



IN THIS ISSUE

GOVERNANCE

- Ten questions about cybersecurity
- Pressures build on directors
- Top tips for charity directors
- More governance advice for public sector boards
- New guide arms charities to combat fraud

COMPLIANCE

- Prohibiting workplace sexual harassment
- Aged care wages to jump
- Melbourne Uni faces court for alleged underpayments
- ATO's NFP concerns

ACNC

- ACNC confirms Hillsong investigation
- Manage your cyber risks
- More than 1000 charities risk losing registration
- Voicing about the Voice referendum
- ROC abolished

FINANCIAL REPORTING INSIGHTS

- CPA updates financial-reporting guide
- Collect good information on related party transactions

FUNDRAISING & DEDUCTIBLE GIFT RECIPIENTS

- New fundraising rules detail expected conduct
- Philanthropy review underway
- DGR revocations begin
- ATO takes over DGR categories

NOT FOR PROFIT LEADERS REPORT – STRATEGIC PLANNING

For the third year, HLB Mann Judd has surveyed members of the Exclusive Not for Profit (ENFP) Community and the wider NFP sector on Strategic Planning.

When we first developed this report in 2021, the world was a very different place, Covid was still the number one topic of conversation, international borders were closed, and lockdowns were still happening.

Reflecting back on those times, it is amazing how much change we have seen both nationally and globally since 2021 – regulatory changes, changes in governments (both state and federal), hybrid working models, rising interest rates, global conflict rising inflation changing consumer trends, macro-economic shifts and emerging technologies – are creating uncertainty and organisations are looking to constantly adapt and reinvent.

Our third annual not for profit leaders report on strategic planning provides leaders with insights on better practice for developing and reviewing their plan to ensure they are managing their risk and meeting the goals of their organisation.

Some of the report highlights include:

- Two-thirds of organisations have seen an increase in the need for their services in the last 12 months
- 88 percent of respondents are concerned about a cyber-attack on their organisation
- Remuneration is the number one human resource challenge for organisations
- 84 percent predicting an increase in the demand over the next 12 months
- Loss of reputation and employee resourcing are the biggest organisational risks.

To receive a copy of the report please contact Kim Kelloway, Head of Clients and Markets, kkelloway@hlbnsw.com.au or 02 9020 4285.

TEN QUESTIONS ABOUT CYBERSECURITY

Not for profits routinely collect highly sensitive personal information, including about people's health, relationships and finances. How does your organisation store the credit card details of donors, for example? Data often includes information about some of society's most vulnerable people, who are many NFPs' core business.

At the same time, the sector has little cash to invest in built for purpose secure IT systems, so information is often collected and stored via online third party tools and basic apps such as spreadsheets. Many organisations are reliant on off the shelf systems designed for the corporate and public sectors.

Compounding these challenges, many NFPs find it difficult to recruit people with strong IT skills because they are in high demand and expensive.

With all these cybersecurity risks creating potentially rich pickings for cyber criminals – and the potential for serious reputational damage – boards have a critical role to play in asking the right questions.

Here are 10 questions to help directors consider their responsibilities.

- Who's accountable for what?
- Who has access to what?
- Are our policies fit for purpose and up to date?
- Is our staff training up to date?

- Are our computers and systems fit for purpose?
- What are our biggest threats?
- Does our culture protect our data?
- How do we make decisions that could affect cybersecurity?
- What would we do if a data breach occurred?
- Cyber insurance: is it worth it?

Download the report *Ten questions every board director needs to ask about cybersecurity* from <https://communitydirectors.com.au>.

The 2023 HLB Mann Not for Profit Leaders Report on Strategic Planning includes insights on what organisations can be doing to protect their data.



PRESSURES BUILD ON DIRECTORS

The Australian Institute of Company Directors *Not-for-Profit Governance & Performance Study 2022-23* has revealed increased challenges and demands affecting NFP directors.

It's the biggest survey on NFP governance, more than 2300 directors responding.

The study shows that directors are being required to commit more time and provide greater and more rigorous focus on the operations of their organisations.

Tougher governance standards resulting from various royal commissions, workforce shortages, and the legacy of COVID-19 continue to affect NFPs. Many directors have been forced to re-evaluate their roles.

AICD managing director and CEO Mark Rigotti said the survey gives an important insight into the contribution directors make and the additional demands they face.

