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CHARITY GOVERNANCE

Governance Institute issues guidance

The Governance Institute has issued new guidance on key issues facing not-for-profit entities.

Its *Good Governance Guide* canvasses issues that need to be considered in structuring NFP boards to ensure that they achieve their aims while meeting ethical, legal and financial obligations.

Under separate headings, the guide covers several things.

One section covers a need to have clear boundaries between board duties

and the day-to-day activities of an organisation, which are the responsibility of management. How does delegation work in these situations?

Another part looks at the concept of stewardship and its responsibilities for those who control NFPs.

A third advises on the need for NFPs to have clear policies and guidelines for managing volunteers, given that most NFPs operate with the assistance of volunteers. Management of conflicts of interest is also covered.

CHARITY GOVERNANCE

Whole-of-agency approach needed in public-sector entities

The Governance Institute has issued guidance for managers in public-sector entities.

Its *Good Governance Guide – executive leadership/management groups in public sector entities* stresses the importance of appropriate management discipline. Executives and managers need to clarify what they do to promote effective decision-making and sound governance.

CHARITY GOVERNANCE

NFPs expect to break even or lose money

Almost half of Australia's not-for-profit (NFP) organisations expect only to break even or make a loss over the next three years.

This is a key finding of the *2016 NFP Governance and Performance Study* conducted by research firm Baxter Lawley on behalf of the Australian Institute of Company Directors (AICD).

More than 1800 directors from a range of NFPs participated in the study, making it the largest survey of NFP governance in Australia.

'There can be no doubt that NFPs do need to make a profit,' said John Brogden, AICD's managing director and CEO. 'Profit is the foundation of building the long-term confidence needed for an NFP to achieve its purpose.'

'It's alarming that some directors are saying the capacity of their organisation to meet their purpose will, in real terms, shrink moving forward. Directors and boards need to consider seriously their roles and drive the cultural change necessary to support the long-term financial strength of their organisations.'

Thirty-one per cent of respondents said their organisations had profit margins of more than six per cent in the past financial year.

'Many NFPs are not just surviving, but thriving,' said Mr Brogden. 'However, responses to the survey indicate that directors' understanding of their roles as financial stewards, is highly variable. NFPs' making a profit can be a challenging concept for government and the broader community, but without long-term financial strength, the sector will not be able to deliver vital services.'

Other key findings include:

- The use of performance data to measure organisational success is gaining momentum.
- Rates of mergers have not changed over the past year. Just over a third of directors (35 per cent) reported that their organisations had discussed a merger in the past 12 months.
- NFP leaders have a negative perception of the sector. Despite 74 per cent of directors believing their NFP is efficient, only 32 per cent believe this to be true of the sector.
- Only 15 per cent of respondents were paid a fee and 70 per cent are spending more than two days a month performing their duties.

The study also highlights the relationship between the NFP sector and governments across Australia and the need for genuine partnerships. It shows that:



- More than half of directors believe that federal, state and territory governments are not consistent in their approach to contracting for services.
- Two-thirds want more stability in government policy.
- Fifty-five per cent want the administrative burden reduced.

'We need to have a new conversation with governments about the way they fund and regulate the sector,' said Mr Brogden.

'Funding contracts are often short-term and prescriptive. Most stipulate how funds are to be spent and some even require that NFPs account for any profit they make or, worse, return unspent funds to government.'

'Government is rightly asking for improved governance among NFPs, but (they are) constricting their ability to achieve good governance through archaic funding practices.'

The report is available at aicd.companydirectors.com.au/nfpstudy16.

CHARITY GOVERNANCE

Pascoe hails AICD report

Commissioner of the Australian Charities and Not-for-profits Commission (ACNC) Susan Pascoe has hailed the AICD's report as a substantial contribution to the NFP sector.



'The (report) is an excellent addition to the body of research focused on Australia's not-for-profit sector,' Ms Pascoe said.

'Our experience at the ACNC demonstrates the relationship between good governance and the health of charities, and conversely, the link between dysfunction, mischief and failure of charities and the neglect of governance. It is heartening to see the perception of much better quality of governance by NFP directors in this report.'

'One of the figures that caught my attention was that 90 per cent of directors have undertaken formal or self-directed learning in the past year. This is very impressive and is a sign of the sector's commitment to capacity building'.

She added that the report also disproved the perception that the governance of NFPs was

typically inferior to that of profit-making companies.

The report says: 'It was once commonly held that the governance of NFPs was generally poor compared with the for-profit sector, but side by side testing has repeatedly shown that this is not the case. In fact, some see NFP governance as more complex due to the need to achieve both mission success and financial strength, and the complex environments in which NFPs often operate.'

Commissioner Pascoe highlighted innovation as a key area of interest in the report.

'The (report) contains very helpful advice for not-for-profit directors, funders and governments,' she said. 'I encourage not-for-profit sector stakeholders to read it.'

