



Australian
Charities and
Not-for-profits
Commission

GOVERNANCE IN THE COMMUNITY SECTOR:

The ACNC View

Presented by
Susan Pascoe AM
Commissioner | 26 July 2017



ACNC OBJECTIVES



Objects under the ACNC Act:

- 1** Maintain, protect and enhance public trust and confidence in the NFP sector
- 2** Support a sustainable, robust, vibrant, independent and innovative NFP sector
- 3** Contribute to red tape reduction



WHAT DOES THE ACNC DO?

- Registers charities
- Provides guidance and advice
- Requires charities to report yearly using the Annual Information Statement
- Maintains the ACNC Charity Register
- Takes compliance action where required
- Provides information to the ATO about charity entitlement to tax concessions
- Developing a simplified reporting framework via the Charity Passport

AUSTRALIAN CHARITIES



Charities had
combined total income
over
\$134 billion



67%
Small
Charities



16%
Medium
Charities



17%
Large
Charities

Top 3 sectors by total income



Education
& Research
45%



Health
25%

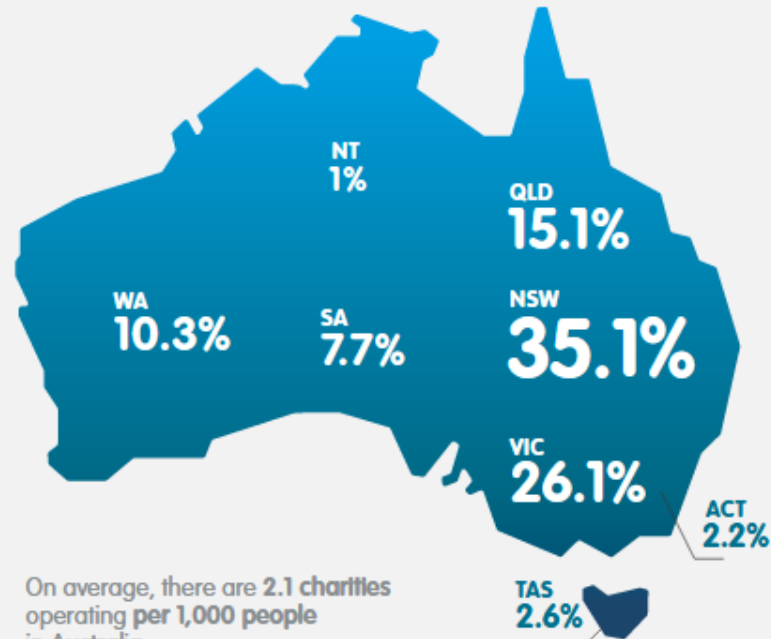


Social
services
9%



38%

of registered charities
have DGR status

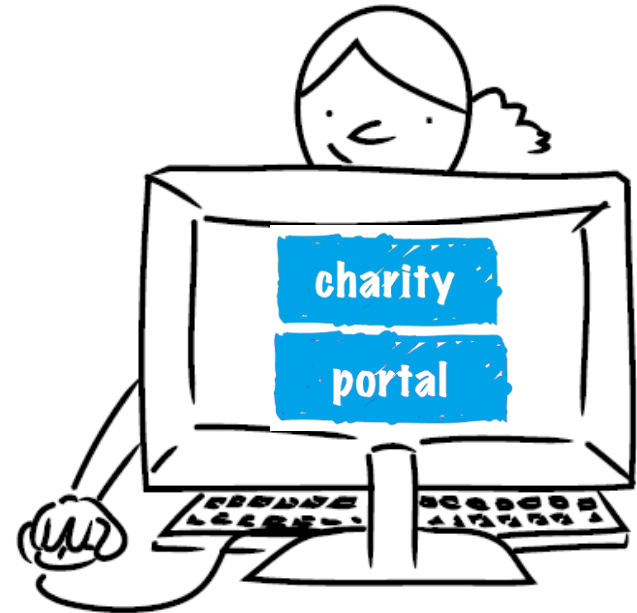


On average, there are 2.1 charities
operating per 1,000 people
in Australia.

CHARITY OBLIGATIONS TO THE ACNC



- Maintain **charity status**
- Keep **records**
- **Report** annually
(Annual Information Statement)
- **Notify us** of changes
- Meet **governance standards**



[acnc.gov.au/ongoingobligations](https://www.acnc.gov.au/ongoingobligations)

Governance refers to the **processes, activities** and **relationships** of your charity that make sure your charity is **effectively** and **properly** run.