'It's important that the regulatory environment doesn't serve as a handbrake on the sector, with the

risk that NFP enterprises become overburdened', said Mr Rigotti.

'While strong regulation and compliance are necessary, and done with the best intentions, it would be counterproductive if this comes at the expense of service delivery.'

Almost half of survey respondents reported that they spent more than three days a month on their primary director role, and as many directors are on more than one board the time commitment can be considerable.

The percentage of NFP directors being remunerated has grown to a survey high of 22 percent, an average pay rate of almost \$23,000. But the majority (76 percent) are unpaid or have only their expenses covered.

While the financial impact of COVID-19 has not been as significant as originally feared, the study shows that the NFP sector remains under considerable financial pressure. Profitability has continued to decline, about 50 percent of NFPs making a loss or only breaking even.

Some sub-sectors were under even more pressure. Health and residential aged care report that only 41 percent made a profit.

Other key findings:

- Almost half (45 percent) reported that governance of climate change never appears on their board's agenda, less than half of directors having discussed the topic at a board meeting in the past year
- Workforce planning and diversifying revenue streams are the most common priorities identified for the coming year

- Merger activity has defied post-COVID 19 expectations and remains very low, only 5 percent undertaking a merger and less than 20 percent likely to have merger discussions in the next 12 months
- Almost half (48 percent) of organisations either have a reconciliation action plan or are developing one, and
- Ninety-three percent of respondents were confident that their management teams were making good decisions.

TOP TIPS FOR CHARITY DIRECTORS

The ACNC encourages charities to strengthen their governance and improve their practices by providing guidance and resources, including these top 10 tips for board members to stay on top of good governance.

- Know what the charitable purpose of your charity is and make sure that everyone is working towards it. If you are unsure, ask yourself whether your actions promote your charity's charitable purpose.
- Be clear about your role and make sure that the roles and responsibilities of everyone at your charity are well understood including volunteers, members, board members, clients or employees.
- Understand the charity's financial position and be familiar with its financial statements. Everyone on the board shares a responsibility to make sure the charity's finances are managed well.
- Keep your responsibilities and legal duties in mind when making decisions as a board member, particularly difficult decisions.
- Have a copy of your charity's rules: read them, understand them, follow them and if you are

ever unsure, ask other board members or get professional advice.

- Although board members act as a group, do not just follow the crowd. You should always do what you think is best for your charity, even if sometimes it means taking a different view from other board members.
- Understand the obligations to government agencies and ensure your charity is meeting them.
- Listen to other board members and work as a team. The board shares a collective responsibility and you should see board members as colleagues.
- Declare and manage conflicts of interest. Most members of a board will encounter conflicts of interest, and you should feel confident to handle them responsibly.
- Always act in the best interests of your charity. As a board member, you have a responsibility to put its interests above any personal ones.

MORE GOVERNANCE ADVICE FOR PUBLIC SECTOR BOARDS

An updated *Governance principles for boards of public sector entities in Australia Guide 2023* has been launched by the Governance Institute to reflect recent changes to best practice in workplace culture and behaviour.

The report is a practical resource to assist boards and governance professionals of public sector entities in all Australian jurisdictions to understand and achieve good governance.

The report recognises the increasing expectations of stakeholders for more transparent and accountable government and is now more closely aligned with the fourth edition of the *ASX Corporate Governance Council's Corporate Governance Principles and Recommendations*.

The guidance is available from the governance institute www.governanceinstitute.com.au



NEW GUIDE ARMS CHARITIES TO COMBAT FRAUD

To assist charities to combat fraud, Chartered Accountants Australia and New Zealand in collaboration with Social Business Consulting have released *Charity Fraud: Tools for Prevention*.

Fraudsters undermine a charity's good work. Frauds can lead to financial losses, reputational damage, and diminished public confidence in the charity sector as a whole. Measures to fight fraud are critical.

The guide draws on research from two surveys conducted in 2022. It also provides charities and those who advise them with an extensive toolkit to prevent, detect, report, and investigate fraud.

The survey asked respondents about their fraud experiences and what they did to prevent them, as well as recording charity demographic data. Their responses created new data about fraud's prevalence, prevention methods, and their effectiveness.

The survey showed that 34 percent of Australian respondents and 14 percent of New Zealand counterparts had experienced suspected or proven fraud in their domestic operations in the past two years.