CHARITY GOVERNANCE

Call to fix fundraising

A powerful coalition of peak bodies is calling on Australian governments to provide charities and NFPs with a nationally-consistent fundraising regime that will deliver more than \$15 million in savings a year for charities alone.

NFPs are forced to waste significant amounts of time and money to meet outdated and fragmented fundraising laws that differ considerably across Australia.

The AICD's managing director and CEO John Brogden said that more than 600,000 NFPs operated in Australia, 10 per cent of which were charities.

'Charities and other NFPs are wasting millions of dollars on outdated and unnecessary regulation – funds that should be going to Australians in need,' he said.

'Across Australia's seven different fundraising regimes ... there is variation in the requirements for fundraising at each stage, from when and if a licence is needed, to how long a licence is valid, right through to what must be reported and when. This duplication and confusion means charities and NFPs are having to spend time and money on red tape rather than pursuing their missions.'

Fiona McLeay, CEO of Justice Connect, said: 'For smaller groups, it can be particularly difficult to navigate these complex laws. For larger ones, resources are redirected from service delivery to compliance, with spending on fundraising administration a significant deterrent to public giving.'

'There is a simple way to provide a better regulatory framework for fundraising – clarify and improve how it is covered by Australian consumer law and repeal existing inconsistent and out-of-date state and territory legislation.'

The federal coalition pointed out that an improved fundraising regulatory regime would deliver benefits to all Australians. The proposed reforms would protect charities and other NFPs from unnecessary costs as they tried to raise funds, support them to be more productive, including when they deliver government-funded services, and enable them to continue making a significant contribution to the economy and society.



CHARITY GOVERNANCE

ASIC update regulatory framework for charitable investment fundraisers



The Australian Securities and Investments Commission (ASIC) has issued a revised policy and regulatory framework for charities that raise investment funds.

The framework removes regulatory barriers to the issue of financial products while strengthening protection for public investors.

The changes follow an ASIC review of the operation of exemptions available to charities from certain managed investment, debenture, fundraising and licensing provisions of the Corporations Act.

They are aimed at ensuring that the policy is consistent with ASIC objectives of confident and informed investors and fair and efficient markets.

The review had identified fundraisers' difficulties in liquidity management and the effectiveness of their disclosure.

ASIC has made several updates, including:

- From 1 January, charitable investment fundraisers will not be permitted to issue at-call or investments with a term of less than 31 days to retail investors.
- From 1 January 2018, charitable investment fundraisers that wish to issue investments to retail investors who are not associated with the charity will no longer be exempted from the requirement to hold for Australian financial services licence from ASIC. Further, additional restrictions apply that are designed

to avoid the investments being used for transactional facilities.

ASIC noted that some charitable investment fundraisers were religious charitable-development funds, which rely on the Australian Prudential Regulation Authority's exemption from the Banking Act. APRA is reviewing the exemption.

ASIC has also applied disclosure, lodgement, breach reporting and financial reporting requirements, although they are less stringent than the equivalent provisions in the Corporations Act that apply to regulated entities.

The changes are effected by repealing existing class order CO 02/184 *Charitable investment schemes – fundraising* and replacing it with ASIC Corporations (Charitable Investment Fundraising) Instrument 2016/813 and issuing a new version of Regulatory 87 *Charitable investment fundraising and school enrolment deposits*.

The existing class order CO 02/151 *School enrolment deposits* has also been repealed and replaced with ASIC Corporations (School Enrolment Deposits) Instrument 2016/812 without substantial amendment. This will continue to permit schools to accept enrolment deposits without the requirement to comply with relevant provisions of the Corporations Act.

ASIC commissioner Greg Tanzer said: 'We are satisfied that our policy strikes the right balance between exempting charitable investment fundraisers from applicable legal provisions where investors are motivated to support the charitable purposes while maintaining appropriate protections for investors.'

CHARITY GOVERNANCE

Registrar lays charges against former CEO

Following an investigation by Anthony Beven, registrar of indigenous corporations, 27 charges have been laid against the former CEO of the Riverina Medical and Dental Aboriginal Corporation for dishonestly misusing her position.

The registrar alleges that on 28 separate occasions Selena Joan Lyons knowingly received corporation funds totalling \$28,048.90 to which she was not entitled.

Mr Beven alleges that Ms Lyons authorised 27 travel or accommodation allowance payments to herself between 14 October 2011 and 17 April 2014 for days that she was not travelling for work purposes or another organisation had already paid for travel, accommodation and meals.

He alleges that on 29 October 2012 Ms Lyons misused the corporation's credit card by making an unauthorised purchase.

Most charges have been brought under section 265-25(3)(a) of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act). One has been brought under section 265-25(3)(b) of the CATSI Act. They carry a maximum penalty of between \$220,000 and \$340,000 or imprisonment for five years or both.

