

# Collins NFPADVISOR



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# CHARITY GOVERNANCE



## GET YOUR NFP STARTER PACK

The Governance Institute has released its Not-For-Profit Sector starter pack.

The pack includes guidance on:

- Board structure
- Conflicts of interest in not-for-profit organisations
- Issues to consider when developing a communications policy
- Issues to consider for a chief executive officer who is also appointed as the company secretary
- Issues to consider when developing a policy for managing related-party transactions
- Risk-management policy
- Separation of authority between board and management
- Stewardship, and
- Volunteer management

The pack can be obtained at [www.governanceinstitute.com.au](http://www.governanceinstitute.com.au).

## FOUR EXTERNAL-CONDUCT STANDARDS COME INTO FORCE

Registered charities that operate overseas, including those classified as ‘basic religious’, must comply with four new external-conduct standards to maintain their ACNC registration. They operate in addition to existing governance standards.

The standards cover:

- How charities control their funds, goods and other resources
- The need for an annual review of overseas activities and record-keeping
- Anti-fraud and anti-corruption guidelines, and
- Measures aimed at protecting vulnerable individuals.

Charities with activities outside Australia, however minor, must comply with them.

The ACNC has published guidance on the standards at <https://www.acnc.gov.au/for-charities/manage-your-charity/governance-hub/acnc-external-conduct-standards>.

Unless requested, the commission does not require information specifically related to the new standards.



## CAH PAYMENTS LIMITED TO \$10,000

The Treasury has concluded its consulting on exposure draft legislation and explanatory material that would introduce an economy-wide cash payment limit.

A limit of \$10,000 would apply to payments made or accepted by businesses for goods and services, as well as donations made to not-for-profit entities.

Transactions of more than \$10,000 will need to be paid electronically or by cheque.

The new limit will begin on 1 January and for certain entities that report to the Australian Transaction Reports and Analysis Centre from 1 January 2021.

## THE NEW ACNC GOVERNANCE TOOLKIT

The ACNC has launched its 'Governance Toolkit', a collection of resources to help charities manage financial abuse, cybersecurity, working with partners and safeguarding vulnerable people.

Each topic within the toolkit contains a comprehensive guide, useful templates, policy outlines, interactive checklists and more.

ACNC commissioner Gary Johns urged charities to focus on good governance.

'The resources are tools for charities and their responsible persons to use to assess their policies and management procedures, and consider where improvements can be made,' Dr Johns said.

It's our view that a well-governed charity is better able to meet its purpose and achieve its goals.'

Charities may adapt the material for their own circumstances. Short quizzes on each topic help you to determine if your charity is well-governed..

'The assessments provide an opportunity for charities to test their own understanding of key risk areas,' Dr Johns said.

'Some charities may want to use these assessments as part of inducting new staff members or volunteers into their organisation.'

See the toolkit at <https://www.acnc.gov.au/for-charities/manage-your-charity/governance-hub/governance-toolkit>.

It's part of a governance hub – a dedicated home for key resources on charity governance. Hub users may find guidance on ACNC Governance Standards and External Conduct Standards and consult the small-charities' resource library.

The governance hub is at <https://www.acnc.gov.au/for-charities/manage-your-charity/governance-hub>.







## FREE CHILD-SAFE SOFTWARE FOR SMALL CHARITIES

Melbourne-based organisation Duty of Care is donating to small charities new software on child-safe accreditations.

The software is designed to support charities in their safeguarding obligations, including monitoring staff and volunteer child-safe accreditations and maintaining records of accreditation checks.

The software is free for charities that have an annual turnover of less than \$250,000 and fewer than 20 staff. You may find out more at <https://www.dutyof.care>.

## KOKATHA NATIVE-TITLE BODY PUT UNDER SPECIAL ADMINISTRATION

Registrar of indigenous corporations Selwyn Button has placed Kokatha Aboriginal Corporation RNTBC under special administration.

Based in Port Augusta, South Australia, the corporation's primary responsibility is to manage the native-title rights and interests of the Kokatha people, who are traditional owners of land in central South Australia covering more than 140,000 square kilometres.

In May, an examination of the corporation's books revealed several governance issues, including a dispute among directors affecting the board's ability to discharge its functions. The corporation received income of almost \$5 million in 2017–18. Over half came from government grants.