In charities with international operations, 61 percent of Australian respondents and 40 percent of their New Zealand counterparts experienced either suspected or proven fraud in the past two years.

Most charities reported greater fraud losses in domestic rather than international operations. The median loss for Australian charities was A\$45,000, one respondent losing A\$600,000.

The median loss for New Zealand charities was NZ\$5,000, one organisation reported losing NZ\$50,000. In international operations, charities reported smaller amounts: the median was less than AU\$1,000 for Australian charities and less than NZ\$5,000 for NZ counterparts.

Charity Fraud: Tools for Prevention offers a suite of tools and includes a wealth of resources, templates, real-life case studies, and good-practice models.

Under an umbrella of an overarching fraud prevention framework, the guide suggests strengthening policies and procedures around managing finances, conflict of interest, delegation of authority, donor acceptance, code of conduct, due diligence, and screening.

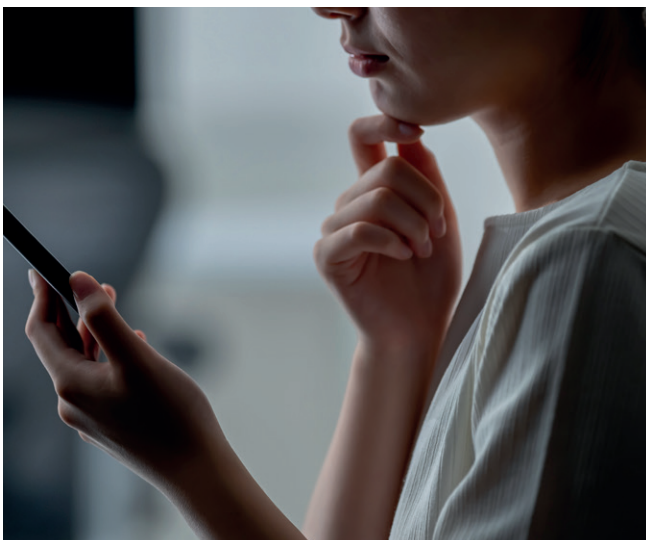
Training is also critical. As one survey respondent said, 'The most effective fraud-prevention measure is to train, and keep training, your staff. Fraud is conducted by people.'

The guide's toolkit includes:

- Prevention measures to stop fraud or deter people from contemplating it
- Detection activities to determine when and if fraud has occurred
- Reporting to safely evaluate suspected fraud and notify relevant interested parties
- Investigation and responses to determine if a fraud has actually happened, its extent and consequences, and
- Feedback and adjustment measures to inform and improve overall fraud prevention based on changes in circumstances, employees, technology or regulations and actual fraud experienced.

The guide suggests that charities ethically conduct these activities, employees, volunteers, and board members behaving with honesty, integrity, and transparency.

You can find a copy of the guide at www.charteredaccountantsanz.com



“The survey showed that 34 percent of Australian respondents and 14 percent of New Zealand counterparts had experienced suspected or proven fraud in their domestic operations in the past two years.”

PROHIBITING WORKPLACE SEXUAL HARASSMENT

The *Fair Work Act* has been amended to prohibit sexual harassment in connection with work, including in the workplace. These changes apply from 6 March 2023 and expand the previous protections around sexual harassment in the workplace.

The protection applies to employees, contractors, work experience students, volunteers, future workers, and people conducting a business or undertaking.

A person or company can be liable for sexual harassment by an employee or agent in connection with work, including if he or she was involved in the employer's contravention. This applies unless the person or company can prove that they took all reasonable steps to prevent the sexual harassment.

AGED CARE WAGES TO JUMP

The Fair Work Commission has decided to increase minimum wages by 15 percent for some employees working in aged care.

The national workplace tribunal, the commission sets minimum award pay rates and entitlements.

This increase applies to eligible employees covered by the Aged Care Award, Social, Community, Home Care and Disability Services Industry (SCHADS) Award, and Nurses Award.

The Fair Work Commission (FWC) has greater powers to deal with workplace sexual harassment.

In addition to its existing 'stop sexual harassment order' powers, it can deal with disputes about sexual harassment by conciliation, mediation, and making a recommendation or expressing an opinion.

Where a dispute can't be resolved, the FWC may also deal with the dispute by arbitration if the parties agree. The commission may then order compensation for lost wages or requiring a person to do something that's reasonable to remedy any loss or damage suffered.