'CEOs and directors hold special positions of trust and are required at all times to act honestly and in the best interests of the corporations they represent,' said Mr Beven.

'My office has taken strong action where these standards have not been met – this is the third matter that I have brought before the criminal courts in just the past two months where I have alleged that those standards have not been met.'



CHARITY GOVERNANCE

Registrar lays more charges

Following an investigation by the registrar of indigenous corporations, 38 charges have been laid against the former CEO of the Garnduwa Amboorny Wirnan Aboriginal Corporation for misusing his position.

It is alleged that Alan Hugh Bishop dishonestly misused his position 38 times to transfer corporation funds into his own personal bank or credit-card accounts.

From July 2013 to December 2014 Mr Bishop is alleged to have created false records to raise 38 Garnduwa cheques totalling \$237,305.48 that he used for his own personal benefit.

The charges have been laid under section 265-25(3)(a) of CATSI Act, and each carries a maximum penalty of \$340,000 or imprisonment for five years or both.

'I would like to commend the corporation's auditor, Ms Alison Fong, who first detected an issue with the cheques and, after making inquiries, reported it to the directors and my office,' Mr Beven said.

'Garnduwa's directors acted promptly by terminating Mr Bishop's employment and commencing action against him in the civil courts. They have also provided invaluable assistance to my office during our investigation.'

CHARITY GOVERNANCE

And more...

Mr Beven has charged Trevor John Close, a former director of the Githabul Nation Aboriginal Corporation, with three counts of dishonestly using his position to gain an advantage for himself.

It is alleged that Mr Close used the proceeds of sale from a Githabul Nation native-title property to pay the rent for his private home in Sydney. Mr Close made two rental payments from corporation funds in July and one in August 2013.

Githabul Nation was incorporated in 2006 and is registered under the CATSI Act. It was established to manage the native-title rights



and interests of the Githabul people of northern New South Wales.

On 29 November 2007, the Federal Court made a consent determination recognising the Githabul people's native-title rights and interests over 1120 square kilometres of national parks and state forests around Kyogle.

As part of the consent process, the New South Wales government transferred 20 parcels of public land to Githabul Nation. Mr

Close is alleged to have misused proceeds from the sale of one of them.

Mr Close was a Githabul Nation director from May 2009 to July 2014, when Mr Beven placed the corporation under special administration.

Charges were laid under section 265-25(3)(a) of the CATSI Act two carry a maximum penalty of \$340,000 or imprisonment for five years or both, and one carries a \$360,000 or imprisonment for five years or both.

'Native title rights and interests must be held and used for the benefit of all traditional owners, not one individual,' said Mr Beven.

'My office provides a range of services to native title bodies to improve their governance but will take action when there are failings in that governance.'

CHARITY GOVERNANCE

Sports Commission issues governance guide

The Australian Sports Commission (ASC) has released *Governance Reform in Sport*, calling for sports to take a unified approach to behaviour, processes and supporting systems.

Building trust and national cohesion while improving sports' commercial and financial positions are key objectives of the ASC's next stage of governance reform.

Building on ASC reforms over the past three years, the paper supports governance best-practice in areas such as board chairpersons elected by the board and not members, performance evaluation processes for boards, corporate rather



than association structures, establishment of key board committees covering nominations, audit and risk, and board diversity and skill mix.

The paper states the need for governance improvement in the context of the social, commercial and financial environments facing many sports. Integrity, safety and duty-of-care are of growing importance, and media deals for bigger sports are increasingly lucrative, which puts smaller sports at a competitive disadvantage.

A highly competitive sponsorship market increasingly favours sports with big broadcast audiences, and economic pressures mean that sports cannot rely on government funding to bridge revenue gaps.

The paper stresses that 'good governance does not in itself guarantee success on the sports field, but its absence almost certainly guarantees failure'. Sporting organisations should understand that good governance is an enabler of performance, not a determinant.

Australian sport is complex because of its federal structure, but the ASC hopes that the paper will assist sporting organisations at every level to take a uniform approach, building trust among key stakeholders.

The paper encourages a unified and transparent approach to strategic planning, financial reporting, workforce management and commercial arrangements. It recognises that voting structures require flexibility suited to the individual characteristics of the sport.

ACNC ACTIVITIES

Related-party transactions

Related-party transactions – purchases, transfers, loans and leases to a person or organization connected with a registered charity – can be a tricky part of managing a registered charity's finances.

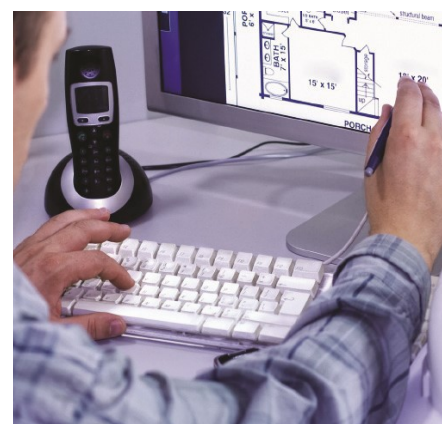
Good governance means managing with care such transactions to ensure that they are transparent and appropriately recorded.

