

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Treasury Portfolio
Budget Estimates 2014
3 June to 5 June 2014

Department/ Agency: ACNC

Question: BET 886-891

Topic: Australian Charities and Not-for-profits Commission

Reference: Written – 12 June 2014

Senator: Wong

Question:

886. What has been the rate of staff attrition over the past six months?
887. Has the introduction of legislation to abolish the ACNC decreased staff morale and made it more difficult to retain staff?
888. Has the ACNC planned for the contingency that the Government is not able to legislate for the abolition of the ACNC?
889. What feedback is the ACNC receiving from the sector regarding the abolition of the commission?
890. Has the ACNC received questions from charities asking whether they still need to comply with legal requirements given the proposed abolition of the commission?
891. Is the ACNC aware of any advice given to charities to the effect that charities need not comply with legislative requirements to report as the commission will soon be abolished

Answer:

886. From 1 January to 12 June 2014, 8 staff have left the ACNC. This is an annualised attrition rate of approximately 16%.

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

To assist staff (during this uncertain climate) the ACNC hosted three (3) sessions of Resilience training for its staff members.

The ACNC recruited staff from the not-for-profit sector, the private sector and a range of state and federal government departments. All have a commitment to the sector and staff remain determined to provide the very best service that they can to the public and to not-for-profits. The sustained period of uncertainty though has made it difficult to retain staff and the introduction of the legislation has been destabilising.

888. The ACNC is planning for both the continuation of the ACNC and transition to new regulatory arrangements:

The continuation of the ACNC

- Until such time that both Houses of Parliament pass legislation repealing the ACNC, the ACNC will continue to administer the Act.

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- The ACNC continues to provide the charitable sector and the public with education, guidance and support through website content, publications and directly through the Advice Services phone line. For the period 3 December 2012 to 12 June 2014 the ACNC has provided 117,823 pieces of advice and support to charities and the public (including 54,589 calls to our Advice Services phone line).
- The ACNC has regularly made public statements via the Commissioner's Column and proactive and reactive media noting that charities must continue to meet their legal obligations.
- The ACNC has continued projects and activities across a variety of Directorates to encourage submission of the 2013 Annual Information Statement, which is required to maintain charitable status and also helps build the ACNC Charity Register. The ACNC estimates that 80% of active charities have lodged their 2013 Annual Information Statement. All of this information is published on the Charity Register and freely available to the public. The ACNC has also published 23,085 sets of governing rules of charities and 7,100 sets of charity accounts that were provided voluntarily by charities for display (even though financial reporting is not required for 2013/14).
- The ACNC has also commenced a project to find 'lost charities'. On 3 December 2012, the ATO transferred the details of 56,000 registered charities. The ATO was not required to maintain an up-to-date register, and much of the information was years out of date so the ACNC has had to spend considerable resources getting verified information from all charities. The ACNC wrote to all these 56,000 charities three times. Each mail-out has resulted in varying amounts of 'return to sender' mail. If these charities are unable to be contacted and do not lodge their 2013 Annual Information Statement, they are at risk of losing their Commonwealth charity tax concessions. The ACNC has advertised in both metro and regional press, has published a list of the 'lost' charities on the homepage of its website and is going through a data matching process with other agencies too. The process that we are going through with the first Annual Information Statement and our work with other agencies will enable us to remove the thousands of charities that are no longer active from the Register. The Register will then be an accurate verified and searchable database of all active charities that is freely available to the public. More information about this project can be found in the ACNC's response to BET 3332-3333.

Transition to new regulatory arrangements

- Executive staff from the ACNC have met with representatives of the Department of Social Services and the Australian Taxation Office.
- These meetings have included initial discussions on the transition of regulatory functions
- The ATO has been consulted by the Department of Social Services on the "Options Paper" that will form the basis of its consultations on the transitional arrangements. The ACNC has not been consulted on this.

889. The ACNC has received and noted positive support from the sector.

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Research

- Prior to the 2013 Federal election, [Pro Bono Australia undertook independent research](#) with the NFP sector. The key findings noted in the report included:
 - Respondents overwhelmingly stated that the reduction in government red tape and compliance costs (93%) was the most important initiative in developing the Australian Not for Profit sector in the past three years.
 - The institutional infrastructure such as the ACNC (81%) and the Office for the Not for Profit Sector (73%) received lower but still very high levels of support.
 - Only 6% of respondents supported the ATO as the regulator.
- In April and May 2013, the [ACNC commissioned a research project](#) with ChantLink to examine public trust and confidence in Australian charities. Key findings included:
 - Respondents were asked to rate their level of trust in charities and a range of other organisations. Initial scores for overall trust in charities were moderate, with a mean score 6.6.
 - Once the ACNC's role was explained to respondents, their level of trust in charities increased significantly, to a mean score of 7.0.
 - The study revealed wide public support for a national regulator and the core functions it carries out. 77 per cent of participants believed a public register of charities to be 'very important'.
- In October-November 2013, sector website [Our Community conducted an online poll](#) asking: What do you think about the Federal Government's plans to cut the Australian Charities & Not-for-profits Commission?

