



16 October 2023

Director
Personal and Indirect Tax
Charities and Housing Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via Email: charitiesconsultation@treasury.gov.au

Dear Director

RE: Reforms to ACNC's Secrecy Provisions

The St Vincent de Paul Society National Council of Australia ('the Society') welcomes the opportunity to provide a submission on the Exposure Draft Legislation and Explanatory Materials concerning the *Treasury Laws Amendment (Integrity and Transparency) Bill 2023: ACNC Review Rec 17 - Secrecy Provisions*.

The Society comprises over 45,000 members and volunteers and 6,000 staff and has provided everyday assistance to those in need in Australia since 1881. Currently, this includes over \$50 million in emergency relief distributed each year to help people cover food, transport, accommodation, medical, educational and utility costs. The Society is also a significant provider of affordable housing options and receives state and territory government funding to deliver a range of social support services.

Support for transparency and accountability

The Society supports legislative changes that improve transparency and accountability to taxpayers and to the general public. However, it is important to get the balance right.

The proposed amendments allow for disclosure of protected ACNC information if there is an ongoing or proposed investigation of a registered charity's conduct; and only if the disclosure is necessary to prevent or minimise risk of significant harm to public health and safety and misuse of funds or assets, or harm to the public trust in the not-for-profit sector. The Commissioner must compare the harm likely to be caused by the disclosure to the harm that disclosure may prevent (the 'public harm test'). Provisions also require the Commissioner to be satisfied that disclosure would not cause disproportionate harm to an individual connected to a registered charity or in receipt of its assistance.

Reputational damage and getting the balance right

While the Society has not been the subject of an investigation, it is not difficult to imagine the likely impact such an investigation and disclosure of protected information would have on a registered charity's operations. This is why getting the balance right between public accountability, the impact on the public, the not-for-profit sector, and the registered charity concerned, is essential.

During the 2019 Black Summer Bushfires, the Society provided assistance to affected local communities through emergency relief, accommodation and referral to other support services. During that period, there was considerable public outcry about how donations raised by charities were being used and the length of time taken to distribute them. Some of the loudest critics were politicians who displayed a lack of knowledge about the work of charities and how they best respond to natural disasters.

During the Black Summer Bushfires, the Society set up webpages and publications that detailed our activities, and identified donations received and distributed to provide critics with up-to-date information on where and how donated funds were being channelled to those impacted by the bushfires. Public criticism did not abate. During this period, we also reported weekly to the Australian Government on donations received and expended.

Consequently, our own resources (not donations) that could have been directed towards the emergency response were used to manage public messaging and meet additional reporting requirements. Donations dropped off, as did our volunteer numbers and, to some extent, have not fully recovered. Staff were also under considerable pressure, having to take on extra tasks while responding to bushfires and meeting extra communications and reporting activities.

There is also a level of distress experienced by the Society's members, volunteers and staff when they are trying to assist a community but are being criticised for their efforts. The volunteers of other charities also reported the negative impact uninformed criticism had on their volunteers and employees. We have previously recommended to various parliamentary inquiries, that a community education awareness campaign is needed for the public to understand the timeframes involved in disaster responses and the reporting and accountability requirements that are met by registered charities.

As a member of the Stronger Charities Alliance, we support the main points raised in its submission namely that:

- The public harm test should be further strengthened by narrowing the definition to establish a threshold and including consideration of potential reputational damage to the charity involved.
- Review of the ACNC Commissioner's decision and consultation with an advisory board should be included, except where public harm may be imminent. Administrative review of the decision should be available. Requiring the Commissioner to consult with an advisory board would increase transparency of the decision made.
- Notice to the charity under investigation should be mandated and include a statutory duration.
- A sunset clause should be specified covering the length of time information about investigations will be publicly available. Publication of information on the outcome of the investigation, both if the registered charity is exonerated or its registration revoked, would also increase transparency.

Yours sincerely



Mr Toby O'Connor
Chief Executive Officer