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Governance

Government to reform DGRs

The federal government intends to reform the administration and supervision of organisations with deductible-gift-recipient (DGR) status, minister for revenue and financial services Kelly O'Dwyer has announced.

The cost to the Commonwealth of deductions from DGR donations was \$1.31 billion in 2016–17.

Non-government DGRs will be automatically registered as a charity with the Australian Charities and Not-for-profits Commission from 1 July 2019. A 12-month transitional period will help non-charity DGRs to comply.

The commissioner of taxation will have the power to exempt DGRs from this requirement in certain circumstances. Public-fund requirements will be abolished.

The Overseas Aid Gift Deduction Scheme will be integrated with the ACNC charity register and duplicate reporting requirements will be abolished. The commission will also provide a central location for applications and reporting.

The ACNC and ATO will receive extra funding to review a greater number of DGRs for eligibility.

To strengthen supervision of overseas activities, the government will issue external conduct standards to be enforced by the ACNC as recommended by the commission and AUSTRAC's report of 28 August *Australia's non-profit organisation sector: money laundering and terrorism financing risk assessment report*.

The government will halt an unlegislated 2009–10 budget measure *Philanthropy – reforming the 'in Australia' requirements that apply to tax exempt entities*. The unenacted measure could prevent many DGRs from conducting legitimate activities outside Australia, such as visits to foreign medical institutions or participating in international cultural and sporting events and would not provide appropriate oversight of the overseas activities of exempted organisations such as overseas disaster-relief funds.

The DGR discussion paper identified several proposals drawing on past reviews, including the 2016 inquiry into the register of environmental organisations.

The government will not mandate a level of remediation by environmental organisations. However, reporting requirements of DGRs on four departmental registers, including environmental reporting requirements, will be collected by the ACNC in annual information statements.

To improve transparency for both the ACNC and Australian donors, the commission will send charities' declarations of political expenditure to the Australian Electoral Commission as well as relevant criminal activities of charities' staff or responsible persons.

As part of the package of reforms, the register of cultural organisations' (ROCO) eligibility criteria will be amended to enable organisations that promote indigenous languages to be endorsed as DGRs.

The government will consult on details of the implementation of DGR reforms.

'These sensible reforms will enhance the role of the Australian Charities and Not-for-profits Commission (ACNC), strengthen governance arrangements, reduce administrative complexity and ensure continued trust and confidence in the sector,' Ms O'Dwyer said.

ACNC legislation to be reviewed

The federal government has released terms of reference for a review of the legislation governing the ACNC.

Patrick McClure AO has been appointed to chair the review panel and will be joined by Su McCluskey, Matthew Turnour and Greg Hammond OAM.

The commission is responsible for maintaining, protecting and enhancing public trust and confidence in the charities and not-for-profits sector. It supports the sector's accountability and transparency and promotes the reduction of unnecessary regulatory obligations.

The *Australian Charities and Not-for-profits Commission Act 2012* and the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012* were gazetted in December 2012. The legislation requires a review after five years of operation.

The panel will inquire into and make recommendations on appropriate reforms to ensure that the Acts' regulatory environment remains contemporary, that they deliver on policy objectives and enhance the commission's work.

The review will:

- Examine the extent to which the Acts continue to be relevant
- Assess the Acts' effectiveness
- Consider whether the powers and the functions of the ACNC commissioner are sufficient to enable these objectives to be met, and
- Consider whether any amendments to the Acts are required.

Submissions from interested parties in response to the terms of reference are due by 28 February. The panel must provide a report to government by 31 May.

Boards of charities and stakeholders should take the opportunity to submit and participate in the panel's forums.

New consumer law guidance on fundraising

A new guide will provide charities, fundraisers and not-for-profits much-needed clarity on how Australian consumer law applies to fundraising activities, minister for small business Michael McCormack says.

'The guidance ... contains a simple message for the sector: be transparent, truthful and fair when fundraising,' Mr McCormack said.

'If you are upfront and honest, then your fundraising activities are unlikely to raise concerns under [...] Australian Consumer Law (ACL).'

'When charities, fundraisers and not-for-profits better understand their obligations in providing goods and services this gives consumers confidence.'

A guide to Australian consumer law – For fundraising and other activities of charities clarifies that if fundraising and other activities are carried out in a business-like way obligations not to mislead or to act unconscionably will apply.

Mr McCormack said that the guide, which state and federal regulators developed as a priority at the request of consumer-affairs ministers, followed a recent review of ACL.