THE ACNC GOVERNANCE STANDARDS



Charities must meet a set of core, minimum standards that deal with how charities are run.

1 **Purposes** and not-for-profit nature of a charity

2 **Accountability** to members

3 **Compliance** with Australian laws

4 **Suitability** of responsible persons

5 **Duties** of responsible persons

GOVERNANCE STANDARD 1

Purposes and NFP character



Registered charities must:

- **Demonstrate** that their purposes and character are not-for-profit
- **Comply** with their purposes and character as a not-for-profit
- **Provide information** about their charitable purposes to the public

GOVERNANCE STANDARD 2

Accountability to members



Registered charities must:

- Take reasonable steps to **be accountable** to members, and
- Allow members adequate opportunities to **ask questions** and **raise concerns** about how the charity is run.





GOVERNANCE STANDARD 3

Compliance with Australian law

Registered charities must:

Not act in a way that could be dealt with as:

- An **indictable offence** under Australian law (usually punishable by imprisonment for a period exceeding 12 months), or
- A breach of law that has a **civil penalty of 60 penalty units** (\$10 200) **or more**.

GOVERNANCE STANDARD 4

Suitability of responsible persons



Registered charities must:

Take reasonable steps to be satisfied that each of their responsible persons are not:

- Disqualified from **managing a corporation**, or
- Disqualified from being a **responsible person** by the ACNC within the previous 12 months

DUTIES OF RESPONSIBLE PERSONS

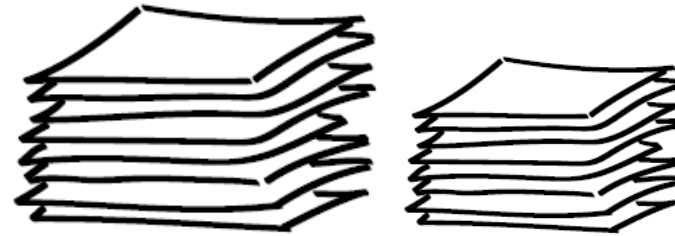


- 1 Act with reasonable care and diligence
- 2 Act honestly and fairly in the best interests of the charity and for its charitable purposes
- 3 Do not misuse your position as a responsible person
- 4 Do not misuse information you gain in your position as a responsible person
- 5 Disclose conflicts of interest
- 6 Ensure that the financial affairs of the charity are managed responsibly, and
- 7 Do not allow the charity to operate while it is insolvent



KEEP RECORDS

Your charity needs to maintain:



Operational Records

- Record and explain what your charity has done (its activities)
- **For example:** annual reports, meeting agendas and minutes, operational plans, reports from events, client records etc.

Financial records

- Record and explain your charity's financial position and any transactions
- **For example:** financial statements, cash flow statements, bank statements, details of any contracts, leases etc.



RECENT COMPLIANCE OUTCOMES

In 2015 and 2016:



69

Investigations were finalised



62

Notices served under section 70-5 of the ACNC Act to obtain information and documents



28

Charities had their registration revoked following investigations (see appendix 1 for full list)³



27

Charities received self-assessment guidance to address low-risk concerns.



2

Charities entered into an enforceable undertaking⁴



9

Charities had their registration revoked following a registration review of entitlement.



10

Charities entered into a voluntary undertaking



40

Large charities were issued with penalty notices (\$4,500) for the failure to lodge their 2015 Annual Information Statement.



