencies. This is a key component of the report once, use often framework.
- Revoked, removed or deleted over 6,000 charities that were no longer entitled to registration with the ACNC.
- Received over 1,000 complaints and concerns about Australian charities, largely from the public or the not-for-profit sector.
- Investigated and revoked the status of nine charities for contravening the ACNC Act.
- Answered over 79,000 calls and received over 85,000 pieces of correspondence, largely from charities.
- Produced website content, factsheets, guides, podcasts, videos and held face-to-face and online education sessions to help registered charities understand their obligations. Since the establishment of the ACNC to the end of January 2015, the ACNC website has been viewed over 7 million times.

122. The ACNC’s uncertain future continues to cause concern and confusion in the not-for-profit sector.

The ongoing uncertainty has negatively impacted submission rates for the Annual Information Statement as some charities erroneously believe that the Government policy of abolition of the ACNC absolves them for meeting their obligations under the ACNC Act.

Recent examples of file notes/questions from charities include:

Customer called to see if they have to lodge AIS 14 with talks of ACNC being abolished. – January 2015

Is ACNC going to be abolished? Do we need to report? – January 2015

Has the ACNC been abolished? - December 2014

Research by the Australian Institute of Company Directors has also shown that the sector is troubled by the uncertainty and supports the continuation of the ACNC.

Page 33 and 34 of the [NFP Governance and Performance Study 2014](#) highlighted the importance of retaining the ACNC and clarifying the future direction of charity regulation:

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There were a significant number of unprompted requests from the sector for the Commonwealth government to retain the Australian Charities and Not-for-profits Commission (ACNC). The questionnaire made no mention of the ACNC yet many written comments strongly supported its retention.

36 per cent are calling for the government to clarify its direction, implement change and create stability in operating environments. This will enable better, longer term decision making and investment.

Consequently the finalisation of the build of the Charity Register – the key means of providing credible information to the community on charities, which enhances public trust and confidence – has been slowed.

Similarly, most Commonwealth Government agencies are reluctant to enter into memorandums of understanding with the ACNC in the face of such uncertainty, reducing our capacity to share and gather information and align reporting requirements. This has impacted our efforts to reduce red tape charities.

Despite an appetite within state and territory governments to align or harmonise regulatory and reporting arrangements with the ACNC, those who have made commitments (for example South Australia and the ACT) have paused on finalising them. Those who have initiated dialogue are aware that their legislators are unlikely to progress regulation while the uncertainty regarding the ACNC's future remains.