Legislation will be introduced into parliament early in 2018 to increase maximum financial penalties available under ACL from \$1.1 million for companies to the greater of \$10 million, three times the value of the benefit from breaching the law, or 10 per cent of the company's turnover in the year preceding the breach.

The guide is available at <http://consumerlaw.gov.au/fundraising>.

Report urges caution when donating

The Australian Competition and Consumer Commission has released an independent research report on commission-based fundraising in the charity sector.

Research into the Commission-based Charity Fundraising Industry in Australia is part of a 2017 compliance and enforcement focus on consumer issues arising from commission-based sales.

By Frost & Sullivan, the report is based on interviews with three fundraising agencies, one industry association, 14 charities and 13 individuals who work or have recently worked in commission-based fundraising. More than 500 individual donors who had recently been solicited and made a donation took part.

'This year we have looked closely at misleading behaviour driven by sales commissions, including those paid to third-party marketing firms, particularly in industries that enjoy a high level of trust and where commissions may not be expected,' ACCC chairman Rod Sims said.

'The charity sector plays an important role in delivering services and funds often to vulnerable members of our community.

However, like all Australian businesses, charities need to ensure that consumers are well informed, and there is transparency [...] when third parties or commissions are involved.'

The report found that some charities operated on a model in which third-party marketing firms earn fees for each donor that signs up from face-to-face or telemarketing approaches. The fee is commonly calculated by a multiple (typically eight to 17 times) of the monthly donation to which the donor commits.

'Not all charities use third-party fundraising agencies, but this research raises some concerns about the level of transparency by some charitable organisations around these relationships and disclosure regarding the size and structure of fees paid to these agencies,' Mr Sims said.

'We found it surprising just how many multiples of the monthly donations some charities were paying third-party fundraisers for face-to-face [and] telemarketing services.'

Under this model, some contracts between charities and agencies include a 'claw-back' feature so that fees are refunded to the charity should donors cancel within a certain time period (most commonly three months). About half of donors cancel within the first 12 months.

The ACCC does not regulate the charity sector but has a role to play in ensuring commercial fundraising agencies that charities use are meeting their obligations under Australian consumer law.

'The ACCC will continue to engage with the sector and is urging charities to increase transparency to consumers when [using] the services of commercial fundraising agencies,' Mr Sims said.

'Consumers who want to donate are advised to contact the charity and ask how they can donate directly. It's important to note that this report does not explore other forms of fundraising a charity may [use], such as postal mail-outs, online campaigns, lotteries [and] fundraising activities carried out by the charity itself.'

If consumers are contacted or approached by someone representing a charity, these are the types of questions they might want to ask:

- Do you work direct for the charity or do you work for a fundraising agency?
- Are commissions paid on my donation? and
- If I sign up to a monthly donation, how are commissions or fees paid on my donation?

FIA authority to oversee new fundraising code of practice

The Fundraising Institute Australia (FIA) has established an independent authority to oversee its new code, which was launched in July and was enforceable from 1 January.

The FIA has more than 1500 members and is the largest representative body for the \$12.5 billion fundraising sector, which is supported by some 14.9 million Australians. FIA members include charities and other fundraising NFPs operating domestically and internationally as well as the organisations and professionals that provide services to them.

The code is voluntary and self-regulatory, aiming to raise standards of conduct across the sector by going beyond the requirements of government regulation. Its content is derived from the International Statement of Ethical Principles in Fundraising.

The seven-member Code Authority will be responsible for compliance monitoring, complaints about administration, and making recommendations for improvements to self-regulation. It will report quarterly to the FIA's board of directors. It includes charity, donor and supplier representatives.

AUSTRAC's regional NFP sector risk assessment 2017

Non-profit Organisations and Terrorism Financing – Regional Risk Assessment 2017 was released AUSTRAC. It examines terrorism financing risks facing non-profit organisations (NPOs) in Australia, New Zealand and South-East Asian countries.

This assessment aims to enhance the capacity of the countries involved to understand and develop responses to better mitigate NPO risks, while also deepening the intelligence picture of regional terrorism financing risk. It is also a critical step for countries in meeting international standards to identify their subset of high-risk NPOs.

This regional risk assessment was coordinated by AUSTRAC, Bank Negara Malaysia and Indonesia's financial intelligence unit Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK).

The report can be downloaded from www.austrac.gov.au website.

Mungabareena put under special administration

The Deputy Registrar of Indigenous Corporations, Joe Mastrolembo, has announced that the Mungabareena Aboriginal

Corporation has been placed under special administration.

Incorporated in 1994, Mungabareena provides a range of culturally appropriate services to meet the health and wellbeing needs of the Aboriginal and Torres Strait Islander community in Wodonga, Victoria, and the surrounding region.