It takes effect from the start of the employee's first full pay period on or after 30 June 2023.

The increase fails to include other employees in the aged care sector. They are support and administrative employees, and chefs and cooks covered by the Aged Care Award who aren't the most senior foodservices employee at a particular aged care facility.

MELBOURNE UNIVERSITY FACES COURT FOR ALLEGED UNDERPAYMENTS

The Fair Work Ombudsman (FWO) has begun legal action against The University of Melbourne, alleging that it underpaid casual staff in the Faculty of Arts and kept false or misleading records.

The regulator alleges in the Federal Court that between February 2017 and December 2019, the university breached the Fair Work Act when it failed to pay 14 casual academics for marking hours at the rates required under its enterprise agreements.

Instead, the university allegedly paid the staff according to 'benchmarks', which varied depending on the school of the faculty, and in some cases described payment for marking based on '4000 words per hour' and at one school on an hour per student.

It is alleged that total underpayments were \$154,424 and ranged from \$927 to \$30,140 for individuals.

Staff allegedly had to enter their hours worked into the university's human resources information system according to the benchmarks, rather than hours worked.

The FWO alleges that the university failed to record all the hours worked by the casual academics and that it made and kept records known to some faculty managers to be false or misleading.

The FWO alleges that the university's breaches of its enterprise agreements were 'serious contraventions' under the act from 15 September 2017 (when serious contraventions provisions began).

The FWO alleges that the university expressly, tacitly, or impliedly authorised the contraventions because of a corporate culture involving the use of marking benchmarks. It is also alleged that several senior faculty leaders knew of the benchmarking practices and that they resulted in employees being unpaid for some of their marking time.

The maximum penalties for 'serious contraventions' are 10 times higher than penalties that would otherwise apply.

Fair Work Ombudsman Sandra Parker said the court action highlighted why the university sector was one of the regulator's top priorities.

‘Allegations of universities underpaying their employees by systematically failing to follow their own enterprise agreements are of great concern. It is important that where we find alleged serious contraventions we take employers to court and seek penalties to deter non-compliance’, Ms Parker said.

‘Universities, like all employers, should have proactive measures in place to ensure they are meeting workplace laws and paying employees correctly for all hours worked. If employers become aware of concerns their employees may be being underpaid, they must promptly seek advice and rectify any compliance issues discovered.’

ATO’S NFP CONCERNS

Just under 207,000 NFPs are registered in the Australian tax system. The vast majority, about 70 percent, self-assess income tax exemption, about a third are endorsed tax concession charities, and approximately three percent are taxable NFPs.

The ATO is responsible for the administration of commonwealth tax concessions, such as income tax exemption and deductible gift recipient status. Organisations with a charitable purpose must be registered with the ACNC and endorsed by the ATO to access tax concessions.

Two issues have recently caught the ATO’s attention: ‘private’ NFP foundations and the provision of employment services by public benevolent institutions.

The ATO has become aware of the promotion of ‘private’ not for profit foundations created to avoid or evade tax.

In a typical arrangement, an adviser or promoter assists participants to set up a ‘private foundation’, which is then claimed to be exempt from all taxes.

The promoter tells participants that, by operating their business or income-producing activities through such a foundation, they are able to ‘opt out’ of the tax system.

Unlike genuine NFP foundations, participants stream their untaxed employment, contractor, or business income through the sham foundation, where they pay no tax on the income and use the funds for their own benefit. The ATO has begun investigating potential promoters.

The second issue involves NFPs that are operating registered public benevolent institutions and are endorsed by the taxation commissioner as eligible for an exemption from fringe benefits tax (FBT).

Benefits provided to Public Benevolent Institution (PBI) employees are exempt from FBT (up to a capping threshold). The ATO is concerned with

The FWO alleges that the benchmarking practices continued despite the benchmarks’ inadequacies being raised with certain faculty managers in April 2016, February 2017, and on several occasions during 2018 and 2019.

In addition to penalties for the alleged serious contraventions of up to \$630,000 per breach, the university faces up to \$63,000 per breach for other allegations.

A date for a directions hearing has yet to be scheduled.

arrangements where employees of PBIs are used to undertake charitable or commercial activities of other entities that are not benevolent in nature.

