

6 October 2021

Report to Australian Democracy Network

# Cost estimate of compliance in response to ACNC regulatory changes

Final Report

## About ACIL Allen

ACIL Allen is a leading independent economics, policy and strategy advisory firm, dedicated to helping clients solve complex issues.

Our purpose is to help clients make informed decisions about complex economic and public policy issues.

Our vision is to be Australia's most trusted economics, policy and strategy advisory firm. We are committed and passionate about providing rigorous independent advice that contributes to a better world.

**Reliance and disclaimer** The professional analysis and advice in this report has been prepared by ACIL Allen for the exclusive use of the party or parties to whom it is addressed (the addressee) and for the purposes specified in it. This report is supplied in good faith and reflects the knowledge, expertise and experience of the consultants involved. The report must not be published, quoted or disseminated to any other party without ACIL Allen's prior written consent. ACIL Allen accepts no responsibility whatsoever for any loss occasioned by any person acting or refraining from action as a result of reliance on the report, other than the addressee.

In conducting the analysis in this report ACIL Allen has endeavoured to use what it considers is the best information available at the date of publication, including information supplied by the addressee. ACIL Allen has relied upon the information provided by the addressee and has not sought to verify the accuracy of the information supplied. If the information is subsequently determined to be false, inaccurate or incomplete then it is possible that our observations and conclusions as expressed in this report may change. The passage of time, manifestation of latent conditions or impacts of future events may require further examination of the project and subsequent data analysis, and re-evaluation of the data, findings, observations and conclusions expressed in this report. Unless stated otherwise, ACIL Allen does not warrant the accuracy of any forecast or projection in the report. Although ACIL Allen exercises reasonable care when making forecasts or projections, factors in the process, such as future market behaviour, are inherently uncertain and cannot be forecast or projected reliably.

This report does not constitute a personal recommendation of ACIL Allen or take into account the particular investment objectives, financial situations, or needs of the addressee in relation to any transaction that the addressee is contemplating. Investors should consider whether the content of this report is suitable for their particular circumstances and, if appropriate, seek their own professional advice and carry out any further necessary investigations before deciding whether or not to proceed with a transaction. ACIL Allen shall not be liable in respect of any claim arising out of the failure of a client investment to perform to the advantage of the client or to the advantage of the client to the degree suggested or assumed in any advice or forecast given by ACIL Allen.

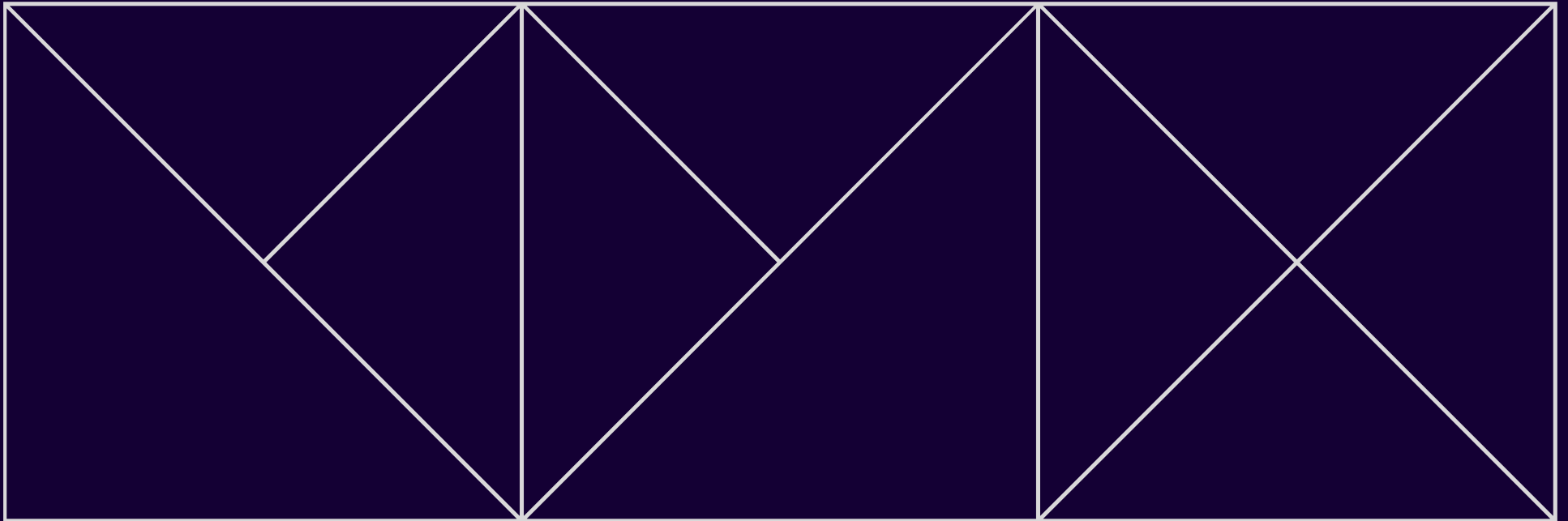
# Contents

Executive summary	i
1 Background, context and methodology	1
1.1 Background	2
1.2 Objectives of this report	3
1.3 Methodology	3
2 Cost estimate of sector-wide compliance	6
2.1 Survey analysis	7
2.2 Activity-based costing	9
2.3 Aggregation of costs to sector level (lower-bound)	12
2.4 Aggregation of sector-wide costs (upper-bound)	13
2.5 Estimated volunteer hours	14
3 Cost estimate for a charity to utilise consultants	15
Tables	
<b>Table 2.1</b> Number and proportion of charities indicating they would conduct each activity	7
<b>Table 2.2</b> Expected time spent on compliance activities by charity size	8
<b>Table 2.3</b> Reviewing and drafting policy, small charity	10
<b>Table 2.4</b> Reviewing and drafting policy, medium charity	10
<b>Table 2.5</b> Training staff (one-off), medium charity	10
<b>Table 2.6</b> Training staff (ongoing), medium charity	10
<b>Table 2.7</b> Compliance monitoring, medium charity	10
<b>Table 2.8</b> Reviewing and drafting policy, Large charity	11
<b>Table 2.9</b> Training staff (one-off), Large charity	11
<b>Table 2.10</b> Implementing procedures, Large charity	11