The results were:

 - 74% selected 'bad idea'
 - 15% selected 'good idea'

Senate Inquiry

Following the publication of the 155 submissions to the Senate Inquiry into the repeal of the ACNC Act, the ACNC analysed the submissions and concluded the following:

- 81% of submissions made to the Senate Inquiry were in support of the ACNC remaining as regulator.
- 10% of submissions were in favour of ACNC's repeal.
- Many of the submissions provided excellent feedback on the ACNC, particularly in relation to the Commission's efforts in red tape reduction, providing efficient advice and registration services, and its education and support functions.
- The ACNC also noted a range of supportive comments and statements throughout the submissions, including:

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- **Governance Institute of Australia Ltd (61):** “Our support of the ACNC is based on its light-touch presence as a regulator, its effectiveness in lifting the accountability and governance standards of charities, and its success in providing significant education to the sector and providing the sector with visibility.
- **Fielding Foundation (4):** “The introduction of the ACNC and in particular the AIS has significantly reduced this workload [securing annual reports that provide detail on expenditure] on The Fielding Foundation – thereby making it easier to identify and donate to well performing and transparent charities.”
- **All Together Now (23):** “The guidance of the ACNC helps charities reduce the time they spend on administration and helps divert that time into charitable work in the community. “
- **Sustainability Showcase (121):** “The ACNC has been swift and supportive in responding to queries, and has provided consistently excellent service that is clear, precise, and consistent... The ATO, the department that is intended to take over the role of the ACNC, has been cumbersome and inefficient for us to deal with, posing delays and difficulties, as well as being ill-equipped to assist with charity sector-specific queries.”
- **Australian Association of Christian Schools (97):** “AACS has not experienced some of the fears that were suggested about the rise of another bureaucratic agency. Far from an increase in red-tape, the opposite has occurred. The spectre of heavy-handedness or an inappropriate exercise of power by a separate entity providing oversight and regulation has simply not materialised.”
- **War Widows Guild of Australia NSW Ltd (107):** “Having experienced a sham charity some years ago in our area of operation, I draw your attention to the great difficulty it takes to have the principals behind such organisations brought to account under state legislation. I was heartened to see that the ACNC has already taken action to investigate a number of complaints against charities. If the ACNC is abolished, who will take on this role? After all, charitable organisations are raising money from the community and should be accountable.”
- **St Vincent de Paul Society (60):** “Red tape will be reduced by allowing the ACNC to continue its work of reducing duplication, facilitating reporting and promoting sector development.”
- **Queensland Law Society (7):** “The ACNC is a nimble, focused and fit for purpose regulator, whilst the ATO systems are primarily designed for their core responsibilities. These do not appear to accommodate the particular profile or needs of the charities sector.”
- **Law Council of Australia (21):** “We believe it is not appropriate for that role [of determining the charitable status of entities that are seeking tax concessions] revert to the Commissioner of Taxation.

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- **The Synergy XChange Ltd (26):** “We feel the abolition of the ACNC would be a significant regression for the sector and strongly recommend its retention to both continue current operations and achieve further sector reform”.

890. Through the ACNC’s Advice Services phone line, the ACNC has received many enquiries from charities regarding their obligations in light of the introduction of legislation to repeal the ACNC Act.

The tone amongst callers is generally confusion or surprise. .

Some of the confused customers are from small organisations, but we have also had similar queries from larger charities.

Some examples of recurring questions from ACNC Advice Services phone line records include:

- “Do we still have to do the AIS? I thought you were getting abolished.” – This is the most common wording of the question, and reoccurs throughout April, May and June 2014
- “We were completing our AIS but... A brief investigation has revealed that the Commonwealth Government is planning on abolishing the ACNC as part of cutting red tape. Where does this leave our reporting obligations?” – April 2014
- “I thought you were abolished by the Treasurer’s statement. Is this not so? If not please tell me so I can comply.” – May 2014
- “I received your reminder letter, but was under the impression that we did not need to submit because the ACNC is getting abolished.” – May 2014

891. Through the ACNC’s Advice Service phone line we have received recurring indications that charities have confused the introduction of the legislation to repeal the ACNC Act with advice that they no longer need to comply with their obligations.

For example, the ACNC Advice Services phone line recently received a call from a parents and citizens charity which stated that they had received advice from their state peak body indicating that they didn’t need to complete the 2013 Annual Information Statement.

The ACNC staff member requested to see the advice, however it was a media article about the introduction of the legislation to repeal the ACNC.

This example is indicative of the confusion and frustration charities are experiencing.