These arrangements involve the provision of employment services by the PBI to another entity within the group and typically include a charge back or labour hire agreement.

The arrangement is purportedly claimed, by providing funding to the PBI, to achieve its benevolent purpose.

While the commissioner will continue to apply the law in accordance with the decision impact statement *Commissioner of Taxation v The Hunger Project Australia* (NSD 1604 of 2013), the ATO will review arrangements that have the sole and dominant purpose of avoiding or reducing FBT.



ACNC CONFIRMS HILLSONG INVESTIGATION

The ACNC has confirmed that it is investigating concerns raised about Hillsong Church.

ACNC commissioner Sue Woodward said it was extremely rare that the ACNC commented on matters under investigation, but she had used her discretion to correct the record following statements in the Australian parliament.

‘Although it was stated in parliament that the ACNC has not acted, I can confirm that we are investigating concerns raised about Hillsong Church charities. Hillsong has stated publicly that it is fully cooperating with regulatory authorities’, Ms Woodward said.

Ms Woodward said that the ACNC had not received a whistleblower disclosure, despite a claim made under parliamentary privilege that it had.

‘If a whistleblower of a charity wants protection, or is concerned about possible harm as a result of making

a disclosure, [he or she] must raise concerns with an agency deemed to be an eligible recipient. The ACNC is not an eligible recipient and we are not able to provide protection’, she said.

‘Anyone can raise a concern about a charity with the ACNC. No matter where a concern originates, we use a standard independent process to review its details and, if necessary, we conduct an investigation. Any investigation we undertake must be thorough, comprehensive and consistent with our approach to all investigations. They can be complex and take time to complete.’

The ACNC provides whistleblower protection guidance on its website, which outlines procedures that a whistleblower can follow.

MANAGE YOUR CYBER RISKS

With reports of cybercrime on the rise, the ACNC is reminding charities of cybersecurity risks, giving guidance and practical tools to help to reduce them.

Australian Cybersecurity Centre data showed an increase in the number and sophistication of cyber threats in the past financial year.

ACNC commissioner Sue Woodward said it was critical that charities protected electronic data from unauthorised access.

‘The people who run a charity are ultimately responsible for managing cybersecurity risks. They must also make sure staff and volunteers have a basic understanding of safe practices. For example, there may be legal requirements for the way personal and sensitive information is stored and collected that everyone in a charity should understand’, Ms Woodward said.

‘Some charities, due to a lack of resources or time, may not have considered cybersecurity. Charities can fall victim to cyber attacks – even smaller ones.

And the consequences can be significant, including high costs to restore data, loss of crucial information, disruption to services, and damage to trust and reputation.

‘When a charity has inadequate security for its computer systems, it is more vulnerable to attacks and less likely to be able to detect them. This can make responding to attacks more difficult and increase the time and cost of recovery.’

The ACNC’s *Cybersecurity Governance Toolkit* contains helpful tools such as a template for responding to a data breach, a cybersecurity checklist, and steps that every charity can take to help protect against threats.

‘Most of the actions outlined in our guidance are simple. But if you think your organisation doesn’t have anyone with enough knowledge and experience, you may need to look for outside help’, Ms Woodward said.

MORE THAN 1000 CHARITIES RISK LOSING REGISTRATION

The ACNC has notified more than 1000 charities that they risk losing registration because they have repeatedly failed to meet reporting obligations.

‘To retain registration all charities must submit an annual information statement, or AIS’, said the commission’s general counsel Anna Longley. ‘We have notified around 1100 charities they have failed to submit two or more statements.

‘It is likely that many of them are not operating any more. However, as part of winding up a charity it is a requirement that they let us know via an online form.

‘Those that are still operating risk having their registration revoked and could lose access to tax concessions and other benefits. Under the ACNC’s regulatory approach, we aim to help eligible charities stay registered, but this relies on [their] working with us to meet their obligations.’

The ACNC uses the information that charities submit in information statements to keep the charity register accurate and up to date.

‘Accountability and transparency are critical to maintain public confidence in the sector’, Ms Longley said.

VOICING ABOUT THE VOICE REFERENDUM

The ACNC has released information for charities considering contributing to conversations about the federal government’s planned referendum on the Indigenous Voice to Parliament.

‘Charities can engage in advocacy activities, and they often do. This year, some charities might want to advocate for a particular outcome on the referendum’, said ACNC commissioner Sue Woodward.

