frsa Family & Relationship Services Australia
Providing Leadership, Linking Services, Supporting Relationships

3/2 Townsville St, Fyshwick ACT 2609
PO Box 1270, Fyshwick ACT 2609
T 02 6162 1811
E admin@frsa.org.au
ABN 38 124 321 080
www.frsa.org.au

Friday 22 August 2021

Director
Not-For-Profit Unit
Not-for-profits and Tax Administration Branch
Treasury

By email: charitiesconsultation@treasury.gov.au

Dear Director, Not-For-Profit Unit

Re: Consultation – Reform of the Australian Charities and Not-for-profits Commission secrecy provisions

Family and Relationship Services Australia (FRSA) is the national peak body for family and relationship services. Our sector assists children and families in a range of ways – for example the provision of: children and families programs focused on child cohorts – 0-5 years, 5-12 year and 12-18 years of age; educative programs focused on the development/improvement of parenting skills (and as a consequence life experience of children), child and relationship counselling, services supporting children after the separation of their parents; family dispute resolution; and, Specialised Family Violence Services.[1]

FRSA has 165 members, with 135 members in a direct service delivery role providing services to approximately 580 000 Australians each year. The majority of FRSA members are charities.

Response to consultation paper

In the main, FRSA supports increased transparency of ACNC decisions and decision-making processes. This will enhance public confidence in both the charitable sector and the ACNC. However, we believe increased transparency should not unfairly or unnecessarily cause potential reputational damage to any organisation. I reflect on this against area 2 of Treasury's consultation paper below.

Area 1: Reasons for registration decisions

FRSA supports increased disclosure for registration decisions on a de-identified basis, on the basis of the rationale provided in the consultation paper. That is, that publishing registration decisions on a de-identified basis would provide guidance to other entities with similar circumstances that are considering applying for charity registration. More generally, it would provide improved accountability to the public, enabling a clearer understanding of the factors the Commissioner considers when assessing eligibility.

Area 2: New and ongoing investigations

FRSA has concerns about increased disclosure of new and ongoing investigations. We consider that the potential adverse risks as outlined on page 15 of the consultation paper, outweigh the benefits identified in the

[1] For a description of Commonwealth-funded family and relationship services see *Program Specific Guidance for Commonwealth Agencies in the Data Exchange*, Appendix B, pp 27 – 73.

rationale for disclosure of new investigations. Disclosure of finalised investigations and resulting compliance action (area 3) provides sufficient transparency.

I note in particular that charities are held to a higher standard in the public eye than for-profit businesses and that their capacity to fundraise and successfully apply for grants, as well as their capacity to recruit volunteers, staff and board directors, is integrally linked with their purpose and reputation. Certainly, reputational questioning can cause harm to for-profit corporations but there are many examples of corporations sailing through public controversy (profiting from the Government's pandemic JobKeeper scheme being one). I note that the consultation paper includes examples of not-for-profit regulators (NZ and Canada) that do not disclose new/ongoing investigations.

Public Interest Test

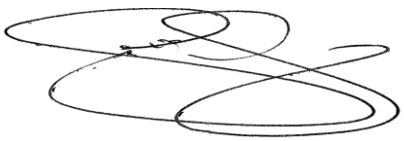
FRSA does not support introduction of a public interest test to form the basis of the discretion to disclose information about new and/or ongoing investigations. The threshold for commencing an investigation by the ACNC Commissioner is relatively low and we therefore consider that greater safeguards against unfounded or vexatious complaints are warranted.

Area 3: Finalised investigations and resulting compliance action

FRSA supports disclosure of finalised investigations and resulting compliance action. As outlined in the consultation paper's rationale, disclosure would be of educative value to the sector and would enhance confidence in the integrity of the regulator.

Thank you for considering this submission.

Yours sincerely,



Jackie Brady
Executive Director