# Contents

<b>Table 2.11</b>	Training staff (ongoing), Large charity	11
<b>Table 2.12</b>	Compliance monitoring, Large charity	11
<b>Table 2.13</b>	Due diligence with partner charities, Large charity	11
<b>Table 2.14</b>	Total one-off and ongoing activity costs	12
<b>Table 2.15</b>	Total one-off cost of external legal advice	13
<b>Table 2.16</b>	Total one-off and ongoing activity costs (upper bound)	13
<b>Table 2.17</b>	Volunteer time – Training	14
<b>Table 3.1</b>	Reviewing and drafting policy with consultants, large charity	16
<b>Table 3.2</b>	Training staff (one-off) with consultants, large charity	16
<b>Table 3.3</b>	Training staff (ongoing), Large charity	16
<b>Table 3.4</b>	Compliance monitoring, Large charity	16

# Executive summary



ACIL Allen was engaged by the Australian Democracy Network, on behalf of the Hands off our Charities (HOOC) Alliance, to undertake an analysis of costs that are likely to result from changes to regulatory requirements as a result of the *Australian Charities and Not-for-profits Commission Amendment (2021 Measures No. 2) Regulations 2021*. These changes will affect more than 48,000 charities that employ approximately 1.38 million people and involve 3.6 million volunteers.<sup>1</sup> Governance standard three currently provides that registered entities must not engage in conduct that may be dealt with as an indictable offence under an Australian law or by way of a civil penalty of 60 penalty units or more.<sup>2</sup> Item 3 of the proposed change includes the new subsections, 45.15(3) and 45.15(4), which stipulate that ‘a registered entity must maintain reasonable internal control procedures to ensure its resources are not used (nor continued to be used) to actively promote another entity’s acts or omissions that may be dealt with as:

- an indictable offence under an Australian law; or
- a relevant summary offence under an Australian law; or
- a civil penalty provision of 60 penalty units or more.<sup>3</sup>

Failure to comply with governance standards can result in a range of penalties, including the revocation of charity status by the ACNC Commissioner.

The Regulation Impact Statement (RIS) developed by the Commonwealth Treasury estimated that the likely impact of regulation would be a one-off cost of \$1.4 million in total for large charities, with no ongoing costs estimated and no impact on small and medium charities. This estimate was based on a one-off two-hour review of current internal procedures.<sup>4</sup> It was noted by the Office of Best Practice Regulation that the RIS would have benefitted from a more robust impact analysis.

There is evidence that the likely administrative burden that will result from the changes to governance standard three will be significantly greater. This report was commissioned to consider the likely administrative costs of these regulatory changes, based on this evidence. It utilises an in-depth survey of charities and NFP organisations across the country and a workshop with a large charity to estimate the likely impact of these changes. This is done by breaking down different activities into a range of component activities undertaken by a range of different staff members, with different average hours dedicated to each component activity for small, medium and large charities based on stakeholder feedback. While this approach is not without its limitations, the methodology considers as broad a range of information that was available, while utilising the most conservative assumptions wherever possible.

Based on the available data and the assumptions that have been made, it is estimated that these regulatory changes will cost charities at least \$53.6 million in one-off costs, and the total ongoing cost is estimated to be \$24.3 million per annum. This would mean a total year-one cost of \$77.9 million. This is approximately 55 times the estimate provided within the RIS, even without accounting for ongoing costs. This includes a modest estimate of the costs of obtaining legal advice at \$9.5 million, assuming only a relatively small proportion of charities obtain legal advice and that 50 per cent of all legal advice is provided pro bono. An upper-bound calculation has also been made with less conservative assumptions around time require to achieve compliance, legal and consultant costs. When these

<sup>1</sup> Australian Charities and Not-for-Profits Commission. (2021). *Australian Charities Report – 7<sup>th</sup> Edition*.

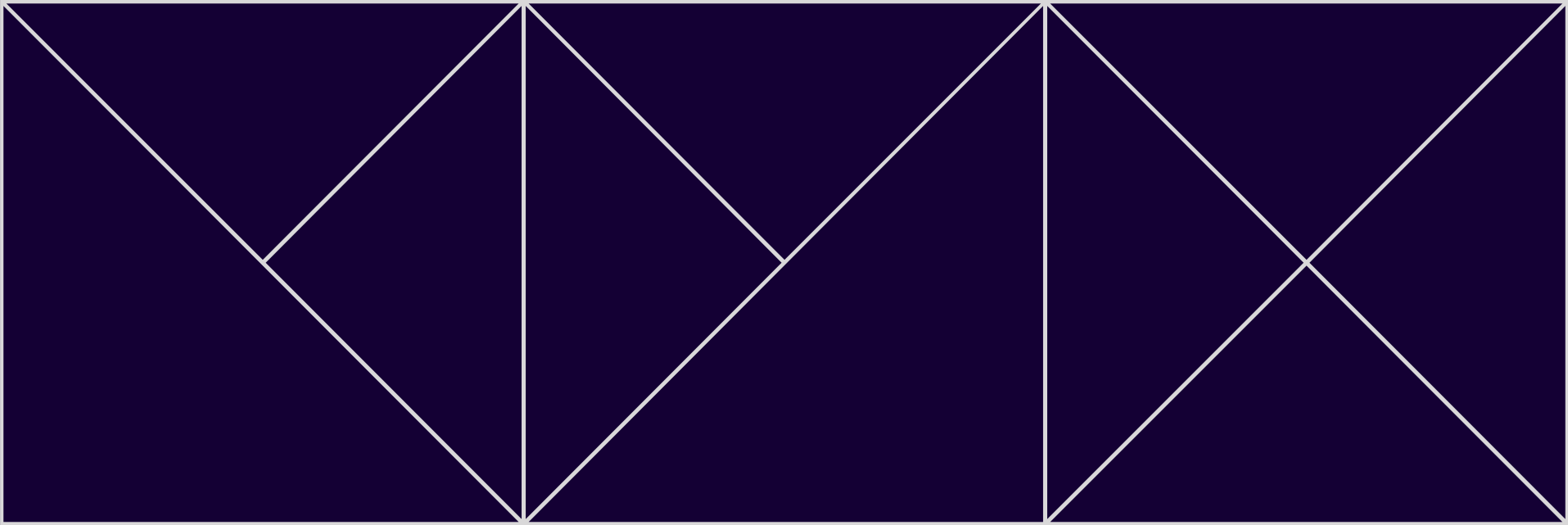
<sup>2</sup> Explanatory Statement, *Australian Charities and Not-for-profits Commission Amendment (2021 Measures No. 2) Regulations 2021*

<sup>3</sup> Ibid.