Mr Button said: '[Registered Native Title Body Corporates] have a critical role in protecting the rights and interests of native-title holders, while also preserving lands of cultural significance on behalf of traditional owners.'

'Kokatha Aboriginal Corporation is in a strong financial position and has historically performed well financially. However, the ongoing dispute between directors is compromising the governance of the corporation, which is not in the interests of its members and the traditional owners it serves.'







## ACNC ACTIVITIES

### ONLINE AIS SUBMISSION AVAILABLE

This year's annual information statement may be submitted online via the charity portal.

Charities operating on a July-June financial year have until 31 January to submit the statement.

By submitting early, charities can ensure avoiding delays should they need to contact the ACNC for help.

Read the commission's 2019 annual-information guide at <https://www.acnc.gov.au/tools/guides/2019-annual-information-statement-guide>.

### HELP THE AGMs

The ACNC has developed a handy self-evaluation tool that charities may use to assess whether they are meeting governance obligations.

With the AGM season in full swing, self-evaluation gives you a chance to see if your charity is meeting ACNC standards.

Download the tool at <https://www.acnc.gov.au/for-charities/manage-your-charity/governance-hub/governance-standards/self-evaluation-charities>.

The ACNC does not require charities to hold an AGM, however they should check their rules and legislation that applies to them to find out whether they are required to do so.

You must notify the ACNC of certain changes that your charity may make at its AGM (such as its legal name, responsible persons or governing documents).

The ACNC has developed a range of resources to help charities with their AGMs. Check them out at <https://www.acnc.gov.au/tools/other-resources/annual-general-meetings> and <https://www.acnc.gov.au/tools/templates/annual-general-meetings-templates>.



## AUSSIE HELPERS COMMITS TO IMPROVING GOVERNANCE

Aussie Helpers has confirmed a compliance agreement with the ACNC to address concerns raised about the charity's governance.

Aussie Helpers was established in 2007 to aid Australian farmers. It has been responding to increasing demands on its services.

The ACNC investigation found that Aussie Helpers did not have adequate policies and procedures for managing financial controls and conflicts of interest. It also identified a need for greater awareness by the charity's responsible persons of their duties under the commission's governance standards.

Aussie Helpers CEO Natasha Kocks said that the charity had fully cooperated with the ACNC's investigation.

She added: 'It is important to us that Aussie Helpers delivers support to those who need it, while also being well-managed with all the appropriate procedures and controls in place. We will continue to work with the ACNC to ensure the best outcomes for the charity and the rural families we support.'

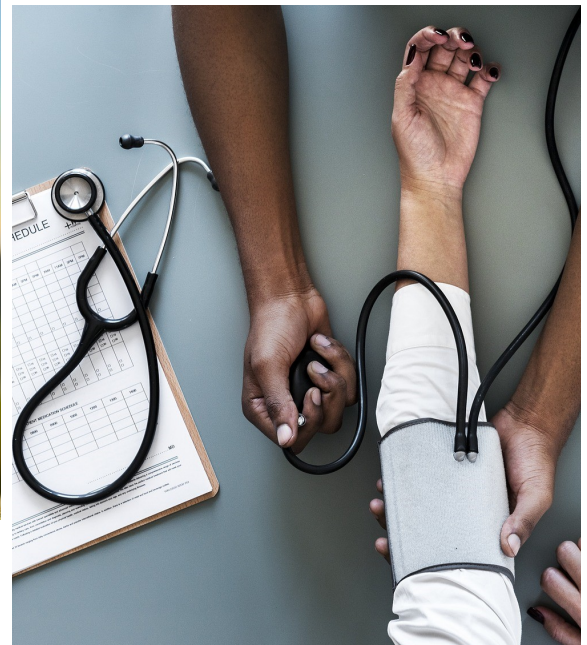
Aussie Helpers quickly grew into a major rural charity. Its governance practices and policies failed to keep up with the growth in its size and complexity.

Ms Kocks said: 'We have been working with the ACNC to address the issues identified. All board members have now had governance training, the Aussie Helpers' constitution has been updated, and we are implementing financial controls and updating our policies and procedures.'

ACNC commissioner Gary Johns said that a compliance agreement was appropriate if a charity had cooperated with an investigation and made obvious attempts to comply with its obligations.