The registrar's office has for many years provided services to improve the corporation's governance and help resolve internal disputes. The corporation has also been working with the Victorian Aboriginal Community Controlled Health Organisation Inc. (VACCHO) on long-term sustainability.

A majority of the corporation's directors wrote to the registrar's office requesting the appointment of a special administrator.

'Our office has previously notified Mungabareena of our governance concerns and requested certain matters be addressed,' Mr Mastrolembo said. 'The special administration will provide the corporation with specialist support to address those matters.'

The special administrator will work with the corporation's staff and members, as well as VACCHO, to improve Mungabareena's governance, structures and financial position.

ACNC activities

ACNC urges early AIS submission

Registered charities are being urged to submit their 2017 annual report to the ACNC sooner rather than later.

Acting ACNC commissioner Murray Baird encouraged the 30,000 charities that must submit their reports by 31 January to be prepared.

In preparing to submit their annual information statements, charities should:

- Ensure that they have hosted annual general meetings to discuss activities and finances, particularly if an AGM is required by a charity's constitution or is appropriate for accountability to members
- Confirm who within the charity will be responsible for the completion and submission of the statement
- Ensure that appropriate staff and volunteers have access to the ACNC charity portal – passwords may be reset at acnc.gov.au/passwordreset, and

- Take time to review previous statements identifying areas that might require further information.

The ACNC has produced guidance designed to help charities of all sizes to complete their statements.

'Our team has produced a range of useful resources designed to help charities prepare their AIS [...] with minimal fuss,' Mr Baird said.

'We recommend charities review [them] on the ACNC website at acnc.gov.au/2017AIS. We also suggest that charities read our latest report on common reporting issues we identified throughout the 2016 [...] process, which can be found on the ACNC website at acnc.gov.au/2016reportingtrends.'

Charities may access the 2017 statement template via their portals. Completing the statement is a requirement to maintain registration with the ACNC.

If charities need further support, they can contact the ACNC's advice-services team on 13 22 62, from 9am to 6pm (AEDT) Monday to Friday.

Streamlining non-government-school reporting

The ACNC can access financial information provided by non-government schools to the federal Department of Education and Training, significantly reducing red tape for schools registered with the ACNC.

More information may be found on the ACNC website at acnc.gov.au/nongovschools.

ORIC and ACNC renew understanding

The Office of the Registrar of Indigenous Corporations (ORIC) and the ACNC have announced a renewal of their memorandum of understanding.

Both regulators are committed to acting collaboratively to minimise the regulatory burden for Aboriginal and Torres Strait Islander corporations in complying with reporting and other notification obligations.

A key component of the MOU is a commitment to reporting once, using often. Aboriginal and Torres Strait Islander charities that are registered with ORIC and report to it are not required to report the same information to the ACNC. Public information reported to ORIC is shared with the ACNC to ensure that public databases of both agencies are consistent and up-to-date.

The MOU also confirms arrangements between the regulators for referring matters such as complaints and potential breaches of the law, and consulting on statutory activities, training, information services, policy development and legislative amendments.

To see the MOU go to oric.gov.au/publications/mou.

New ACNC toolkit to help connect MPs and charities

The ACNC has launched a new online toolkit to help charities and their local MPs connect and discuss important issues.

The *MP Charity Toolkit* allows searches by federal electorate, and a series of 20 factsheets cover topical charity-sector issues, including fundraising, tax concessions, and safe giving. The ACNC will add state electorates at a later date.

The toolkit was developed in partnership with the assistant minister to the Treasurer Michael Sukkar.

Mr Sukkar welcomed the toolkit's launching, describing it as a valuable resource for MPs and their staff.

'[It] will help my colleagues in the federal parliament continue to engage with their local charities and support them in their charitable endeavours.'

The sector and the public would also benefit, he said, enabling them to quickly and easily find nearby charities.

'Registered charities looking to collaborate with another similar charity, or reach out to discuss local issues, will also be able to use the new search function. Similarly, members of the public looking to donate their time, or goods and services, [...] will now be able to find charities of all sizes in their federal electorate.'

The search function is simple to use and links direct to the ACNC's charity register – Australia's first online database of charities.

The toolkit is available at acnc.gov.au/mp.

New corporate-partnerships factsheet available

A new ACNC factsheet – *Charities and Corporate Partnerships* – provides advice on how charities can work with businesses and corporates to develop a relationship that helps the charity achieve its goals and benefit the wider community.