<sup>4</sup> Commonwealth Treasury. *Regulation Impact Statement: Unlawful activity – changes to the governance standards for registered charities*.

assumptions are applied to determine the upper-bound estimate, it is estimated that these regulatory changes will cost charities \$109.5 million in one-off costs, and the total ongoing cost is estimated to be \$40.4 million per annum (year-one cost \$149.9 million). These estimates does not include the costing of volunteer hours, which are estimated to be approximately 3.3 million hours, and if an economic contribution analysis were applied these costs are likely to be significantly higher.

Background, context and methodology





## 1.1 Background

### Proposed changes to the ACNC Regulations

There are two key proposed changes to the *Australian Charities and Not-for-profits Commission Regulation 2013*. These amendments all apply to the governance standards outlined in Part 2-2, Division 45. They are specifically attributed to *Governance Standard 3 – Compliance with Australian laws*. Under Section 35-10 of the *Australian Charities and Not-for-Profits Commission Act 2012*, the Commissioner may revoke the registration of a registered entity if it is deemed that said entity has not complied with the governance standard, or it is believed that the entity is more likely than not to fail to comply to the governance standards.

The objective of governance standard three is defined as giving the public (including members, employees, volunteers and benefit recipients of a registered entity) trust and confidence that a registered entity is governed in a way that ensures its on-going operations and the safety of its assets, through compliance with Australian laws. This includes preventing the misuse of assets. The current standard of compliance (the Standard) dictates that a registered entity must not engage in conduct, by commission or omission, if that conduct is an indictable offence under Australian law or if it may be dealt with through a civil penalty of 60 penalty points or more (\$13,320 or more).

The proposed amendments are as follows:

- ***Extending governance standard three to prohibit certain kinds of summary offences that are indictable by Australian law.*** Under this amendment, charities must not engage in conduct that may be dealt with as a summary offence under a Commonwealth, State or Territory law. These offences relate to trespassing, property damage, theft or causing injury, including the threat or risk of causing injury. In this context, engaging in conduct may mean to do an act or to omit to perform an act.

- ***Extending governance standard three to require registered entities to maintain reasonable internal control procedures.*** The second addition provides a new requirement that a registered entity must maintain reasonable internal control procedures to ensure that its resources are not used to actively promote another entity's conduct that may be considered under the Standard. These procedures could include control of access to funds, premises or social media accounts, policy for improper use of resources, and relevant training for the responsible entities and employees. The entities resources are defined as its funds, its responsible entities and employees, and its websites, social media accounts and other publications.

The second amendment above to governance standard three is the focus of this report.

An additional note to the previous notes regarding the governance standards indicates that when developing beliefs about compliance with the governance standards, the commissioner may consult with law enforcement agencies or other relevant entities.

Part 3 – Application, saving and transitional provisions was added to the end of the instrument. It outlines that the amending instrument (*the ACNC Amendment (2021 Measures No.2) Regulation 2021*) applies only to acts or conduct occurring after its commencement.

### Regulatory Impact Statement for the regulatory changes

According to the Regulation Impact Statement (RIS) issued with the Explanatory Memoranda for the proposed amendments, there is a relatively minimal regulatory burden associated with the proposed change, as charities are already obliged to comply with Australian laws. It is expected that charities may initiate a one-off review of their existing internal control procedures to ensure compliance with the revised governance standard three, relating particularly to the use of their resources.

The RIS assumed:

- most charities are small in size, with around half maintaining an online presence
- 50,000 registered charities would be required to comply with the amended governance standards
- Basic Religious Charities would not be compelled to comply
- 9,500 are large charities with revenue in excess of \$1 million per annum
- all large, registered charities undertake a one-off, two hour review of their internal control procedures
- a labour cost of \$73.05 per hour.

With these assumptions in place, it was concluded that the total change in cost would be \$1.4 million for large charities<sup>5</sup>.

The proposed changes are anticipated to add the following actions for registered charities:

- *Analysis of new requirements and recommendations for action.* Consideration is required of the scope of the amendments and the risks associated. This may entail legal advice or external consultation to contextualise the amendments and develop strategies and recommendations for continued operation.
- *Review of policies and procedures, with required changes being made to policy settings recommended to achieve internal control procedures.* This will likely include policies relating to information technology systems, partnerships/collaborations with other charities, publication content, social media usage, event planning, board charter and staff codes of conduct.

<sup>5</sup> Commonwealth Treasury. *Regulation Impact Statement: Unlawful activity – changes to the governance standards for registered charities*. The size of charities aligns to ACNC definitions within the RIS.

- *Implementing the policy and other changes to the charities staff and partners.* This will require communication and likely training with existing and future staff and volunteers, in addition to partner charities.
- *Making operational new policies and procedures.* Existing documentation will require amendments, including employment contracts, existing or template MoJ's, grant agreements or consultancy agreements. Extensive due diligence practice will be required when working with partner charities.
- *Monitoring and enforcement of compliance with the new standards.* Work will be undertaken to monitor compliance with procedures and taking appropriate action where non-compliance is identified.

## 1.2 Objectives of this report

---

The objectives of this report are twofold:

1. to provide a sector-wide compliance cost estimate in relation to implementing 'reasonable internal control procedures' as described in Clause 3 of the amending regulations (R45.15(3))<sup>6</sup>
2. to provide a case study for a large charity that pays market rates for an external consultant to undertake the necessary compliance activities.

## 1.3 Methodology

---

The methodology utilised for the cost estimate is Activity-Based Costing using a number of different data inputs.

### Data inputs

Data sources used to inform the cost estimation model included:

<sup>6</sup> As described in Section 1.1.

- results from the Pro Bono Australia (PBA) Governance Standard Survey, completed by 206 total respondents representing a variety of charity and not-for-profit entities
- Social, Community, Home Care and Disability Services (SCHADS) Industry Award published by the Fair Work Ombudsman
- data from the Salary Survey conducted by PBA
- data directly from stakeholders, including
  - a workshop with a large charity based in QLD
  - legal costs based on estimates with legal practitioners who have extensive experience working with charities and NFP charities.