‘If a charity plans to undertake advocacy activities, it must be able to demonstrate how it believes its advocacy furthers its charitable purpose – the purpose set out in its constitution.

‘In the case of the planned referendum, some charities may just want to make a statement of support for the yes or no case. An example would be a message in the charity’s email signature block.

This would not jeopardise their registration with the ACNC.’

A guide on ‘the Voice’ *Charities, Advocacy and the Planned Referendum on an Indigenous Voice to Parliament* is available on the ACNC website.

It explains that the people responsible for running a charity – such as directors, CEOs and senior workers (paid or volunteering) – should be clear about how their charity will advocate. They should also be clear about the type of thing that can be said and done in the name of their charity and they should set boundaries.

It explains that advocacy should be lawful, respectful, and fair as this helps ensure that the charity and its leaders meet their obligations under the ACNC’s governance standards.

REGISTERED ORGANISATION COMMISSION ABOLISHED

The Registered Organisation Commission was abolished on 6 March 2023.

Its regulatory powers and functions have been transferred to the general manager of the Fair Work Commission.

New enforcement options will regulate registered organisations. They include infringement notices and enforceable undertakings.

Registered organisations will continue to have the same reporting and compliance obligations under the *Fair Work (Registered Organisations) Act 2009*.

FINANCIAL REPORTING

CPA UPDATES FINANCIAL REPORTING GUIDE

CPA Australia has updated a guide that helps charities and their advisers navigate their financial reporting and assurance obligations.

The guide covers reporting and auditing/reviewing, future developments, and considerations for CPA Australia members.

Five appendices address links to resources, financial reporting, auditing/reviewing, a checklist for additional reporting and auditing or reviewing for registered charities by legal structure, and counterpart requirements imposed by fundraising legislation on registered charities. The guide can be accessed at www.cpaaustralia.com.au

COLLECT GOOD INFORMATION ON RELATED PARTY TRANSACTIONS

The ACNC is urging charities to collect good information about related party transactions as new rules come into effect.

For small charities, a ‘related party’ is defined as a person or organisation that has significant influence over the charity. For medium and large charities, it is defined in AASB 124 *Related Party Disclosures*.

These transactions may run the risk of conflicts of interest and may not be in a charity’s best interests.

It is important that those who run charities – such as CEOs, directors and committee members – manage them well. Under governance standard 5, charity leaders cannot misuse their position. They must take steps to disclose any actual or perceived conflict of interest and ensure finances are managed responsibly.

The new rules reinforce transparency. Many charities already keep records of related party transactions. What's new is the requirement for all charities to report them annually from this year to the commission. In detail:

- Charities that submit an Annual Information Statement (AIS) at the end of the financial year must report related party transactions from 1 July 2022, and
- Those that submit at the end of the calendar year must report related party transactions from 1 January 2023.

Under the new rules, medium and large charities also need to disclose related party transactions in their financial reports in accordance with relevant Australian accounting standards.

The ACNC recommends that charities put policies and procedures in place to deal with related party transactions and conflicts of interest. They should also establish a related party transactions register.

The commission has produced guidance that includes a template and examples, including financial

payments and the exchange of goods, property, and services such as accounting and legal.

What should a charity do?

- Minutes should record discussions and decisions about related party transactions. When a decision is being made, such as awarding a contract, anyone with a conflict – actual or perceived – should declare it, not take part in discussion, and not vote, and
- Keep records such as invoices, receipts, and bank statements.

Having thorough records of related party transactions will ensure that, when it comes time to report, charities have the necessary information. Managing related party transactions is a key plank of good charity governance.

The ACNC is consulting on how questions about related party transactions should be framed in annual information statements.

FUNDRAISING

NEW FUNDRAISING RULES DETAIL EXPECTED CONDUCT

Commonwealth, state, and territory treasurers have agreed on a set of nationally consistent fundraising principles to streamline and harmonise fundraising conduct.

The principles will give charities and donors a clear understanding of appropriate conduct, while allowing for greater flexibility as to how charities achieve compliance. Regulatory guidance to support the principles will also be developed in collaboration with the charitable fundraising sector.

Each participating jurisdiction will release an implementation plan by July 2023 explaining how it will give effect to the principles through regulatory changes or legislation.