The ACNC has published new guidance on the topic at acnc.gov.au/relatedparty.



ACNC ACTIVITIES

ACNC corrects charities' errors



The ACNC recently wrote to 3000 registered charities, pointing out where they had made annual-reporting errors.

Errors ranged from incorrect data to self-assessing as a basic religious charity despite the charity's failing to meet requirements.

Charities that have been asked by email to fix errors should do so as soon as possible.

ACNC ACTIVITIES

ACNC corporate plan 2016-17

Under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), federal-government agencies are required to publish an annual corporate plan that sets out strategic priorities.

Whether they were achieved is reported in annual reports.

You can find the ACNC's plan for 2016-17 and other strategic documents at acnc.gov.au/corporateplan.



ACNC ACTIVITIES

Myth-busting on charity admin costs

The ACNC has published new guidance to help the public and donors understand charity administration costs.

The set of frequently asked questions (FAQs) under the rubric *Charities and administration costs*, highlights issues raised by the public and sets out the ACNC's view.

Charities and administration costs helps the public and donors understand what administration costs are, why they are an important part of running a charity, and why administration-cost ratios can be an unreliable way to compare charities.

The new guidance also endeavours to correct common misconceptions. ACNC commissioner Susan Pascoe has encouraged donors to read the guidance.

Each month, the commission receives about 60 to 70 queries about charities, a third of which originate from the public. Many are about charities' expenses, which are commonly referred to as administration costs.

There are no laws or regulations that specifically set out the amount charities can spend on what might be considered administration. There are also no clear definitions as to what should be considered 'administration costs' for accounting purposes.

The bulletin aims to help the public and donors to understand what administration costs are, why they are necessary, and when they may be unreasonable and therefore warrant ACNC scrutiny.

Simply having low administration costs does not necessarily indicate an effective, well-run charity. Similarly, having higher administration costs does not necessarily indicate that a charity is ineffective and poorly run.

A more important consideration is the effectiveness of the charity. Is it doing important work for the community and making a positive impact? It's the question donors should ask.

Administration-cost ratios as a measure of charity effectiveness are particularly flawed due to NFPs' inconsistency in accounting practices.

'The ACNC believes that there should be a dedicated accounting standard that applies to the not-for-profit sector with clear guidelines that set out how charities report different income and expenses,' Ms Pascoe said.

'Other commonwealth jurisdictions already have accounting standards specifically for not-for-profit organisations, and we will continue to advocate for their introduction here in Australia.'

Charities and administration costs can be accessed at acnc.gov.au/admincosts.

ACNC ACTIVITIES

ACNC urges charities to submit early AIs

The ACNC has urged charities to submit their annual information statements early.



It adds that its website provides guidance and that advisors may be contacted on 13 22 62 or advice@acnc.gov.au. Most charities are required to submit by 31 December, but, as in previous years, the due date will be extended by a month. Charities may use their portals to submit.

Guidance on submissions may be found on acnc.gov.au/reporting.

ACNC ACTIVITIES

Meeting standards

The commission has released a factsheet *Mapping the ACNC governance standards to the CMA Standards Council Principles and Standards*.

If your registered charity complies with the council's principles and standards it will meet ACNC governance standards.

The CMA Standards Council is part of Christian Ministry Advancement Ltd (incorporating Christian Management Australia), a charity seeking to help the Christian NFP sector to govern, lead and

manage their organisations more effectively.

The council is not tied to any church, denomination or organisation. It is completely interdenominational, and its community represents the wide spread of the Christian faith in Australia. It is not underwritten by any business, foundation or organisation.

Its nine principles and 54 standards are a governance benchmark applicable to churches, charities, schools, hospitals and other organisations.

The council issues accreditations to organisations that apply its edicts.



ACNC ACTIVITIES

Charity statuses revoked

The ACNC has revoked the status of five charities following investigations into their activities.

The organisations have 60 days to object to the decision and will lose commonwealth charity tax concessions.

The commission revoked the status of Ethan Affordable Housing Limited on 25 July, backdated to 1 July 2013. Based in Victoria, the Australian Business Register (ABR) records that it has been operational since 2009.

Ethan was endorsed by the ATO to access commonwealth tax and GST concessions, the FBT rebate and was exempt from paying income tax.

Kids Cancer Relief NSW Inc had its charity status revoked on 3 August, backdated to 1 July 2013. The organisation is based in New South Wales and, according to the ABR, has been operational since 2011.

Kids Cancer Relief had the same tax advantages as Ethan and was also a deductible-gift recipient (DGR).

The trustee for Victorian-based The Turner Foundation, operating since 2004, was revoked on 18 May. It was endorsed by the ATO as a DGR and was allowed tax concessions.