### **Cost estimation methodology**

To develop the cost estimation methodology, a model was developed which estimates the cost on an activity-by-activity basis, for small, medium and large charities by:

- Determining which activities are likely to be undertaken by a charity of a given size, based on responses to the PBA survey<sup>7</sup>
- Determining how much time it would take of each level and type of staff
- Multiplying the time taken by the wage cost of staff, including on-costs

This approach can be stated simply as estimating the sum of the labour cost for each activity undertaken by a single charity of a specific size. Assuming that a cost estimate for each size will be the average cost for that size group, we can calculate the net industry cost by multiplying the cost for each size firm by the number of firms which fall into the same size group.

This approach accounts for a range of factors which change from charity to charity:

- the variety of staff roles at differing pay scales
- the number of hours each staff role would be required to contribute

---

<sup>7</sup> Only activities where more than half of the charities of a given size reported as necessary for them were costed.

- one-off and ongoing costs
- the variety of activities that would be required to be completed.

Applying these variables allows for a more accurate and rigorous costing process for charities and not-for-profit charities, identifying costs by staff position, charity size and activity. The sum of this may more accurately reflect the costs that these amendments present.

In estimating these costs, we have applied the guidance provided by the *Regulatory Burden Management Framework* published by the Department of Prime Minister and Cabinet. This is consistent with the purpose of this report, where we have considered only the direct costs of compliance to charities. This means that, unlike assessments that consider the total economic cost which factor costs such as opportunity costs, costs to volunteers and work done pro bono is not included. Given the large number of volunteers involved in the charities and NFP sector, it is anticipated that the total economic cost of the regulatory amendments are significantly larger than the estimates provided in this report. While these costs have not been explicitly costed, an estimate of the number of volunteer hours that would likely be required to ensure compliance is provided.

In addition, there may be some other indirect costs that are associated with the compliance of the proposed amendments. For example, insurance premiums for charities may increase if they are, or are perceived to be, at greater risk of non-compliance. However, as these costs are secondary costs that are dependent on market forces beyond the immediate costs of compliance, these have not been included.

### **Limitations of the methodology**

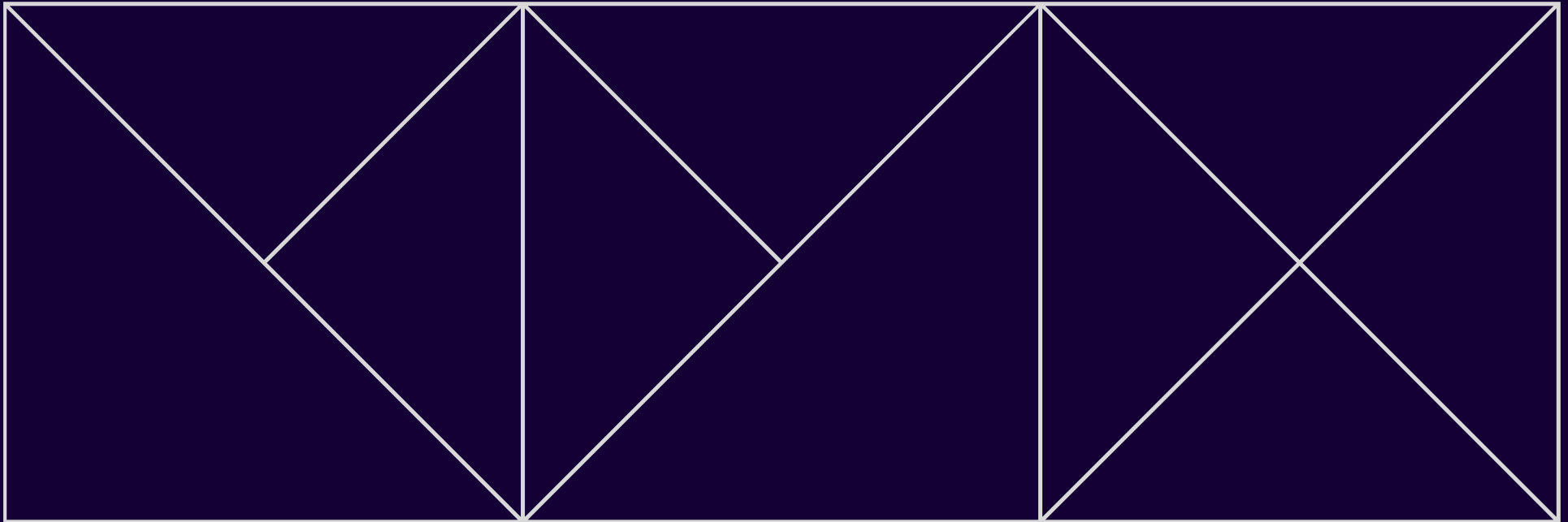
This model, like all models is limited by the quality of its assumptions. Our assumptions have been based on advice and consultation with stakeholders from charities and are as follows:

- Grouping charity and not-for-profit charities by size (small, medium and large), which may not accurately reflect the requirements of each firm.
- That all charity firms are likely to undergo similar processes to enable compliance to the new governance standards. These standards may be applicable to varying degrees based on organisational work and strategy, which is not accounted for.
- That some activities may be costed as one-off and others ongoing, and that new activities required for compliance will not arise.
- That all wage rates are consistent with the SCHADS award. While we acknowledge that the charity sector is diverse and many charities will be covered by different awards, we assume that the labour market is competitive and that the workforce holding similar qualifications and levels of experience are likely to be remunerated fairly similarly.

All the pay scales and hour contributions are estimates and are applied uniformly across size categories. When extrapolated across the sector, this may allow minor estimation discrepancies to become larger divergences from the cost reality.

It is also acknowledged that, due to the short timeframes for this report, there is a heavy reliance on data that has been sourced from the charities and NFP sector. There is a risk that there may be some bias particularly where subjective judgements are made. To compensate for this, the most conservative assumptions have been made wherever possible, and the data has been analysed to ensure that outlier information does not unduly influence or skew the data.