Charities often contact the ACNC about wanting to foster partnerships with business. Some do this extremely well and have long-standing and highly successful arrangements.

But the commission warned in a statement: 'We do see examples [...] where charities have entered into arrangements where they are receiving very little benefit in return for "giving away" their brand. Many other organisations are not sure where to start.'

The factsheet looks at:

- Why charities should be interested in corporate partnerships
- The types of partnerships available, and why charities should consider a wide variety of partnership options
- Researching local businesses and corporates when thinking about a partnership
- The work charities need to do before entering a partnership and how they should approach a prospective corporate partner, and
- Risk management, due diligence and the steps involved in maintaining a healthy partnership.

The factsheet is available on the ACNC website at acnc.gov.au/corporatepartnerships.

Insights from the ACNC annual report

The ACNC has tabled its 2016–17 annual report, its fifth to parliament since it was established in December 2012.

Acting ACNC commissioner David Locke revealed that more and more Australians were accessing the ACNC's charity register – Australia's first searchable database of charities.

'In 2016–17, searches of the ACNC [register] jumped by 37 per cent compared [with] last year. We have now had over two million searches [...] and this is increasing all the time.'

He added: 'We're pleased that members of the public and donors are increasingly using the [register] to ensure that charities are registered with the ACNC and to find out information about their governance and financials.'

Commenting on the first anniversary of the registered charity tick, Mr Locke said: '(It) is a simple, attractive logo that registered charities can use to show their charity status. Over 10,000 charities have downloaded their copy of the logo, including some of Australia's [best-known] charities. We are seeing the [tick] displayed in all kinds of places, from fundraising brochures to mini vans.'

More than 2800 new charities were added to the register, bringing the number of registered charities to more than 55,000.

Disappointingly, the ACNC data-integrity project team also reviewed the records of more than 42,000 charities and worked with them to correct almost 7000 errors.

The ACNC's work to ensure registered charities are complying with the ACNC Act also remained a strong focus for the regulator in 2016–17.

'This year the ACNC addressed more public concerns about charities than ever before. The ACNC is [...] also working proactively with a wide range of federal and state agencies to identify misconduct and mismanagement in the administration of charities,' Mr Locke said.

'Our compliance work has changed from predominantly reacting to concerns, to proactively identifying risk and undertaking targeted investigations and enforcement action.'

'In 2016–17, we managed 18 per cent more compliance cases than we did the previous year and took more enforcement action. The registrations of 22 charities were revoked following compliance investigations – more than double the number in 2015–16.'

Charities need to comply with the ACNC Act and governance standards. These are legal obligations, and, where there are serious breaches, the ACNC will take firm but fair action.

Red-tape reduction was a priority for the ACNC in 2016–17, as it will be again in 2017–18. Significant progress was made towards reducing red tape for charities in 2016–17; legislation has been passed in South Australia, Tasmania and the Australian Capital Territory, resulting in streamlined reporting requirements and saving thousands of charities vital resources.

Use of the charity passport, the ACNC's data-sharing portal, has also increased; 20 government agencies use it to access charity data.

The ACNC's 2016–17 annual report is available at acnc.gov.au/annualreport

Key findings from the *Australian Charity Report 2016*

Australian charities have reported \$142.8 billion in revenue in the past year, according to new research launched by assistant minister Michael Sukkar.

The *Australian Charities Report 2016* examined the 2016 annual reports to the ACNC of more than 52,000 charities.

Key findings were:

- Registered charities had a total revenue of \$142.82 billion
- Charities that provided education services, such as universities and non-government schools, had the largest annual revenue. The group made up 18.6 per cent of the total number of charities but accounted for 45 per cent of the sector's total revenue
- Charity revenue was generated through membership fees, user-pays services, and other income sources (49.7 per cent), government grants and contract payments (43 per cent), and donations and bequests (7.3 per cent)
- The most common charity type is religious (31 per cent). However, the group takes in on 6.6 per cent of the sector's total revenue
- Most (67 per cent) of registered charities are small, their annual revenues less than \$250,000
- Big charities with revenue of a million dollars and more make up 17 per cent of charities, medium-sized (\$250,000 – \$1 million) 16 per cent, and small (\$50,000 – \$250,000) 67 per cent
- Charities employ 10.6 per cent of Australian workers
- 49.6 per cent of charities have no paid staff
- On average, each charity has 58 volunteers; in total, there are 2.9 million volunteers
- Over half of all charities operate in either New South Wales (39.7 per cent) or Victoria (31.1 per cent)
- Only a small number (8.4 per cent) of charities help communities overseas. The top 10 countries in which charities assist are: India, the Philippines, New Zealand, Indonesia, Papua New Guinea, Cambodia, United States, Thailand, Fiji and Nepal.