Dr Johns said: 'Aussie Helpers has fully cooperated with our investigation. The compliance agreement is evidence of the charity's commitment to increased accountability and transparency to donors and the public.'

For ACNC compliance decisions visit <https://www.acnc.gov.au/raise-concern/regulating-charities/action-taken-against-charities>



## DOCTORS' COLLEGE AGREES TO COMPLY

The Royal Australasian College of Physicians has entered into a voluntary compliance agreement with the ACNC to address board-governance and cultural concerns.

An ACNC investigation found that the RACP failed to meet governance standards specifically related to accountability and transparency and the duties of responsible persons.

Dr Johns said that a voluntary compliance agreement was appropriate.

'The RACP has fully cooperated with our investigation. The compliance agreement is evidence of the charity's commitment to working with the ACNC, and addressing the governance issues identified,' he said.

As part of the agreement, the RACP will engage a governance professional to review the board's activities and culture, make recommendations for change, and oversee the implementation of the recommendations.

The RACP has acknowledged that failure to comply with the agreement might result in further ACNC action.



## ‘DOUBLE DEFAULTER’ CHARITIES REVOKED

More than 1200 charities have had their registrations revoked for repeatedly failing to submit two successive annual information statements.

The ACNC can impose financial penalties for lodging statements late or revoke charity registration when charities become ‘double defaulters’ for failing to lodge two successive statements.

Submitting an annual statement is a requirement to maintain charity registration. Charities without registration are ineligible for Commonwealth tax concessions.

Dr Johns said: ‘We are committed to maintaining an accurate, up-to-date register that provides a transparent source of charity information that the public can trust.’

The ACNC will continue to work with charities to help them meet their obligations. When charities fail to comply with the ACNC Act and governance standards the commission takes action.

‘The public can rest assured that charities who have been revoked will clearly show ‘revoked’ on their listing so the public can donate with confidence to charities that meet their obligations,’ Dr Johns said.

Revoked charities must submit overdue statements and can apply to re-register through the charity portal.

Charities may check the register to identify which statements are overdue. To search the register, visit <https://www.acnc.gov.au/charity>

## FIVE CHARITIES LOSE STATUS

The ACNC has revoked the charity status of five organisations following separate investigations.

They are Kaizen Synergy College, White Coats Charity Incorporated, The Trustee for Storybook Angels for Disabled Animals, Australian Community & Health Foundation Limited, and Beyond Community & Health Inc.

Without charity status, these organisations will be ineligible for Commonwealth tax concessions. Dr Johns said: ‘Following investigations we had no alternative but to revoke the registration of these charities. Dr Johns said the ACNC had an ‘education-first’ approach to compliance that aims to help charities get back on track.

‘We work with charities to help them establish procedures to protect their charity and ensure it is well run. However, if charities fail to display a commitment to their governance, transparency or accountability, then we will take the appropriate regulatory action,’ Dr Johns said.

The ACNC governance standards require charities to operate lawfully and be run in a responsible manner. Charities have 60 days to object to an ACNC revocation. The commission is unable to disclose further details about the investigations due to secrecy.







## FINANCIAL— REPORTING INSIGHT

### TRANSPARENCY ‘POOR’ IN CHARITIES SPFSs

The transparency of more than a third of the special-purpose financial statements lodged by medium-sized and big charities with the ACNC is ‘poor’, says a report.

The Australian Accounting Standards Board’s research report 11 Review of Special Purpose Financial Statements: Large and Medium-Sized Australian Charities reveals that transparency is poor in 36 per cent of the charities lodging SPFSs.

Only 26 per cent of charities preparing SPFSs state that they comply with all recognition and measurement requirements in Australian Accounting Standards. Thirty per cent say that they fail to comply, and the remaining 44 per cent are non-committal.

The AASB asserts that the findings support its decision to address improvements in the NFP sector separately from for-profit entities as the impact of specifying recognition and measurement requirements will be much greater.

The report is part of a larger board project supported by the Auditing and Assurance Standards Board to assist in reforming the financial reporting framework across the board. The research findings are critical to determining the need for reform and by how much.

For charities, the goal is to achieve financial reporting that is clear, objective and comparable, balancing users’ needs against preparers’ costs. It also aims to reduce the burden on preparers by simplifying requirements and ensuring that information they are required to provide is useful to them and their stakeholders.