The Queensland-based trustee for Gulf and West Queensland Economic Foundation Limited Trust has been operating since 2004 and was revoked from 1 July 2013. It was exempt from income tax.

Western Australian health-promotion charity, Angelorum Limited has been operating since 2012 and was endorsed by the ATO as a DGR. It was exempt from paying income tax, GST and FBT and was revoked on 1 July 2013.

The Australian Bunker and Military Museum Pty Ltd and the trustee for the AFG Charities Trust also lost their charity status. The revocations followed compliance investigations.

They will all lose charity-tax concessions.



The commission will continue to investigate concerns about charities and revoke the status of those that seriously breach the ACNC Act and/or governance standards, or fail to report. An accurate register of charities is vital.

Commissioner Susan Pascoe said that while the ACNC could not provide further details, members of the public can be assured that revocation is reserved for the most serious of cases.

'The ACNC's approach to regulating Australia's charity sector is to be firm, yet fair,' Ms Pascoe said.

'We work with charities to help them get back on track. We do this by providing guidance and education. In fact, the majority of concerns raised with the ACNC are resolved by our helpful (advice). However, when we find serious circumstances of mismanagement or deliberate breaches of the ACNC Act we will revoke charity status. We make no apology about taking a tough stance when necessary.'

Commissioner Pascoe encouraged donors to check the charity register to ensure that they give to a registered charity. 'Organisations that have their charity status revoked by the ACNC are easy to identify,' Ms Pascoe said. 'A registered charity will appear with a green tick (but) when a charity is revoked, a red cross will appear.'

Members of the public can access the register free of charge at acnc.gov.au/findacharity.

Ms Pascoe also encouraged the public to raise concerns with the ACNC.

'Each month we receive around 60 concerns about charities, two-thirds of which come from members of the public. While the majority of the issues raised can be managed through education and guidance, the public often provide valuable information that helps us investigate, and ultimately, revoke charity status.'

The ACNC has revoked the charity status of many organisations following compliance activity. Some 14,000 have had their status revoked or were removed from the register since December 2012, largely because they failed to lodge two successive information statements or because there was no evidence that they were still operating.

Members of the public can raise concerns by calling 13 ACNC or by visiting acnc.gov.au/raiseaconcern.

For more information about the ACNC's compliance activity, including the full list of charities that have had their registrations revoked following compliance investigations, visit acnc.gov.au/compliancedecisions.

ACNC ACTIVITIES

What is charity



Across Australia, no single definition of 'charity' exists. In addition to common-law definitions, the terms 'charity', 'charitable purpose' and 'charitable status' occur in 172 pieces of commonwealth, state and territory legislation.

Forty-five of them define the terms.

The ACNC has released *A Common Definition of Charity*, which discusses the implications of moving to a single definition of 'charity', which the commission backs.

The paper surveys the definitions in each jurisdiction and assesses the impact of a single definition on the community, charities and relevant local, state, territory and federal government agencies engaged in charity regulation.

ACNC assistant commissioner David Locke, said: 'The ACNC has prepared this paper and engaged in this discussion to promote the reduction of unnecessary regulatory obligations – which is an object of the ACNC Act. We will continue to work with our colleagues in the commonwealth government, and state and territory regulators, to find red tape-reduction opportunities.'

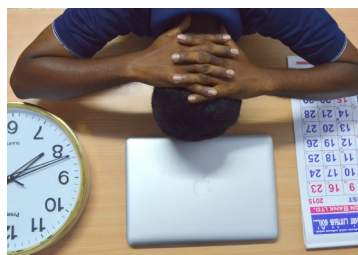
ACNC ACTIVITIES

ACNC revokes 203 double-defaulters

The ACNC has revoked the registration of 503 charities for failing to submit their information statements two years in a row. They will lose tax concessions.

The commission will continue to revoke the status of organisations that fail to meet their obligations, as non-compliance can damage public trust and confidence in the entire sector.

Not only is the statement a



legislative requirement, it also shows a commitment to transparency and accountability.

The register is increasingly used to help donors make informed donations. Register searches have increased each year since the ACNC was established in December 2012, totalling more than 1.6 million.

Donors can access the register free of charge at acnc.gov.au/findacharity. Further information about charity-reporting requirements is available at acnc.gov.au/reporting.

ACNC ACTIVITIES

Late charities get red marks

The ACNC has endorsed thousands of late-filing charities with red-marks.

The marks show up on the register – more than 3500 charities are more than six months late with their annual reports.

Ms Pascoe said that most of the charities had to submit 2015 annual information statements by 31 January.

'Submitting (a statement) each year is a legislative requirement for registered charities,' she said. 'This group has failed to meet that obligation and are now more than six months overdue (and will have) a red mark on their register listing.'

Once the charity submits its overdue 2015 Annual Information Statement, the red mark will be removed.