1

The ACNC gave one charity a statutory warning⁵

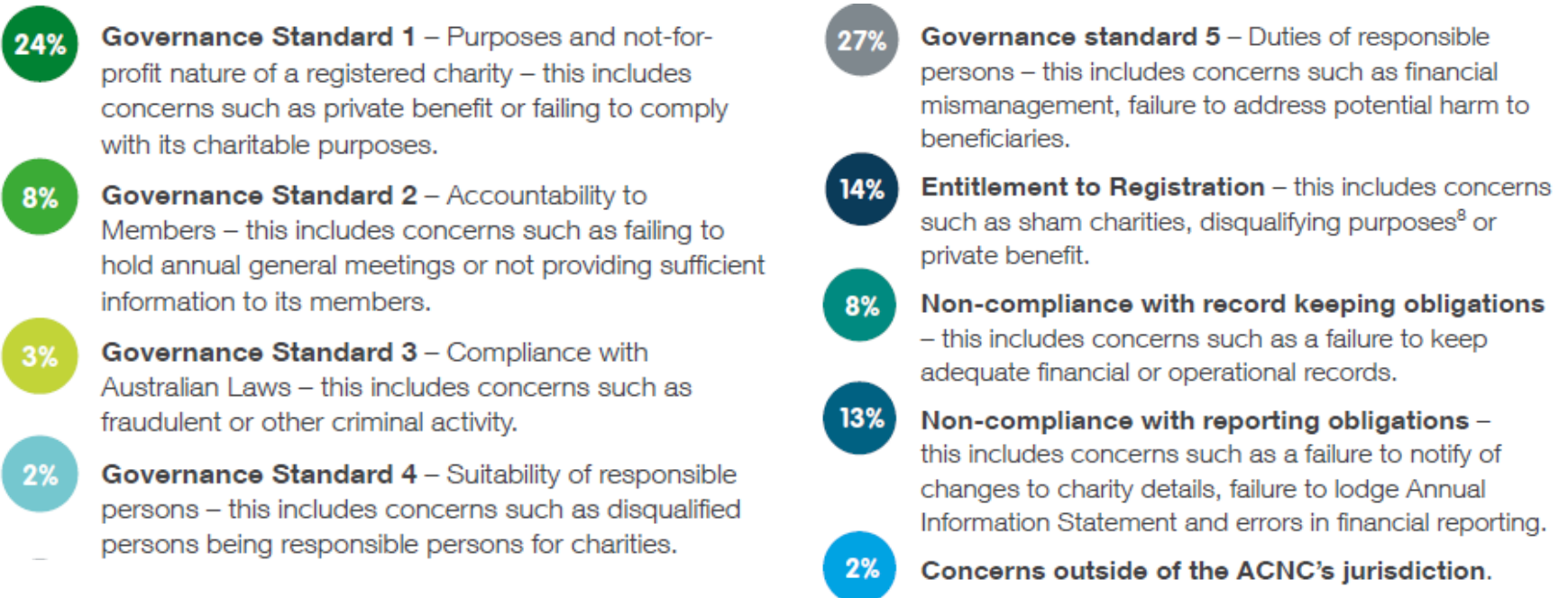


COMPLIANCE ISSUES

Major issues 2015 and 2016

- Governance breaches
- Governance Standard 5 – Duties of responsible persons

Types of concerns received from the public:





RED TAPE REDUCTION WORK





RED TAPE REDUCTION OUTCOMES

Red tape reduction - legal structure

	Report once	Common audit thresholds	Updating addresses once	Waived fee
ASIC Companies	✓	✓	✓	✓
ORIC Indigenous Corporations	✓	N/A	✓	N/A
Ancillary Funds	✓	✓	✓	N/A
TAS Incorporated Associations	✓	✓	✗	✓
SA Incorporated Associations	✓	✓	✗	✓
ACT Incorporated Associations	✓	✓	✓	✓
VIC Incorporated Associations	In progress	✓	✗	In progress
NT Incorporated Associations	In progress	In progress	✗	In progress
WA Incorporated Associations	In progress	✓	✗	In progress
NSW Incorporated Associations	✗	✗	✗	✗
QLD Incorporated Associations	✗	✗	✗	✗

Red tape reduction - fundraising

	Report once	Common audit thresholds	Exempt from license
SA	✓	✓	✓*
WA	In progress	✓	✗
ACT	✓	✓	✓
TAS	✓	✓	✗
VIC	✗	✗	✗
NSW	✗	✗	✗
NT	N/A	N/A	N/A
QLD	✗	✗	✗

*Charities must notify their intention to fundraise in SA, but do not apply for a license

SUPPORT FOR CHARITIES



- Education and advice
 - Face to face education sessions, targeted webinars, website and factsheets
 - Governance information
 - 13 ACNC (13 22 62)
 - Face to face events such as Ask ACNC
- Provision of specific information via sector 'peak bodies'
- Direct email and mail contact to issue reminders and provide information via ACNC Quarterly
- Aboriginal Liaison Officers available

KEEP IN TOUCH



acnc.gov.au



13 ACNC (13 22 62) 9.00 am – 6.00 pm AEST



advice@acnc.gov.au



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'Aussie Charities and NFPs'