### AASB 15 EXAMPLES CLARIFIED

The AASB has decided to amend illustrative examples 4A and 4B attached to AASB 15 Revenue from Contracts with Customers to clarify how paragraph 35(a) should be applied.

The amendments do not change the examples’ conclusions.

A fatal-flaw-review version of the amending standard is expected to be issued shortly with a comment period of 30 days.

The board has also discussed a revised version of a draft staff FAQ presenting additional research-grant examples. Staff will meet with university and medical-research-sector stakeholders before finalising the FAQ.

### POLICY DISCLOSURE TO BE REVISED

Exposure draft 296 Disclosure of Accounting Policies proposes amendments to help entities provide disclosures that are more useful to financial statements’ primary users.

AASB 101 requires entities to disclose their ‘significant’ accounting policies. The AASB proposes to replace that requirement with a requirement to disclose ‘material’ accounting policies.

In addition, the board is proposing amendments to AASB 101 and AASB practice statement 2 Making materiality judgements to help entities apply the concept of materiality in making decisions about accounting-policy disclosures.

The proposed amendments are intended to help entities:

- Identify and disclose accounting policies that provide material information to primary users of financial statements, and
- Identify immaterial accounting policies and eliminate them from their financial statements.



## NEW DISCLOSURE STANDARD MIGHT REPLACE RDR

The AASB is proposing to replace reduced-disclosure requirements with a new disclosure standard.

Exposure draft 295 General Purpose Financial Statements – Simplified Disclosures for For-Profit and Not-for-Profit Tier 2 Entities proposes that the standard would apply to entities that report under Tier 2 of the differential-reporting framework set out in AASB 1053 Application of Tiers of Australian Accounting Standards.

The simplified-disclosure standard is based on international counterparts and adapted for differences in recognition and measurement requirements. It will also accommodate NFPs' specific circumstances.

The proposals in draft 295 will not change which entities are permitted to apply Tier 2 reporting requirements and their recognition and measurement requirements, which are the same as for Tier 1.

Draft 295 is proposed in conjunction with a forthcoming draft on the proposed removal of special-purpose financial statements. The result will reduce disclosures required and therefore the cost for entities that have to transition from SPFSs to general-purpose counterparts if the AASB's proposal to remove SPFS is implemented.

The proposals will also provide some immediate relief for public-sector and NFP private-sector entities that are currently reporting under the reduced-disclosure regime.

They are not intended to replace the AASB's separate project of reshaping financial-reporting frameworks for the NFP private and public sectors, and further changes might be suggested following AASB consultations with other NFP regulators.

## AASB HOLDS OCTOBER ROUNDTABLES

In October, the AASB is running a series of roundtables on exposure draft 297 Removal of Special Purpose Financial Statements for Certain For-Profit Private Sector Entities, and draft 295 General Purpose Financial Statements – Simplified Disclosures for For-Profit and Not-for-profit Tier 2 Entities.

Draft 297 proposes to remove the ability of for-profit, large proprietary, unlisted public (other than companies limited by guarantee) and small foreign-controlled companies to lodge publicly special-purpose financial statements with the Australian Securities and Investments Commission.

Draft 295 proposes a new, separate disclosure standard (the Simplified Disclosure Standard) that would apply to Tier 2 entities, including not-for-profit private-sector entities and public-sector entities.

The roundtables will consist of morning sessions (9am-1pm) for for-profit stakeholders, and afternoon counterparts (2pm-5pm) for not-for-profit stakeholders.

To find out more and select your preferred location and session visit [www.aasb.gov.au](http://www.aasb.gov.au).



## AASB PROPOSES NEW ROU CLASS

The AASB has decided to propose further amendments to AASB 16 Leases to specify that NFPs' right-of-use assets under concessionary leases fall into a separate ROU class.

A fatal-flaw-review version of the amending standard is expected to be issued shortly. You will have 30 days to comment.



## YEAR-ENDERS MUST APPLY NEW STANDARDS

AASB 15 Revenue from Contracts with Customer is operative for NFPs for financial years that began on 1 January. Implementation guidance and illustrative examples may be consulted.

Several other standards became operative from the same date, including AASB 1058 Income of Not-for-Profit Entities, AASB 17 Leases and AASB 2018-8 Amendments to Australian Accounting Standards – Right-of-Use Assets of Not-for-Profit Entities.