The data each charity provides is published on the register at acnc.gov.au/charityregister, enabling those who want to give time and money to a charity to undertake their own due diligence.

The public, volunteers and philanthropists should see red marks as a warning that a charity is not meeting its obligations.

Ms Pascoe warned that continued non-compliance could result in greater consequences.

'Registered charities that continually fail to meet their reporting obligations may receive penalty notices from the ACNC,' she said. 'Under the ACNC Act we have the power to issue financial penalties (of) up to ... \$4260 per charity.'

In mid-August, the commission issued its first penalty warning notices and are planning to issue more shortly.

Charities failing to make two successive reports are double-defaulters, a ground for revocation. More than 500 double-defaulter charities had their registrations revoked in recent weeks and will lose tax concessions.

Charities can check their reporting due dates by checking their entry on the register at acnc.gov.au/charityregister or by logging into their portals at charity.acnc.gov.au.

They can find further information about the 2015 Annual Information Statement at acnc.gov.au/2015AIS.

A list of charities more than six months late with their reporting is available on the ACNC website at acnc.gov.au/redmark.



ACNC ACTIVITIES

Red-tape reduction for ancillary funds registered as charities

The Australian Taxation Office (ATO) and the ACNC are working together to reduce the administrative burden on charities, recently announcing that ancillary funds registered as charities now need to report only once.



'Ancillary funds were previously required to report their annual return to both the ATO and the ACNC,' said ACNC commissioner Susan Pascoe.

'By collaborating with the ATO, we're ensuring that ancillary funds only need to report once using the ACNC's online annual information statement. We will then share the information ... with the ATO.'

Commissioner Pascoe said that by

working together, the ATO and ACNC will save about 3000 charities from duplicating their reporting.

'Additionally, I am granting an extension of time for ancillary funds to complete their 2016 (statements) to align with the fund-return deadline of 28 February 2017.'

About 300 ancillary funds are not registered as charities and they must continue to report to the ATO using the form available on ato.gov.au.

ACNC ACTIVITIES

ACNC proposes AIS changes

The ACNC is proposing to change 2017 annual information statements, which are due in December next year or June 2018 for most registered charities.

The commission proposes to simplify and clarify the 2017 questions and improve the collection process. Core components are unchanged to provide stability, and adjustments follow factors outside the commission's control, such as government-policy changes.

The statements include mandatory and optional questions about activities and basic financial information.

The consultation survey will close on 4 October. For more information visit acnc.gov.au/2017AISconsultation.



ACNC ACTIVITIES

AFIC enters into a voluntary undertaking with ACNC

The ACNC has formalised an agreement with the Australian Federation of Islamic Councils (also known as Muslims Australia) to appoint an independent auditor to examine the charity's governance and record-keeping practices.

AFIC voluntarily entered into an enforceable undertaking with the ACNC, a summary of which is published on the ACNC's website at acnc.gov.au/compliance/decisions.

ACNC assistant commissioner David Locke explained that an enforceable undertaking specifies a series of actions that a charity

agrees to take to comply with its obligations under the ACNC Act and Regulation.

'The enforceable undertaking is a formal mechanism the ACNC can use to ensure a charity takes certain steps to satisfy their obligations as a registered charity,' Mr Locke said. 'It is enforceable (by law).'

'Where appropriate the ACNC works with charities to address concerns and to ensure charities understand and comply with their obligations. However, we will act swiftly and firmly where vulnerable people or significant charity assets are at risk, where there is evidence of serious mismanagement or misappropriation, or if there is a serious or deliberate breach of the ACNC Act.

'The ACNC has a range of formal powers it can use, including warnings, directions, removing responsible persons, enforceable undertakings and revocation.

'AFIC is working with the ACNC, and we are pleased that they are doing so and that a

comprehensive and independent audit will be conducted in relation to the concerns identified. We consider this as a positive step in increased accountability and transparency for AFIC.'

Newly elected AFIC president Keysar Trad and his committee confirmed AFIC's commitment to working with the ACNC to address concerns.

Mr Trad said that the enforceable undertaking would 'ensure that the organisation would continue to meet its obligations as a registered charity.

'We at AFIC aim for the highest level of transparency, accountability and integrity in our dealings. We welcome the independent audit and the opportunity to work with the ACNC.

'AFIC has already taken some steps to address the ACNC's concerns. Specifically, AFIC is in the process of separating itself from the schools which it previously held responsibility for managing.'



FINANCIAL—REPORTING INSIGHTS

NFP income-recognition rules closer

New income-recognition requirements for NFPs have been released for comment as ‘fatal flaw’ draft standard *Income for Not-for-Profit Entities*. It will replace AASB 1004 *Contributions*.

Reporting income will more closely reflect economic realities by providing for greater deferral. Income recognition will depend on whether there is a liability or other performance obligation (a promise to transfer a good or service) related to the cash or grant received.

