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Australian
Charities and
Not-for-profits
Commission

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Department of Home Affairs

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Our reference: ACNC SUB2022/08

ACNC submission – National Data Security Action Plan

1. The Australian Charities and Not-for-profits Commission (**ACNC**) welcomes the opportunity to provide feedback on the National Data Security Action Plan discussion paper (**the discussion paper**). The ACNC has limited its feedback at this time to the matters of direct relevance to its jurisdiction.

About the ACNC and the charity sector

2. The ACNC is the national regulator of charities established by the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (**ACNC Act**). The objects of the ACNC Act are to:
 - a. maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector; and
 - b. support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector; and
 - c. promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.
3. Currently, the ACNC has oversight of almost 60,000 registered charities. The ACNC does not have oversight of the wider not-for-profit sector, but it can be assumed many of the needs and interests of registered charities are shared by other not-for-profits. Registered charities vary significantly in size, purpose, and areas of operation. There is corresponding diversity in the volume and type of data held by charities and the level of data security within charities. Around 4-5% of charities have annual revenue exceeding \$10 million. Larger charities, in particular, may have significant data holdings and be exposed to significant risks if that data is misused.
4. With reference to the definition of data used in the discussion paper, almost all charities hold personal information that can be characterised as data, including the details of staff, members, donors and beneficiaries. This typically includes financial and sensitive information. The sensitive information of charity beneficiaries, for example, may include health concerns, criminal records, or religious affiliations. Unauthorised access to this information could have significant consequences for individuals, as well as disrupt the operations of charities and potentially damage the reputation of the sector.
5. Regarding the issues around international obligations and cross-border data flows raised in the discussion paper, in 2019 around 8% of charities reported to the ACNC that they operated





overseas, and their experience should not be overlooked in considering how to address these issues.

6. Charities may be constrained in how well they can manage data security by a lack of resources, as well as a natural inclination to focus on tasks that are directly related to their charitable work and a cautious approach to using resources for administration and overheads (including IT security). Most charities are volunteer-run; even where charities have the intent to enhance data security, they may not have volunteers or employees with the expertise to properly grasp the risks and effectively embed data security in a charity's operations.
7. The ACNC's primary observation of the discussion paper is that it does not fully consider the needs and interests of charities, or the broader not-for-profit sector. At page 23, the discussion paper notes, and we agree, that data held in the private sector is as valuable as data held by government, yet standards for data security in the private sector vary greatly as private sector entities are not subject to the same legislative, regulatory and administrative standards as government entities.
8. In relation to data security, the risks for charities are similar to the private sector and charities have a comparable need for support and guidance to enhance data security practices, procedures, and infrastructure. In our view, the needs of charities may be more acute because of the ways that charities are constrained in their spending.
9. To uplift data security standards, the charity sector would benefit from education and guidance that is tailored to the needs and operating conditions of charities. Charities may also benefit from standards that are generally consistent across jurisdictions. Standards should be designed to be easy to understand and implement, noting the limited resources available to charities, and should not impose an unreasonable regulatory burden on charities.

Next steps

10. If you have queries about this submission, please contact Mitchell Tucker, Policy Officer on (03) 8632 4662 or mitch.tucker@acnc.gov.au.

The Hon Dr Gary Johns
Commissioner
Australian Charities and Not-for-profits Commission