If you are looking for application of accounting standards, they are identified in AASB 1057 Application of Australian Accounting Standards. Its objective is to specify the types of entities and financial statements to which Australian Accounting Standards (including Interpretations) apply.



# FRAUD AND NOCLAR



## IIA ASKS 20 CRITICAL QUESTIONS ON ETHICS

The Institute of internal Auditors -Australia has released the new guide Latest 20 Critical Questions – What Directors should ask about Ethics and Fraud Control.

The killer question is: ‘How does management, the audit committee and board clearly know that ethics are strong, and fraud and corruption prevention arrangements are operating effectively?’

## PROTECT YOURSELF FROM SCAMS

Scams can undermine the good work of genuine charities and take advantage of Australians’ generosity.

Fake charity scammers will steal by posing as a genuine charity, either in person or online. Scams can cost individuals a lot, but they also divert funds and donations away from legitimate causes and charities.

In 2018-19, the federal government’s Scamwatch received 996 reports of fake charity scams. More than \$300,000 was lost.

Telephone scams were reported 394 times, emails 169 and in-person 146. Those contacted on the internet suffered the highest losses, totalling more than \$105,000.

To avoid scams, donors should:

- Avoid clicking on unknown links or providing payment details over the phone when approached to make a donation
- Never send money or give personal information, credit-card

details and online account details to anyone you don’t know or trust

- If you are approached by a street collector, ask to see their identification. If you have any doubts about who they are, do not pay
- If you are approached in person, ask the collector for details about the charity such as its full name, address and how the proceeds will be used. If they become defensive and cannot answer your questions, close the door or walk away, and
- Search the ACNC Charity Register at <https://www.acnc.gov.au/> charity to determine if an organisation is legitimate.

If you have been the victim of a scam or you are suspicious about a request to donate, report it to Scamwatch. Reporting a scam helps the Australian Consumer & Competition Commission to monitor trends and disrupt scams. It also helps in warning others.

For more information about scam activity or to report a scam, visit <https://www.scamwatch.gov.au>.



## POSSIBLE NFP WHISTLEBLOWER EXEMPTION

The Australian Securities & Investments Commission has been in consultations on proposed guidance for companies on new legal obligations regarding whistleblower policies.

ASIC sought feedback on exempting public companies (companies limited by guarantee) that are small NFPs or charities from the requirement to implement a whistleblower policy. It also sought to know the most appropriate threshold that should apply.

## CHARITY FRAUD AWARENESS WEEK

International Charity Fraud Awareness Week will be held from 21 to 25 October.

The 'week' encourages charities to protect their incomes and assets and promotes openness and honesty about fraud.

This year's theme is 'We are stronger when we work together to keep #CharityFraudOut'.

Find out more at <https://www.fraudadvisorypanel.org/charity-fraud/charity-fraud-awareness-week/>.

## PRISON TERM FOR FALSE BASs

An Adelaide woman has been given a year-long prison term after being convicted of a criminal offence for submitting false business activity statements on behalf of her charity.

An ATO audit found that she had overstated the GST input-tax credits the organisation was entitled to, gaining a financial advantage of more than \$34,000.

The woman was ordered to pay reparations of \$34,265. Her prison term was commuted to a two-year good-behaviour bond.

The charity was stripped of its ABN and tax concessions.





# ETHICS

## GET TO KNOW CONFLICTS OF INTEREST

The restructured Code of Ethics for Professional Accountants (including Independence Standards) is operative from 1 January next year. The revision is substantial. Sixty requirements apply to members in business, including in not-for-profits.

Our April-June newsletter described the conceptual framework and risks members faced in applying it. We continue our journey by reviewing the requirements for conflicts of interest (Section 210). Largely unchanged, it's nonetheless an important topic. Let's recap.

There is only one mandatory requirement – a member shall not allow a conflict of interest to compromise professional or business judgement.

This is supported by application guidance.