# Cost estimate of sector-wide compliance



## 2.1 Survey analysis

A survey of charities and NFP charities was conducted by Pro Bono Australia (PBA) to understand their views and perspectives regarding the proposed regulatory changes. A total of 206 charities responded to this survey. While this is not a large sample size, the sample is sufficient to provide the views of a large breadth of charities and NFP charities. A number of key variables of interest were examined from the survey results.

### Activities that would be conducted to comply with proposed amendments

The first variable of interest is the type of activity that would be conducted to comply with the proposed amendments. Six major activity categories were responded to more than most, due to some of these activities being provided as examples within the survey question. The proportion of small, medium and large charities<sup>8</sup> that responded that they would conduct these activities are presented in **Table 2.1** below.

**Table 2.1** Number and proportion of charities indicating they would conduct each activity

Activity	Small	Medium	Large	Unknown	Small (%)	Medium (%)	Large (%)	Unknown (%)	Total
Reviewing policy	23	41	40	30	52%	68%	74%	63%	134
Drafting policy	18	34	29	23	41%	57%	54%	48%	104
Implementing procedures	13	24	27	23	30%	40%	50%	48%	87
Training staff	17	35	35	25	39%	58%	65%	52%	112
Due diligence with partner charities	12	25	28	23	27%	42%	52%	48%	88
Compliance monitoring	20	33	31	23	45%	55%	57%	48%	107

Source: ACIL Allen analysis of data from PBA survey

Based on the survey findings, 52 per cent of small charities indicated that they would review policy in response to the amendments, while 68 per cent of medium charities, 74 per cent of large charities and 68 per cent of charities where the size was unknown would do the same. The table outlines these proportions for the rest of these six activities. In addition to these activity categories, there were several other activities that were raised by survey respondents. These included:

- obtaining legal advice (n=12)
- volunteer training (n=10)
- briefing/educating the board (n=8)

<sup>8</sup> Data on charity size were based on survey responses, which may mean there are some discrepancies with official ACNC definitions.

- training the board members and executives (n=8)
- reviewing advocacy framework (n=8)
- volunteer monitoring/management (n=7).

There were a number of other activities raised by survey respondents – however these numbered 5 or less per category and were not included for further analysis. An analysis of the categories with more than five respondents revealed that the majority of these could be subsumed into one of the six major categories. For example, volunteer training and board-related briefing and education could be included under staff training; reviewing advocacy framework could be included under reviewing policy more generally, and volunteer monitoring/management could be included under compliance monitoring. The only other activity that is significantly different is obtaining legal advice. This has been costed separately and included in the total estimate.

For the purposes of the activity-based costing, we have only included activities within each category of charities where 50 per cent or more of these charities have indicated that they would be conducting these activities (see shaded cells in Table 2.1). For example, for small charities, only the activity of Reviewing policy is cited by more than half of all charities (52 per cent), while all other activities are cited by less than half. The reason for costing only activities that are considered significant and involve more than half of charities of that size is to determine the relative importance of breaking down the labour and related costs for that activity. While it is possible that there are small charities that will undertake other activities for compliance, it is assumed that these will be relatively small and any effect of a different breakdown of costs is likely to be insignificant. However, for medium and large charities, there are a larger number of activities, and these are likely to involve different breakdowns of staff and costs. In addition, stakeholder consultations indicated that the work of Reviewing and Drafting policy are difficult to be separated and are therefore considered as a single activity in the activity-based costing.

A second key variable is the estimated amount of time that charities anticipated they would spend as part of the response to these regulatory amendments. Survey respondents were asked how many hours they expected they would spend over the next year on activities to comply with the amended regulations. The responses, by charity size, are presented in **Table 2.2** below.

**Table 2.2** Expected time spent on compliance activities by charity size

Number of hours	Small	Medium	Large	Unknown	Small (%)	Medium (%)	Large (%)	Unknown (%)	Total
0 to 5 hours	13	11	5	8	30%	18%	9%	17%	37
6 to 20 hours	7	10	7	8	16%	17%	13%	17%	32
21 to 50 hours	11	17	13	13	25%	28%	24%	27%	54
51 to 100 hours	5	8	12	11	11%	13%	22%	23%	36
101 to 300 hours	7	9	10	3	16%	15%	19%	6%	29
More than 300 hours	1	5	7	5	2%	8%	13%	10%	18

Source: ACIL Allen analysis of data from PBA survey

Utilising a weighted average by taking the midpoint of each categorical response, we would expect that small charities would spend an average of 62 hours over the next year on compliance activities related to the amended regulations, while medium charities would spend an average of 90 hours. The weighted average for large charities is calculated to be 122 hours.

However, another method to estimate the average time spend for each category of charities would be to use the median for each category. One rationale for utilising the median over the mean is that the categories get progressively larger and the weighted average is therefore skewed higher than if the categories were standardised intervals. The median number of hours for both small and medium charities is 21-50 hours and the median for large charities is 51-100. Given the median for both small and medium charities fall within the same category, the expected number of hours for small charities is presumed to be the lower bound of that category at 20 hours (rounded down), while the expected number of hours for medium charities is presumed to be at the upper bound of that category at 50 hours. For large charities, the expected number of hours was originally presumed to be at the mid-point of that category at 75 hours. However, following consultations with a case study large agency, this was revised to 85 hours on the advice that the estimate was perceived to be too small.

The more conservative estimate of time that charities will spend on compliance activities, using the median, is utilised for the majority of the activity-based costing in the subsequent sections. However, the weighted average methods will be used to develop an upper-bound estimate for sensitivity analysis.

## 2.2 Activity-based costing

---

For each activity, it is expected that not all of the hours are allocated to staff at a particular level of seniority, which was a relatively simplistic approach utilised in the RIS. For small charities, it would be expected that a task such as Reviewing policy would be undertaken by one or two staff members. However, for a larger charity, it would be expected that there would be a proportion of work undertaken by policy or program officers but would also involve some work by staff at a team leader or manager to review the work done by junior staff, a member of the executive team to provide further feedback, and for the CEO to approve and to brief the Board. As such, the activity-based costing in this section seeks to reflect the proportion of work at these different levels more accurately than was presented in the RIS.