The *Australian Charities Report* was produced by the ACNC and the Centre for Social Impact and the Social Policy Research Centre at the University of New South Wales. The full report and an interactive data cube can be found at australiancharities.acnc.gov.au.

Australians trust charities: ACNC report

A new report published by ACNC has confirmed that public trust and confidence in charities remains strong. The ACNC's two-year *Public Trust and Confidence report* found that 86 per cent of Australians trusted charities and 91 per cent supported them by volunteering or donating.

Overall, charities were the fifth most-trusted institution in Australia after doctors, police, the High Court, and the Australian Taxation Office. Women and older Australians were slightly more likely to trust charities, but trust was high across all age groups.

Acting ACNC commissioner Murray Baird welcomed the findings.

'The ACNC's 2017 *Public Trust and Confidence report*, the third of its kind, shows that trust and reputation are increasingly important factors that drive generosity. The report found that trust is underpinned by transparency, [...] 76 per cent of Australians stating that it is important that they know how charities use their donated dollar.

'[The] ACNC can confirm that the overwhelming majority of charities are doing the right thing. And where we have found evidence of misconduct by charities we have and will continue to take firm action to protect charitable funds and beneficiaries.'

The ACNC was established in part to maintain and enhance public trust and confidence in the Australian charity sector.

The latest *Public Trust and Confidence report* is available at acnc.gov.au/trustandconfidence.

Organisations lose charity status

The ACNC has announced the revocation of the following organisations after investigations into their activities and operations.

They are:

- City of Wollongong Aerial Patrol Inc – the decision to revoke status was backdated to 1 July 2013
- Australian Multicultural Christian Society Incorporated – the decision to revoke charity status was backdated to 21 June
- GLCS Group Incorporated – the decision to revoke charity status was backdated to 1 July 2013.

The ACNC has recently revoked the statuses of the Australian Council on Alcoholism and Drug Dependence, Childs Vision Pty Ltd, Cm & Ja Whitehouse Foundation, Guardian Youth Care Limited and Guardian Disability Services Limited following investigations.

As a result, they lost the GST concession, income-tax exemption, and FBT rebate, and those holding DGR status lost it as well.

The ACNC is prevented from disclosing further details due to secrecy provisions in its Act. However, the ACNC publishes on the charity register instances where it uses its formal powers, including revocation.

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.

Acting commissioner Locke said that the ACNC takes a proportionate approach to compliance.

'In instances where our investigations find minor breaches of the ACNC Act or Governance Standards [...], we work with the charity to resolve [them through] education, guidance and support,' Mr Locke said.

'However, when we find serious breaches [...] or mismanagement we will take firm action, including revocation [...]

'Revoking a charity's status is reserved for the most serious of cases and results in the loss of generous Commonwealth charity tax concessions. Revoked charities are also no longer able to display the ACNC's [tick].'

Commissioner Locke encouraged members of the public to raise concerns about charities with the ACNC.

'We receive over 100 concerns about charities each month,' Mr Locke said.

'Many of [them] are raised by members of the public and provide the [commission] with vital information to help us with our enquires.

Mr Locke encouraged people to raise concerns by calling 13 ACNC or by visiting acnc.gov.au/raiseaconcern.

The ACNC has also revoked the registration of 86 charities for twice failing to submit their annual information statements. These organisations will lose access to tax concessions.

AAT confirms ACNC decision on Waubra Foundation

The Administrative Appeals Tribunal has confirmed an ACNC decision that the Waubra Foundation was not entitled to be registered as a health-promotion charity.

It was the first decision by the AAT in accordance with the *Australian Charities and Not-for-profits Commission Act 2012* and the *Charities Act 2013*.

The ACNC welcomed the tribunal's decision and the greater clarity it provided about issues raised in the application.

The AAT affirmed that the foundation was not entitled to be registered as an 'institution whose principal activity is to promote the prevention or the control of diseases in human beings' (health-promotion charity) or as an 'entity with a purpose of promoting or protecting human rights'.

Waubra Foundation's registration with the ACNC as a charity was unaffected by the proceedings.

ACNC acting commissioner and general counsel Murray Baird said the decision added to the ACNC's understanding of the concept of a health-promotion charity and of the purpose of promoting and protecting human rights.

For more on the case and the AAT decision,

refer to the Australasian Legal Information Institute (Austlii) website.