Sixteen principles will apply to charitable organisations. When conducting fundraising activities, charitable organisations must ensure that their employees, volunteers, contractors, and anyone else whom they engage or arrange to raise funds on their behalf need to:

- Always explain the purpose of their charity and the purpose to which the funds raised will be applied in ways that are appropriate for the audience.
- Always be clearly, and, individually, identifiable by the public (including displaying identification

that contains the individual's name, whether he or she is a volunteer, employee or acting in some other capacity for a charitable organisation or commercial fundraising organisation, and the organisation's name and contact details).

- Always make and keep written records of fundraising activities that can be easily read and understood.
- Always acknowledge and comply with requests not to receive future solicitations (including marketing and promotional materials), requests to be contacted at a more convenient time or by a different means, and requests to limit the number, type, and frequency of solicitations.
- Never conduct door to door or telephone fundraising activity before 9am or after 5pm on a weekend, before 9am or after 6pm (door to door) or 8pm (telephone) on a weekday and public holiday unless the holiday is closely connected with a fundraiser's charitable purpose.
- Never mislead, deceive or knowingly use false or inaccurate information when fundraising.
- Never place undue or unreasonable pressure on a person when fundraising or act unconscionably in any way to obtain a donation.

- Never exploit the trust, lack of knowledge, lack of capacity, apparent need for care and support, or vulnerable circumstances of potential donors.
- Always make it clear whether a donation is one-off or continuing, and clearly explain how to end a regular donation.
- For commercial fundraisers engaged by a charitable organisation, never accept a donation without having explained that they are part of an organisation that makes a profit from fundraising as well as how they are paid.

At all times, charitable organisations must:

- Conduct all reasonable due diligence when engaging third parties to assist, support, or deliver fundraising activities on its behalf.
- Make and keep written records of the total funds raised and the purposes for which funds are applied.
- Take all reasonable measures when fundraising to protect the health, safety, and wellbeing of fundraisers employed or directly engaged by them as well as members of the public.
- Establish and maintain a complaints process that allows for proper investigation and redress of fundraising complaints that may be made by the public and encourage anyone with concerns about a fundraising activity conducted by or on behalf of the charity to contact it.
- Ensure information covered by the *Privacy Act 1998* is collected, used, and managed in accordance with Australian Privacy Principles where required under the act.
- Always ensure that remuneration to commercial fundraisers engaged to fundraise for a charitable

organisation is not excessive when compared with money or goods received for the charitable purpose of the fundraising.

The ACNC welcomes the announcement. The principles streamline state and territory requirements on charitable fundraiser conduct and will give charities and donors a clear understanding of appropriate conduct.

ACNC commissioner Sue Woodward said that the national approach to fundraising red tape reform would save Australia's charity sector millions of dollars each year, and charities could direct that money instead towards helping people who rely on them.

'Many rules that charities have to comply with if they want to conduct fundraising were created in a bygone era, when fundraising was conducted by volunteers rattling cans out on the street, for example', said Ms Woodward.

'The rules don't mention the internet or digital platforms [and] these days charities mainly fundraise using a range of online or digital methods, such as mass email or social media campaigns, collecting donations across borders.

'Reform is long overdue. For decades, the charity sector has raised concerns about laws identified as not being fit for purpose. A report we commissioned and published in 2014 highlighted charities' major concerns about the burden of fundraising red tape and recommended reform. Red tape reduction is one of our main aims. Over the past 10 years, we have worked with all states and territories to cut many forms of red tape that burdens charities.'

PHILANTHROPY REVIEW UNDERWAY

The federal government has announced a commitment to working with philanthropic, NFP, and business sectors to double philanthropic giving by 2030.

It tasked the Productivity Commission to undertake an inquiry that would analyse motivations for philanthropic giving in Australia and identify opportunities to grow it.

The terms of reference assign the commission three broad tasks:

- Analyse trends in philanthropic giving in Australia and the drivers of these trends.
- Identify opportunities for, and obstacles to, increasing philanthropic giving in Australia.

- Recommend ways to respond to these opportunities and obstacles.

The terms of reference also ask the commission to examine the effectiveness and fairness of the deductible gift recipient framework and the ability of donors to assess and compare charities.

The commission will have regard to the findings of other reviews (including its 2010 *Contribution of the Not for profit Sector* inquiry) and current policies (including the *Not for profit Sector Development Blueprint*).

