

**FUNDRAISING INSTITUTE AUSTRALIA**  
**Reform of ACNC secrecy provisions – Recommendation 17 of the ACNC Review**

**20 August 2021**

<b>Organisation:</b>	<b>Fundraising Institute Australia (FIA)</b>		
<b>Street address:</b>	<b>Level 2, 12 Help Street</b>		
<b>Suburb/City:</b>	<b>CHATSWOOD</b>	<b>State &amp; Code:</b>	<b>NSW 2067</b>
<b>Postal address:</b>	<b>PO Box 642</b>		
<b>Suburb/City:</b>	<b>CHATSWOOD</b>	<b>State &amp; Postcode:</b>	<b>NSW 2057</b>
<b>Principal contact:</b>	<b>Katherine Raskob</b>		
<b>Position:</b>	<b>Chief Executive Officer</b>		
<b>Phone:</b>	<b>02 9411 6644</b>		
<b>Email address:</b>	<a href="mailto:kraskob@fia.org.au">kraskob@fia.org.au</a>		

**Submission by  
Fundraising Institute Australia (FIA)**

Reform of ACNC secrecy provisions – Recommendation 17 of the ACNC Review

FIA welcomes the opportunity to make a submission to the Federal Government regarding Recommendation 17 of the ACNC Review – ANCN Secrecy Provisions.

**About FIA**

Fundraising Institute Australia (FIA) is Australia’s national peak body representing professional fundraising in Australia. It has over 1200 members who are charities, NFPs, suppliers of fundraising services and individual fundraising professionals.

Most major registered charities are FIA members, accounting for a major portion of the nearly \$11.6<sup>1</sup> billion donated by Australians each year.

FIA’s mission is to promote and advance ethical best-practice fundraising, through the FIA Code of conduct for professional fundraising, professional development and training, knowledge sharing and networking.

FIA represents and protects the fundraising sector through leadership and through lobbying and advocacy on behalf of the sector at all levels of government and with key stakeholders. FIA is the champion for and voice of fundraising in Australia.

**FIA submits to this Consultation:**

- Increased transparency on the part of the Regulator in dealing with charities is broadly positive and enhances public trust and confidence in charities.
- Transparency objectives should be finely balanced with the risk that some information yet to be verified or judged, could bring the charitable sector into disrepute, thereby harming the sustainability of charities including their fundraising efforts, into the future.

Specifically, outlined here are comments on each of the proposed areas of transparency as set out in the consultation paper ‘Reform of ACNC secrecy provisions – Recommendation 17 of the ACNC Review.’

**Proposed areas of transparency**

In Area 1: reasons for registration decisions

FIA supports that increased transparency on registration decisions could be warranted in line with the UK and NZ charity regulators, namely, full statements about their registration and non-registration decisions, including identifying details about an entity and its application, **where the**

---

<sup>1</sup>[de-30058 - acnc australian charities report - 7th edition final 2 \(1\).pdf](#)

**decision is of wider public interest** and it may educate the charitable sector, both of which can positively impact the perception of the Regulator in its role.

In determining 'wider public interest' with regard to registration decisions, FIA recommend the following limited benefits be considered:

- Does the disclosure of registration decisions provide guidance about registration matters that the charitable sector would benefit from
- Does the disclosure correct the public record and clarify facts about registration of a particular case or cases

In Area 2: new and ongoing investigations

FIA does not support the publication of details of ongoing investigations including full statements about the charity, identifying details about their activity leading to investigations either proactively or in response to concerns raised, similar to the current powers of the New Zealand and Canadian regulator. FIA submits that the risk to a charity, its reputation and its ongoing ability to act in the interest of the public and/or in regard to fundraising is greatly jeopardised potentially by unwarranted claims or other judgements not yet properly investigated or concluded in their investigation by the ACNC.

Further, lifting of the current secrecy provisions could cause severe or disproportionate prejudice to a charity and their reputation which may adversely affect their ability to raise funds from the public, achieve government support and/or achieve their mission on behalf of their beneficiaries in the course of their work as a charitable organisation.

FIA believes the risks to charities and the charitable sector for information or judgements not yet proven, in eroding trust and confidence in charities is greater than any wider public interest benefit with regard to new and ongoing investigations. This would be more aligned to the work of the Australian Taxation Office in protecting the privacy of organisations during the course of investigations.

FIA further recommends that with regard to new and ongoing investigations, the ACNC Commissioner retains the current provision disallowing comment of any nature on a new or ongoing investigation of a charity due to the risk noted above.

In Area 3: finalised investigations and resulting compliance action

FIA supports in principle increased transparency on the part of the Regulator to disclose the result of an investigation including the reasons for revocation of a charity's registration with the ACNC in the interest of public benefit, of increased trust and confidence in the Regulator when due process is achieved and can be of educational value to the charitable sector, similar to the provisions of the UK and New Zealand charity regulators.

FIA agrees it would also allow the ACNC to correct the public record and prevent misinformation in situations where the public may infer or draw false conclusions about an ACNC investigation into a charity, any actions taken as a result, and the reasons for those actions.

### **Summary**

In Area 1: FIA does not object to increased transparency where the decision is of wider public interest in limited ways.

In Area 2: FIA objects to elimination of secrecy provisions and submits that the ACNC should maintain current secrecy provisions due to the significant risk to individual charities and the charitable sector.

In Area 3: FIA does not object to increased transparency where the decision is of wider public interest in a broad number of ways.