More information about the health-promotion charity subtype may be found at acnc.gov.au/HPC, and more information about the 'promoting or protecting human rights' subtype may be found at acnc.gov.au/charitysubtypes.

ACNC commissioner appointed

Assistant minister Sukkar has announced that Gary Johns has been appointed as full-time ACNC commissioner for five years.

Dr Johns is a director of the Australian Institute for Progress and an adjunct professor at the Queensland University of Technology Business School.

He is a respected leader in the charities and not-for-profits sector, having served as a member of the prime minister's community-

business partnership, advising the government on practical strategies to foster a culture of philanthropic giving, volunteering and investment in Australia.

He is also a columnist at *The Australian* and has written several books on the charities and not-for-profits sectors.

Dr Johns has wide-ranging experience in regulation, public service and policy, serving as an associate commissioner of the Productivity Commission, a senior consultant at ACIL Tasman and an associate professor at the Australian Catholic University.

He served in the House of Representatives from 1987-1996, representing the electorate of Petrie and holding several roles in the Keating government, including parliamentary secretary to the deputy prime minister and the treasurer, and special minister of state and assistant minister for industrial relations.

Financial reporting insights

Making materiality judgements – new guidance

An Australian Accounting Standards Board's practice statement on materiality judgements includes examples relevant to NFPs and public-sector entities.

Practice statement 2 *Making Materiality Judgements* provides practical guidance and examples that might help in discussions with auditors and regulators. The statement's aim gives guidance on materiality when preparing general-purpose financial statements.

Its advice is applicable even to NFP private and public-sector entities.

The statement:

- Provides an overview of the general characteristics of materiality
- Presents a four-step process an entity may follow in making materiality judgements when preparing its financial statements. The description of the materiality process provides an overview of the role materiality plays in the preparation of financial statements, focusing on the factors an entity should consider when making materiality judgements, and
- Provides guidance on how to make materiality judgements in specific circumstances, namely, how to make

materiality judgements about prior-period information, errors and covenants, and in the context of interim reporting.

The steps identified as a possible approach to the assessment of materiality are:

- Step 1 – Identify information that has the potential to be material
- Step 2 – Assess whether the information identified in Step 1 is, in fact, material
- Step 3 – Organise the information within the draft financial statements in a way that communicates the information clearly and concisely to primary users, and
- Step 4 – Review the draft financial statements to determine whether all material information has been identified and materiality considered from a wide perspective and, in aggregate, on the basis of the complete set of financial statements.

Appendix A addresses materiality of key management personnel related party transactions of NFP public sector entities.

The statement does not change any requirements in Australian accounting standards or introduce any new ones. An entity that chooses to apply the statement's guidance is allowed to apply it to statements prepared from 1 January.

Charity reporting requirements are too complex

Australian charities are burdened with a financial reporting regime that is overly complex and inconsistent, according to AASB research report number 5, *Financial Reporting Requirements Applicable to Charities*.

The regime fails to promote the sector's accountability and efficiency, says the report.

The ACNC was set up to promote the reduction of unnecessary regulatory obligations. While the commission has succeeded in harmonising financial reporting across some states and territories, the AASB contends that an underlying issue is the reporting framework within which charities are required to lodge.

In reviewing charities' financial-reporting requirements in Australia, New Zealand, the United Kingdom, Hong Kong, Singapore, South Africa and Canada, the board's research found that Australian charities have the most complex regulatory environment.

'Australian charities are covered by at least 18 sets of regulation and 10 regulators at federal and state level,' said AASB chair Kris Peach.

'Very little of that regulation is consistent, and much of it involves different reporting thresholds and requirements.

‘There is no level playing field for charities,’ said Ms Peach. ‘[Similar] charities have to produce different reports depending on their location, entity type and historic reporting choices. As a result, reports are unnecessarily complex and potentially irrelevant to donors and other stakeholders.’

As well as having the most complex regulatory environment, Australia is the only jurisdiction that requires charities to ‘self-assess’ on whether they need to produce full financial reports or ‘special purpose’ financial reports. If they opt for special-purpose reports, the information required varies depending on which regulations apply.

‘The community isn’t getting clear and comparable financial information, and charities are having to spend time and money navigating a maze of onerous and inconsistent requirements,’ Ms Peach said.

Undertaken with the Auditing and Assurance Standards Board, the research is the first part of an AASB project aiming to achieve clear, objective and comparable Australian charity-sector financial reports.

‘Financial reporting requirements must balance the objectives of improving trust and transparency with the preparers’ costs and be easy to implement,’ said Ms Peach.

Coupled with a forthcoming consultation paper, the report will encourage discussion within the charity sector and is designed to inform stakeholders in their responses to the ACNC legislative review.