A final report will be provided to the federal government in the first half of 2024.

A consultation paper *Review of Philanthropy Call for Submissions* is available from www.acnc.gov.au

DEDUCTIBLE GIFT RECIPIENTS

DEDUCTIBLE GIFT RECIPIENT (DGR) REVOCATIONS BEGIN

From 14 December 2021, non-government DGRs are required to be a registered charity.

An eligible DGR must meet the definition of an Australian government agency, be a registered charity, be operated by a registered charity or an Australian government agency, or be an ancillary fund or a DGR that is listed by name in tax legislation.

The ATO recently reviewed non-government DGRs against the requirements to be a registered charity or be operated by one. The process has begun to revoke DGR endorsement of those that are no longer entitled to the concession.

If your DGR fails to meet eligibility requirements and hasn't been approved by the tax office for a three-year extension it will have its status revoked. You will receive a notice with the date, reason for revocation, and your right to review the decision.

If your DGR has its status revoked, you can reapply for endorsement once it satisfies eligibility requirements. If you decide to register as a charity, visit the ACNC's website to check charity-registration eligibility requirements.

ATO TAKES OVER DGR CATEGORIES

The federal government has introduced the *Treasury Laws Amendment (Refining and Improving Our Tax System) Bill 2023* into parliament.

The bill transfers administration of four DGR categories to the Australian Taxation Office, and repeals provisions relating to maintenance of departmental registers.

The ATO administers 48 of 52 categories under which an organisation may be eligible for endorsement as a deductible gift recipient. Four deductible gift recipient categories – environmental organisations,

harm prevention charities, cultural organisations, and overseas aid organisations – are administered by ministers through departments.

The amendments transfer practical responsibility for assessing deductible gift recipients from the ministers to the ATO. The amendments will make all deductible gift recipient categories consistent in administration, reducing the regulatory burden imposed on endorsed organisations and streamlining organisations' application and reporting requirements.



“The ATO administers 48 of 52 categories under which an organisation may be eligible for endorsement as a deductible gift recipient.”

CONTACT US



SYDNEY
Aidan Smith
Head of Not-for-Profits
T: +61 (0)2 9020 4000
E: asmith@hlbnsw.com.au



ADELAIDE
Corey McGowan
Partner
T: +61 (0)8 8133 5030
E: cmcgowan@hlbsa.com.au



AUCKLAND
Jason Edwards
Partner
T: +61 64 303 2243
E: jason@hlb.co.nz



BRISBANE
Adrian Narayanan
Partner
T: +61 (0)7 3001 8800
E: anarayanan@hlbqld.com.au



FIJI
William Crosbie
Managing Partner
T: +679 670 2430
E: william.crosbie@hlbnadi.com.fj



MELBOURNE
Nick Walker
Partner
T: +61 (0)3 9606 3888
E: nwalker@hlbvic.com.au



PERTH
Lucio Di Giallonardo
Managing Partner
T: +61 (0)8 9227 7500
E: lucio@hlbwa.com.au



SYDNEY
Kim Kelloway
Head of Markets & Clients
T: +61 (0)2 9020 4285
E: kkelloway@hlbnsw.com.au



WOLLONGONG
Ben Fock
Partner
T: +61 (0)2 4254 6500
E: bfock@hlbw.com.au

WINNER 2022 CLIENT CHOICE AWARDS

ENFP LINKEDIN COMMUNITY - Come and join us!

The Exclusive Not-For-Profit (“ENFP”) LinkedIn group provides you with information on our exclusive events, and access to our “For Impact: News for the Not-for-profit Sector” newsletter updates. It enables you to collaborate and network with like-minded individuals. This community also provides an opportunity to access expertise in many areas to assist you day-to-day.

Contact Kim Kelloway on +61 2 9020 4000 to join.

All material contained in this newsletter is written by way of general comment. No material should be accepted as authoritative advice and any reader wishing to act upon the material should first contact our office for properly considered professional advice, which will take into account your own specific conditions. No responsibility is accepted for any action taken without advice by readers of the material contained herein. © HLB Mann Judd 2023.

Liability limited by a scheme approved under Professional Standards Legislation.

HLB Mann Judd firms are part of HLB International, the global advisory and accounting network.



HLB.COM.AU

TOGETHER WE MAKE IT HAPPEN