It is generally necessary to:

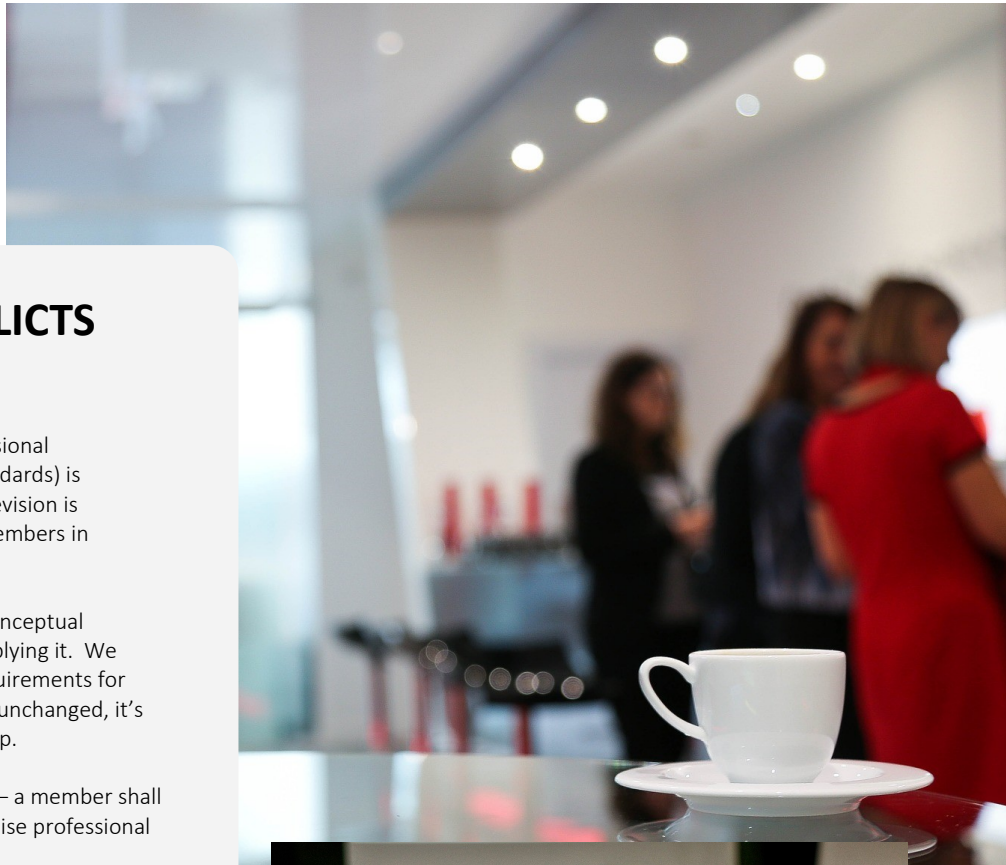
- Disclose the nature of the conflict of interest and how any threats created were addressed to the relevant parties, including to the appropriate levels within the employing organisation affected by a conflict, and
- Obtain consent from the relevant parties for the member to undertake professional activity when safeguards are applied to address the threat.

If disclosure or consent is not in writing, the member is encouraged to document:

- The nature of the circumstances giving rise to the conflict of interest
- The safeguards applied to address the threats when applicable, and
- The consent obtained.

When addressing a conflict of interest, members are encouraged to seek guidance from within the employing organisation or from others, such as a professional body, legal counsel or another member.

When making such disclosures or sharing information within the employing organisation and seeking guidance of third parties, the principle of confidentiality applies.





# GOVERNMENTS AND ATO

## CHARITIES AND REGULATORS

Charities that are incorporated associations in Tasmania, South Australia and the ACT are reminded that they no longer need to submit to their state and territory regulators.

Instead, they will report to the ACNC via annual information statements. Medium and large charities will need to submit annual financial reports. The ACNC shares relevant data with state regulators.

The two-year transitional period for affected charities to meet ACNC reporting requirements has ended.

From 2019, medium and large charities that are incorporated associations must use accrual accounting and ensure their annual reports meet ACNC reporting requirements, including ACNC audit and review requirements.

For charities that are incorporated associations in Victoria and New South Wales, 2019 is the second year of a two-year transitional period. Affected charities will be required to prepare a full financial report that meets ACNC requirements (with conditions for comparative information).

From 2020, charities will need to ensure annual financial reports include comparative information. They must also meet ACNC audit-review requirements.

For incorporated associations in the Northern Territory, the first year of a two-year transitional reporting period began on 1 July.