‘This is a tremendous opportunity for [...] charity stakeholders to have their say on how to improve financial reporting in their sector. I encourage everyone to get involved,’ Ms Peach said.

Improving financial reporting for charities

An AASB discussion paper *Improving Financial Reporting for Australian Charities* presents options to improve financial reporting. They are intended to be talking points (rather than recommendations) for stakeholder discussions that might be useful in the ACNC legislative review.

The AASB has proposed the following.

Topic	Suggested improvement
Duplicated reporting requirements	Eliminating multiple reporting requirements among the states and territories and the commonwealth. This might be by having only one regulator – the ACNC – to be the ‘one-stop shop’ and harmonise reporting requirements for charities similar to corporates or establishing consistent criteria and thresholds for public lodgement, reporting and assurance requirements across relevant regulators.
Public lodgement	Regulators to design transparent and objective criteria and thresholds for public lodgement, reporting and assurance requirements. These should require only charities with an appropriate level of economic significance, public interest and external users to lodge publicly financial statements.
General-purpose financial reporting	The AASB to specify financial-reporting requirements for charities required to lodge publicly that are clear and objective, balancing user needs with preparer costs (general-purpose financial reporting).
Special-purpose financial reports	There should be no public lodgement of special purpose financial reports.
Thresholds for lodgement	The criteria and threshold levels for public lodgement should be matched with an appropriate level of specified financial reporting. The greater the level of economic significance, public interest and external users, the greater the level of specified financial reporting, balancing user needs and preparer costs.
Tiers of general-purpose financial reporting	The types of general-purpose financial reporting should be based on the needs of users and the characteristics of particular groups of charities selected from: <ul style="list-style-type: none"> • Full recognition, measurement and disclosure requirements of accounting standards • Full recognition and measurement but reduced-disclosure requirements of accounting standards • Modified recognition, measurement and disclosure (new accounting standard to be developed), and • Cash accounting (new accounting standard and template report consistent with the National Standard Chart of Accounts to be developed). The paper presented four illustrative financial-reporting frameworks that take the criteria and thresholds considered to match with the types of general-purpose financial statements for each identified threshold.
Levels of assurance	The Australian Auditing Standards Board (AUASB) should work with regulators to specify the appropriate level of assurance and the appropriate skills for the ‘assurer’ to match with the type of general-purpose financial reporting. The types of assurance engagements should be selected from audit, review, other assurances, and agreed-upon procedures.

Complex standards arrive

Three new complex accounting standards arrive next year, and one is operable from 1 January.

They are:

- AASB 9 *Financial Instruments* (applies from years commencing 1 January 2018)

- AASB 15 *Revenue from Contracts with Customers* and AASB 1058 *Income of Not-For-Profit Entities* (applies from years commencing 1 January 2019), and
- AASB 16 *Leases* (applies from years commencing 1 January 2019).

You need to plan for them now.

Fraud and NOCLAR

Former Wagga CEO convicted

Selena Lyons, the former chief executive officer of Riverina Medical and Dental Aboriginal Corporation (RivMed), has been convicted in the Wagga Wagga Local Court of 24 charges of dishonestly misusing her position to gain a personal advantage.

Ms Lyons was found guilty of claiming travel expenses to which she knew she was not entitled.

The court found that on 24 occasions between October 2011 and April 2014 Ms Lyons used her position to authorise payments to herself for travel and accommodation. The payments were either for days that Ms Lyons was not travelling for work purposes, or when another organisation had already paid for her travel, accommodation and meals.

The charges were brought by the Registrar of Indigenous Corporations in August 2016 under section 265-25(3)(a) of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

Ms Lyons will be sentenced on 1 February.

Getting tough on fraud – top tips

Fraud is a problem across all areas of the economy, including the NFP sector.

Protecting yourself against fraud and reacting effectively to fraud has never been more important. Fraud can lead to significant losses, reputational damage and – in the case of big frauds – sometimes the collapse of an organisation.

Effective fraud advice can help you significantly reduce costs and enable you to spend more of your resources on outcomes that matter.