Another major change is to measurement requirements for assets. Currently, only assets acquired by NFPs at nil or nominal consideration must be fair-valued. The new standard broadens this to require fair-value measurement of assets for which consideration is significantly below the asset’s fair value (including peppercorn leases).

It will apply to transactions where the difference between fair value and the consideration is principally to enable an NFP entity to further its objectives (that is, it doesn’t include trade discounts and distress sales).

New NFP-specific guidance for AASB 15 *Revenue from Contracts with Customers* will assist with identifying a contract with a customer in an NFP context. It helps entities identify enforceable agreements, how to identify whether a performance obligation exists, and how to allocate transaction prices to performance obligations.

Extensive guidance and a wide range of examples have been developed to illustrate how the new requirements would work. Significant transitional relief has also been provided, as well as a one-year extension of the effective date.

The draft is available for ‘fatal flaw’ comment until 21 October, and the final standard will be released in December. It will be effective from 1 January 2019, early application permitted.

STATE AND TERRITORY—BASED REGULATORS AND THE ATO

ATO courts NFPs

The ATO has recently updated its *Every Year Counts for Not for Profit Organisations* page, outlining how it is improving relations with the sector.

Key initiatives to be delivered in 2016–17 are:

- **Reporting once for ancillary funds** – Registered charity ancillary funds no longer need to report separately to the ATO. They may report once, online, to the ACNC, which will share information with the ATO.
- **Getting information** – More options (such as webinars and online videos) exist to help NFPs to understand their entitlements and obligations.
- **Easy-to-understand information** – Information for NFPs on the ATO website is easier to understand, which helps with entitlements and obligations.

In 2015–16, the ATO focused on fixing the basics and delivered new, tailored services to transform how it deals with NFPs. They were:

- Improvements to the Australian Business Register based on what NFPs reported.
- A handover checklist to help new administrators understand what they needed to do and what they were entitled to.
- A chat room external link where NFPs could participate in live online forums and discussions.

There are also more opportunities for NFPs and their advisers to discuss early complex transactions and arrangements with the ATO.



STATE AND TERRITORY—BASED REGULATORS AND THE ATO

NSW Act Clarifies mayors’ responsibilities

The Local Government Amendment (Planning and Governance) Act 2016 proclaimed on 21 September clarifies the roles and responsibilities of councillors, mayors, administrators and general managers.

It introduces new guidelines for local government, improving governance and councillors’ professional development and seeking to



consolidate councillors’ ethical-conduct obligations.

It sets up a framework for strategic business planning and reporting, and requires councils to establish audit, risk and improvement committees.

It will streamline municipal administration, and in New South Wales appoints the auditor-general as councils’ auditor from this financial year.

STATE AND TERRITORY—BASED REGULATORS AND THE ATO

ATO reviews NFP's legitimacy

The ATO is reviewing taxpayers in northern New South Wales and southern Queensland who might be incorrectly claiming to be NFPs to avoid paying tax.

Assistant commissioner Scott Parkinson said that the ATO was reviewing instances where individuals and small businesses have set-up 'private foundations' through which they stream income.

'In these cases the foundations and people who control them do not comply with their tax obligations such as income tax, superannuation and GST,' Mr Parkinson said.

'We are currently engaging with a number of taxpayers who we believe are operating under similar structures to get a better understanding of the arrangements in place. The ATO will take compliance action where we identify taxpayers that have entered into this type of arrangement.'

Mr Parkinson said that it was illegal to

operate business activities through a not-for-profit organisation for the sole purpose of avoiding income tax.

'Significant financial and criminal penalties could apply to people (who) make false or misleading claims about their tax affairs, such as falsely claiming to be a not-for-profit organisation. Not-for-profit organisations exist to help others, to promote cultural, religious, community and recreational activities, or to improve our society. They don't exist to help people stay out of the tax system,' he added.



STATE AND TERRITORY—BASED REGULATORS AND THE ATO

Changes ahead for SA charities

Reporting requirements for charities will be streamlined under changes to legislation that will begin early next year.

Charities that are registered with both Consumer and Business Services (CBS) and the ACNC will need to submit information only to the ACNC. They will still be required to lodge financial statements for the period stipulated on their most recent licence with CBS following notification of their intention to act as a collector in South Australia.

Prescribed incorporated associations registered with the ACNC will be regulated under the Associations Incorporation Act but will not be required to lodge periodic returns with CBS if certain information has been provided to the ACNC.

CBS will soon contact licensed charities to provide further information. The changes arise from *Statutes Amendment (Commonwealth Registered Entities) Act 2016* that received royal assent on 2 June.

STATE AND TERRITORY—BASED REGULATORS AND THE ATO



NSW association laws start on 1 September

Amendments to enhance the way incorporated associations are administered and to clarify the way associations operate start on 1 September.