For the purposes of this costing, it is assumed that a junior staff member would be paid at the Social and community services employee level 2 paypoint 2 from the SCHADS Award, which reflects a policy officer with a degree qualification. A team leader is assumed to be paid at Social and community services employee level 8 paypoint 3, while an executive is presumed to be paid at a slightly higher rate above that to reflect executive contracts. CEOs are also not remunerated according to the award, and our assumed cost for CEO time at a large charity is based on the PBA Salary Survey. The figures used in these estimates include on-costs of 25 per cent, noting that registered charities and non-profits do not pay payroll taxes.

The activities that are outlined here are indicative and are used for the purposes of costing only. It does not presume that these are the only activities that will be conducted by charities; rather, it considers the relative proportions that constitute the costs of each activity and extrapolates that proportion to the overall number of hours for each type of charity.



**2.2.1 Small charities**

It is assumed that small charities will only have one type of cost breakdown – reviewing and drafting policy.

**One-off costs**

**Table 2.3** Reviewing and drafting policy, small charity

Role	Cost/hr	Number of hours	Total
Junior Staff	\$29	13	\$377
Senior Staff <sup>9</sup>	\$47	7	\$328
<b>Grand total</b>		<b>20</b>	<b>\$705</b>

In the case of small charities, we have applied a discount factor of 50 per cent in relation to the overall costs. This is because a large proportion of small charities are fully volunteer run and are not likely to have any paid staff to undertake this work. As such, the figure of \$352 per small charity is used for the overall aggregation of the sector-wide costs.

**2.2.2 Medium charities**

There are four categories of activities that are costed for medium charities.

**One-off costs**

**Table 2.4** Reviewing and drafting policy, medium charity

Role	Cost/hr	Number of hours	Total
Junior Staff	\$29	16	\$464
Senior Staff	\$47	8	\$375
Medium CEO	\$110	1	\$110

<sup>9</sup> The cost per hour for both junior and senior staff have been rounded to the nearest dollar. As such, there may be some rounding errors between multiplying the whole number and the number of hours to obtain the total presented.

Role	Cost/hr	Number of hours	Total
<b>Grand total</b>		<b>25</b>	<b>\$949</b>

**Table 2.5** Training staff (one-off), medium charity

Role	Cost/hr	Number of hours	Total
Junior Staff	\$29	5	\$145
Senior Staff	\$47	5	\$234
<b>Grand total</b>		<b>10</b>	<b>\$379</b>

**Ongoing costs**

**Table 2.6** Training staff (ongoing), medium charity

Role	Cost/hr	Number of hours	Total
Junior Staff	\$29	4	\$116
Senior Staff	\$47	3	\$141
<b>Grand total</b>		<b>7</b>	<b>\$257</b>

**Table 2.7** Compliance monitoring, medium charity

Role	Cost/hr	Number of hours	Total
Junior Staff	\$29	7	\$203
CEO	\$110	1	\$110
<b>Grand total</b>		<b>8</b>	<b>\$313</b>

**2.2.3 Large charities**

There are six categories of activities that are costed for large charities.

**One-off costs**

**Table 2.8** Reviewing and drafting policy, Large charity

Role	Cost/hr	Number of hours	Total
Senior Staff	\$47	12	\$562
Executive	\$67	2	\$134
Large CEO	\$180	1	\$180
Board	\$16 (including 90% volunteer boards)	12	\$189
Governance committee	\$32 (including 90% volunteer boards)	4	129
<b>Grand total</b>		<b>31</b>	<b>\$1,194</b>

**Table 2.9** Training staff (one-off), Large charity

Role	Cost/hr	Number of hours	Total
Junior Staff	\$29	4	\$116
Senior Staff	\$47	3	\$141
<b>Grand total</b>		<b>7</b>	<b>\$257</b>

**Table 2.10** Implementing procedures, Large charity

Role	Cost/hr	Number of hours	Total
Junior staff	\$29	2	\$58
Senior Staff	\$47	8	\$375
Executive	\$67	2	\$134
<b>Grand total</b>		<b>12</b>	<b>\$567</b>

**Ongoing cost**

**Table 2.11** Training staff (ongoing), Large charity

Role	Cost/hr	Number of hours	Total
Junior Staff	\$29	7	\$203
Senior Staff	\$47	5	\$234
<b>Grand total</b>		<b>12</b>	<b>\$437</b>

**Table 2.12** Compliance monitoring, Large charity

Role	Cost/hr	Number of hours	Total
Senior staff	\$47	15	\$703
Large CEO	\$180	1	\$180
<b>Grand total</b>		<b>16</b>	<b>\$883</b>

**Table 2.13** Due diligence with partner charities, Large charity

Role	Cost/hr	Number of hours	Total
Senior staff	\$47	5	\$234
Large CEO	\$180	2	\$360
<b>Grand total</b>		<b>7</b>	<b>\$594</b>

## 2.3 Aggregation of costs to sector level (lower-bound)

### 2.3.1 Sector assumptions

Data published by the ACNC on the sector was used to aggregate these costs to the sector level.<sup>10</sup> A number of assumptions were made regarding the composition of the sector. These were:

- 17 per cent of all charities are exempt religious charities. Of these:
  - 83 per cent are small charities
  - 13.6 per cent are medium charities
  - 3.5 per cent are large charities
- In line with the ACNC database, there are 59,145 charities, 10,065 of which are exempt religious charities. These include:
  - 39,334 small charities, 8,345 of which are exempt religious charities. Therefore, there are **30,989 regulated small charities**.
  - 9,054 medium charities, 1,367 of which are exempt religious charities. Therefore, there are **7,687 regulated medium charities**.
  - 10,757 large charities, 352 of which are exempt religious charities. Therefore, there are **10,405 regulated large charities**.
- Legal advice will be sought by some but not all charities. In line with the survey:
  - seven per cent of small charities will seek external legal advice
  - five per cent of medium charities will seek external legal advice
  - seven per cent of large charities will seek external legal advice
- The cost of a lawyer before pro bono work accounted for is \$450 per hour
- Regarding the hours provided, the following conservative assumptions are made about the amount to which work is paid for in the charities and non-profit sector:
  - 90 per cent of boards are unpaid volunteers

<sup>10</sup> Data downloaded from ACNC as at 28 September 2021.

- 50 per cent of legal advice obtained was provided pro bono.