## SUN SETS AND RISES ON ANCILLARY FUNDS

The Taxation Administration (Private Ancillary Fund) Guidelines 2019 ensure that eligible funds obtain or maintain deductible-gift-recipient status.

Private Ancillary Fund Guidelines 2009 were scheduled to sunset on 1 October.

The revised guidelines do not alter the meaning and operation of their preceding counterpart.

Minor technical changes have been made to reflect drafting practice and omit provisions that are no longer operative. Transitional provisions are included in the draft guidelines to ensure continuity of operation between the sunset and the new sunrise.

## NEW NSW GUIDELINES ON FUNDRAISING

Fair Trading NSW has published updated guidelines that explain the requirements and obligations of NSW fundraisers.

The guidelines should help to reduce red tape and increase compliance by making legislative requirements clearer and easier to understand.

They explain the regulatory framework that governs charitable fundraising and provide guidance on what can be considered a charitable purpose and what people should do before conducting online appeals and crowdfunding.

The guidelines cover topics such as the scope of fundraising activities, organisational requirements and the type of record-keeping and reporting that is required.

Find out more at <https://www.fairtrading.nsw.gov.au/news-and-updates/news/new-guidelines-for-charitable-fundraising>.



# **2020 ANNUAL NFP CONFERENCE**

## **SIXTH ANNUAL NOT-FOR-PROFIT CONFERENCE 2020**

**Empowerment Through Knowledge**

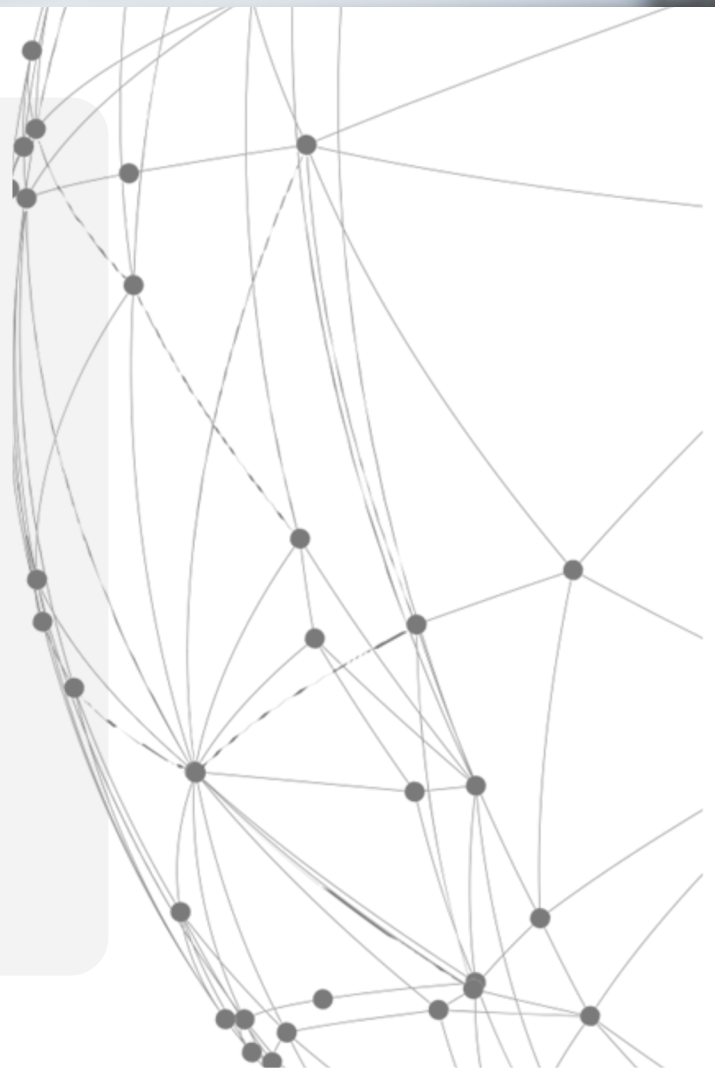
**12 March 2020**

**Rendezvous Hotel Melbourne**

**Keynote Speaker 1 — Moira Kelly**

**Keynote Speaker 2 — TBC**

**More details to come soon!**



Tax Advice | Superannuation | Business Advisory | Audit | Succession Planning | Business Valuations | Estate Planning | Wealth Creation

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