After three years of public consultations, the *Associations Incorporation Act 2009* will be amended and the existing

regulation replaced with a new *Associations Incorporation Regulation 2016* on 1 September. Together, the changes will assist associations to comply with legislative requirements and improve governance.

Key changes include:

- The official address of an association will now be an address in NSW where the public officer can usually be found and where documents can be served by post (but not a post-office box).
- A new provision for keeping financial records and minutes of meetings electronically and a provision that financial records be kept for at least five years.
- Amendments to the model constitution that will automatically apply to associations that have adopted it. If an association has its own constitution and it fails to address a matter in Schedule 1 of the Act, the provision in the model constitution relating to the matter will automatically apply.
- Allowing for electronic ballots if this is permitted under an association's constitution.
- The fee for lodging the annual statement of financial affairs has been reduced for tier 2 (small) associations (gross receipts less than \$250,000) and has increased for tier 1 (large) associations. In general, fees have been revised to reflect the amount of work required to process documentation.
- Clarifying the duties and liabilities of committee members.
- Removing the need to reserve a name before lodging an application to register an association or change its name.

For a year from 1 September, any association wishing to update its constitution as a result of the legislation's amendments will not have to pay a fee to register the change.

NFP CONFERENCE ALLIANCE PARTNERS



REACHING THE UNREACHED

THE ME-LENNIAL GAP

(or how to get Millennials aged 20-40, to give)

Millennials are captivated by new experiences and new technology!

Millennials behave differently, they always research online and are extremely tech-savvy.

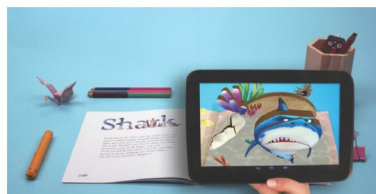
They are constantly looking for something new and rely greatly on peer opinions/experiences to form part of their decision making process.

There is simply no one silver bullet you can use to reach them...just some well calculated strategies. The answer lies within a multi-channel approach; an integrated message using print marketing, digital mail and social media are all proven channels and leading NFP's are using this approach.



Start bridging the gap now...for your first interactive print experience download the Dreemar app and give Augmented Reality a try today!!

Now there is a new channel that will provide Millennial donors with an end to end experience that increases their engagement.



Augmented Reality makes it possible to layer interactive digital content over a printed piece which can trigger a variety of sensory experiences like video and 3D. AR is interactive and stimulating and has been proven to increase engagement up to 62% with print material.

The technology is experienced through any smartphone or tablet which means it is accessible to virtually anyone and because it is a digital experience that means engagement can be tracked and measured to help identify what messages are resonating.



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COLLINS & CO EVENTS

Collins & Co Not-For-Profit Conference

WHAT: Collins & Co
Not-For-Profit Conference

WHEN: Wednesday 22 March 2017

WHERE: Melbourne Cricket Ground (MCG)

TIME: 9.00am to 4.00pm followed by
after event networking drinks

Please save this date in your diary for the third annual Collins & Co Not-For-Profit Conference.

Building on the excellent feedback from this year's successful conference, we will be again offering a quality key note speaker plus two individual content streams, namely: Business Sustainability and People Management.

Our speakers, who all have extensive experience in the Not-For-Profit arena, include:

Key Note Speaker:

- Ash Rosshandler (Karma Currency Foundation)
- Felicity Green
- Patrick Moriarty
- Andrea Collet
- Craig Stephens
- Meredith Lewis
- James Garland
- Michelle Gibbings
- Mat Fitzgerald
- Ann Watson
- Tania Curlis

This will not only provide you with the ability to tailor the session you

choose to suit your needs, but will also ensure there is sufficient time for questions and to workshop the issues.

There will also be plenty of time to network with your likeminded colleagues and other NFP professional service providers.

The invitation and registration information should be available before 31 December 2016.

COLLINS & CO EVENTS

On the 7th of September Collins & Co held their inaugural Not-For-Profit Networking event at the home of the Western Bulldogs.



We were privileged to have **Elliot Costello**, the Co-Founder of YGAP, as our guest speaker for the night.

Elliot is a leading voice on youth issues, social entrepreneurship and innovative fundraising in Australia and has been invited to speak at the United Nations (UN) in New York and at several UN and leading social enterprise conferences across the Middle East and Asia.

Elliot delivered a very heart-warming speech about establishing YGAP and his experiences travelling the world to help those in need who live in the world's toughest communities.

To date, YGAP has significantly and measurably impacted the lives of over 150,000 people living in poverty and aims to back 1,000 entrepreneurs and improve one million lives by 2018, through its belief that local leaders have the solutions to local problems.

The networking session was also well received and all enjoyed the light refreshments available.

Collins & Co Not For Profit networking sessions will be a regular event throughout each year and came about due to the terrific response we have had to the networking sessions held after our Not-For-Profit Conferences.

Details of our next Not-For-Profit Networking event will be available soon and we hope to see you there.



COLLINS & CO SOCIAL



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