### 2.3.2 Sector aggregate cost

Using these assumptions, the one off and ongoing costs for each charity size were multiplied by the number of regulated charities to determine the total cost of compliance to the sector. The **cost per charity has been rounded to the nearest dollar and accounts for discrepancies** with directly multiplied figures. The total costs are also rounded and as such there may be minor discrepancies between the total and sub-total costs.

**Table 2.14** Total one-off and ongoing activity costs

Charity size	Cost per charity	Number of charities (excluding exempt)	Total cost
<b>One-off costs</b>			
Small	\$352	30,989	\$10,912,850
Medium	\$1,328	7,687	\$10,207,570
Large	\$2,017	10,405	\$20,987,103
<b>Total one-off costs</b>			<b>\$42,116,522</b>
<b>Ongoing costs (per annum)</b>			
Small	\$0	30,989	\$0
Medium	\$569	7,687	\$4,377,308
Large	\$1,914	10,405	\$19,919,694
<b>Total ongoing costs</b>			<b>\$24,297,769</b>
<b>Total year one costs</b>			<b>\$66,414,291</b>

Source: ACIL Allen

In addition to the costs from the activities above, some charities indicated in response to the survey that they would hire external lawyers to advise them on what the changes in regulation mean for them. While it is noted in the

regulation that external legal advice will not be necessary, and that any additional advice published by the ACNC may diminish or preclude entirely the need for external legal advice, the ambiguity of the current proposed amendments has provided significant concerns among the sector and it is likely that a proportion of charities will seek external legal advice.

The cost of a lawyer is assumed to be \$450.<sup>11</sup> Using an additional assumption that 50 per cent of legal advice is provided pro bono to charities, the actual cost to charities is estimated to be \$225. The number of charities that will seek legal advice is based on the proportion of charities that responded that they would seek legal advice per size of charity within the PBA survey.<sup>12</sup>

**Table 2.15** Total one-off cost of external legal advice

Charity size	Hours of legal advice	Number of charities that will seek advice	Total cost
Small	10	2,169 (7%)	\$4,880,768
Medium	20	384 (5%)	\$1,729,575
Large	30	728 (7%)	\$4,916,363
<b>Total</b>			<b>\$11,526,705</b>

*Source: ACIL Allen*

As such, for the lower-bound estimate, the total one-off cost is estimated to be \$53.6 million and the total ongoing cost is estimated to be \$24.3 million per annum.

<sup>11</sup> This figure was arrived at based on the experience of NFP staff. Peter Seidel, a partner from Arnold Bloch Leibler, provided feedback that this is the hourly rate that could be expected from a commercial law firm for a practitioner with 2-4 years' experience and is a reasonable figure to apply in these circumstances.

<sup>12</sup> The figures for numbers of charities that will seek legal advice is based on the PBA survey. However, Peter Seidel provided feedback that he anticipates that once the full breadth of the new requirements become more widely understood, between 50-75% of charities would be duty bound to seek legal advice.

## 2.4 Aggregation of sector-wide costs (upper-bound)

As outlined in Section 2.1, using a weighted average of the survey responses results in small charities spending an average of 62 hours, as opposed to the 20 hours used in the lower-bound estimate. Similarly, this would result in 90 hours for medium charities rather than 50 hours, and 122 hours for large charities rather than 85 hours.

If the proportion of work allocated to various levels of staff are held constant, the increased hours would result in the one-off and ongoing costs as per the table below.

**Table 2.16** Total one-off and ongoing activity costs (upper bound)

Charity size	Cost per charity	Number of charities (excluding exempt)	Total cost
<b>One-off costs</b>			
Small	\$2,203	30,989	\$33,885,038
Medium	\$2,389	7,687	\$18,365,459
Large	\$3,289	10,405	\$34,225,767
<b>Total one-off costs</b>			<b>\$86,476,365</b>
<b>Ongoing costs (per annum)</b>			
Small	\$0	30,989	\$0
Medium	\$1,025	7,687	\$7,875,653
Large	\$3,122	10,405	\$32,485,037
<b>Total ongoing costs</b>			<b>\$40,360,690</b>
<b>Total year one costs</b>			<b>\$126,836,954</b>

For the upper-bound estimate, an assumption that twice the number of charities will seek legal advice is applied. This results in a total estimated legal cost of \$23 million.

As such, for the upper-bound estimate, the total one-off cost is estimated to be \$109.5 million, and the total ongoing cost is estimated to be \$40.4 million per annum.

Assuming a five per cent turnover rate (i.e., five per cent of volunteers will be new in each year and require training), this translates to an ongoing impact of 151,110 per annum.

## 2.5 Estimated volunteer hours

While volunteer hours have not specifically been costed, an estimate of volunteer time that would be taken up by the proposed amendments is provided here. Utilising data from the ACNC's *Australian Charities Report – 7<sup>th</sup> Edition*, it is estimated that volunteers working for small charities would have to undertake a one-off half-hour training, while volunteers for medium and large charities would have to undergo a one-hour training.