Here are six tips on how NFPs can tackle fraud:

- **Strengthen your culture** – An anti-fraud culture needs senior management support and has to be led from the top. Introduce a fraud policy, incorporate an external whistleblowing service (such as www.reportfraud.org.au) and a fraud-response plan. Place fraud as a repeat agenda item at regular management meetings; this will focus your thinking on the constant threat to your organisation. Train your staff to look out for fraud indicators.
- **Prevention is better than cure** – Spending relatively small amounts of time and money on fraud prevention and detection could save you significant amounts of time and money in the future. Remember, the biggest threat to your organisation is not always a financial one – the reputational damage caused by fraud, especially if it is shown that you made no attempt to minimise the risk.
- **Look for weaknesses** – There are many red flags that can give you an indication that all is not well. You are particularly vulnerable when cash payments are involved, so try to reduce these to a minimum. Always ask for evidence of expenses and periodically check a random sample in detail to make sure all is well. Internal fraud may be small in value but over time these small amounts could represent a significant loss.
- **Keep monitoring** – Tackling fraud is an ongoing challenge. Fraud monitoring should not be something that is reviewed once a year on a tick sheet; it needs constant review. If you want your organisation to become more fraud resilient, you need to continually work at reducing the threats.
- **Audit** – External auditors have specific fraud responsibilities under auditing standard ASA 240 *The Auditor's Responsibility Relating to Fraud in Audit of a Financial Report*. Engage your auditor about fraud. Consider using external auditors to provide your board with additional assurance on such issues as credit-card expenditure and key internal controls.
- **Don't bury your head in the sand** – Fraud opportunities exist in organisations big and small. It's not good enough to say, 'We don't have a fraud problem in our organisation'. The fact is that you have probably not yet uncovered it. Don't wait for fraud to deliver a knockout punch; think about what preventative measures you could introduce. If you spot that something is amiss, get help sooner rather than later.

NOCLAR operative

Members of CA ANZ, CPA Australia and IPA are reminded that their new responsibilities for non-compliance with laws and regulations (NOCLAR) under APES 110 *Code of Ethics for Professional Accountants* apply from 1 January.

The responsibilities differ depending on whether an accountant is employed by an entity, in a management or governance position, or engaged by an entity to provide professional accounting services.

All entities, including NFPs, need to be aware of NOCLAR rules and how they affect an entity's business risks and professional relationships with accounting firms. A NOCLAR policy is highly desirable.

Auditors also have new responsibilities for reporting NOCLAR under auditing standard ASA 250 *Consideration of Laws and Regulations in an Audit of a Financial Report*.

GAAP Consulting

Helping you unravel your revenue and lease accounting

Do you know how to implement AASB 15 *Revenue from Contracts with Customers*, AASB 1058 *Income of Not-For-Profit Entities*, and AASB 16 *Leases*?

It's not easy – every contract needs to be understood according to how it is to be accounted for. And implementation dates are fast approaching. Let the experts at *GAAP Consulting* get you on track with an analysis of one of your contracts.

Our advisory team is Colin Parker, Carmen Ridley, Sonya Sinclair, and Stephen LaGreca, with the assistance of corporate lawyer, Stephen Newman.

The *GAAP Consulting* team can also assist you with:

- AASB 15, AASB 1058 and AASB 16 training
- Reviewing and monitoring of your implementation plans
- Checking your AASB 15, AASB 1058 and AASB 16 decisions
- The development of detailed accounting policies, and
- Reviewing your financial-reporting template.

Contact Colin to discuss our contract-review service and how we can help you to implement these complex accounting standards.

March GAAPinar Masterclass series on AASB 15 and AASB 1058

Some preparers and auditors, particularly those in regional and rural areas, expressed disappointment at not being able to participate in our 7.5-hour face-to-face masterclass on AASB 15 *Revenue from Contracts with Customers* and were eager to know about our 2018 plans.

A pop-up GAAPinar masterclass on AASB 15 and AASB 1058 is to be held on 7 and 8 March (AEDT 10.30 am – 1.00 pm and 2.00 pm– 4.30 pm) with a Q&A to follow up on 21 March (AEDT 10.30 am – 1.00 pm). Now, that's 12.5 hours dedicated to the new revenue standards. Recordings will be available.

We will be covering the five-step revenue-recognition process, impairment, onerous contracts, asset recognition, presentation and disclosure, NFP issues, and RDR.

All our materials will be updated to aid in understanding and implementing these standards. We'll give plenty of examples. Importantly, we will be drawing on our implementation experience.

We will also be asking for questions and issues in advance to help us to cover the right material.

The Q&A session includes answers to three contract-assessment case studies, answers to questions submitted from the first two days, a panel discussion and a quiz to embed understandings. There will be helpful take-aways.

Presenters will be Carmen Ridley, Colin Parker, Sonya Sinclair and Stephen Newman (lawyer at Hope Earle).

A brochure will be available mid-January. In the meantime, please refer questions about content and price to Colin.



Colin Parker
GAAP Consulting

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