**Table 2.17** Volunteer time – Training

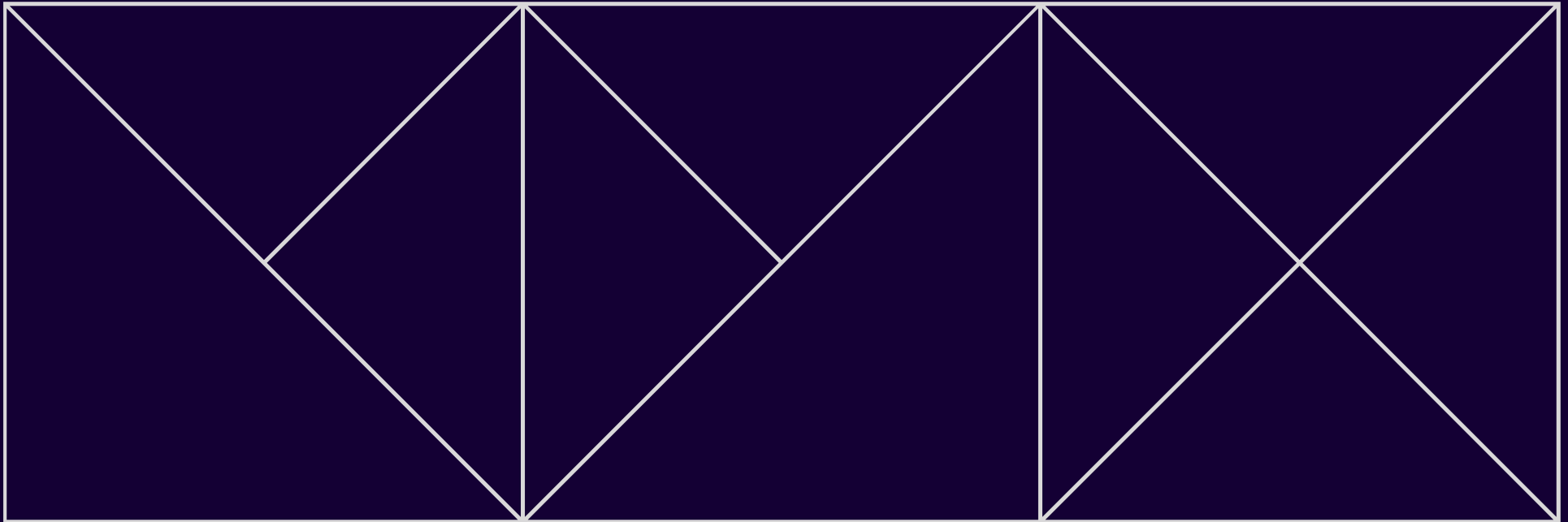
Size of Charity	Number of volunteers	Number of hours
Small	793,229	396,615
Medium	516,805	516,805
Large	2,108,784	2,108,784
<b>Total</b>	<b>3,418,818</b>	<b>3,022,204</b>

Note: A number of volunteers were listed as working for charities of an unknown size. These have been distributed to small and medium charities at a ratio of 9:1.

Source: ACIL Allen analysis of ACNC data

In addition, in Section 2.2.1, half of the hours of compliance work has been discounted by virtue of the large proportion of charities that are fully run by volunteers among small charities. This accounts for 309,886 hours of volunteer time. Adding this to the training time results in a total impact of 3,332,090 hours of volunteer time in the first year.

# Cost estimate for a charity to utilise consultants



ACIL Allen undertook a workshop with a large NFP charity to test the assumptions used in the activity-based costing. In addition, this workshop also sought to consider the cost to a large NFP charity if they were to use consultants to undertake the work necessary to achieve compliance. The charity indicated that, ordinarily, policy work in response to regulatory changes would be undertaken in house. However, if there were consultants that had existing intellectual property or specialised knowledge that would make it a more efficient process, then the charity would consider using consultants. An example provided was the previous regulatory amendment to include a clause related to anti-slavery legislation. This required the charity to review its policies and procedures to ensure that it complied with the anti-slavery legislation. There was a consultancy that specialised in anti-slavery work, which they used. This cost the charity in the region of \$25,000 to \$30,000.

It was acknowledged that it was unlikely that there were consultancies with the specialised knowledge in regulation and compliance that would make it more efficient to deal with these amendments. As such, it would be likely that consultants would only be used to undertake some one-off work if there was no capacity within the charity to do so. It was also noted that there would still be requirements for staff within the charity to be involved in procuring and managing consultants, which meant that several internal staff costs are retained.

**Table 3.1** Reviewing and drafting policy with consultants, large charity

Role	Cost/hr	Number of hours	Total
Consulting fees	<i>See paragraph after table</i>	12	\$2200
Executive	\$67	2	\$134
Large CEO	\$300	1	\$300
Board	\$16 (including 90% volunteer boards)	12	\$189
Governance committee	\$32 (including 90% volunteer boards)	4	129

Role	Cost/hr	Number of hours	Total
<b>Grand total</b>		<b>25</b>	<b>\$2,952</b>

The consulting fees are based on 8 hours of a junior consultant’s time, estimated at \$1,000 (\$125 per hour), and 4 hours of a senior consultant’s time, estimated at \$1,200 (\$300 per hour). This would take the cost of reviewing and drafting policy to \$2,952, with other one-off and ongoing costs remaining the same.

Consultants may also be used to develop training materials and to train staff, either through sessional delivery or through development of an online learning module. The application of consultant rates to the hours required for training is presented below.

**Table 3.2** Training staff (one-off) with consultants, large charity

Role	Cost/hr	Number of hours	Total
Junior Staff	\$125	4	\$500
Senior Staff	\$300	3	\$900
<b>Grand total</b>		<b>7</b>	<b>\$1400</b>

**Table 3.3** Training staff (ongoing), Large charity

Role	Cost/hr	Number of hours	Total
Junior Staff	\$125	7	\$875
Senior Staff	\$300	5	\$1,500
<b>Grand total</b>		<b>12</b>	<b>\$2,375</b>

**Table 3.4** Compliance monitoring, Large charity

Role	Cost/hr	Number of hours	Total
Senior staff	\$300	15	\$4,500

Role	Cost/hr	Number of hours	Total
Large CEO	\$180	1	\$180
<b>Grand total</b>		<b>16</b>	<b>\$4,680</b>

In total, the use of consultants for a large organisation is expected to cost \$9,390 more than if the work was done entirely using in-house resources. This was estimated using very conservative estimates of consulting fees that are typical of small boutique firms, rather than rates charged at more well-known consulting firms.

Assuming that 5 per cent of large charities opt to use consultants, this would cost an additional \$4.9 million to the sector. If this was added to the upper-bound estimate as described in Section 2.4, this would take the total upper bound estimate to \$114.4 million in one-off costs.



**Melbourne**

Suite 4, Level 19; North Tower  
80 Collins Street  
Melbourne VIC 3000 Australia  
+61 3 8650 6000

**Canberra**

Level 6, 54 Marcus Clarke Street  
Canberra ACT 2601 Australia  
+61 2 6103 8200

ACIL Allen Pty Ltd  
ABN 68 102 652 148

[acilallen.com.au](http://acilallen.com.au)

**Sydney**

Level 9, 50 Pitt Street  
Sydney NSW 2000 Australia  
+61 2 8272 5100

**Perth**

Level 12, 28 The Esplanade  
Perth WA 6000 Australia  
+61 8 9449 9600

**Brisbane**

Level 15, 127 Creek Street  
Brisbane QLD 4000 Australia  
+61 7 3009 8700

**Adelaide**

167 Flinders Street  
Adelaide SA 5000 Australia  
+61 8 8122 4965