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For Impact News for the Not-for-profit Sector

Treasury publishes report following Australian Charities and Not-For-Profits Commission Legislative Review



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The report of the Panel that was commissioned by the Commonwealth Government to review the ACNC Act was published on 22 August 2018.

The report was a requirement built into the ACNC Act, i.e. that this review be conducted 5 years after the introduction of the Act.

The Panel that conducted the review received 172 submissions, including one from HLB Mann Judd, Sydney.

The Panel noted that "There is strong support for the Australian Charities and Not-for-profits Commission and its accomplishments in the first five years..."

The Panel found that the objects of the ACNC Act continue to be relevant, and that it is unnecessary for those objects to be either expanded or prioritised.

The Panel made 30 recommendations, for consideration by the Commonwealth Government. These include:

- No changes to the ACNC objects
- Replace the term "responsible entity" with "responsible person"
- Change financial reporting thresholds for charities – a small charity has less than \$1,000,000 revenue on a three-year average; from \$1,000,000 to less than 5,000,000 is medium, and \$5,000,000 or more is large.
- All registered entities be required to disclose related party transactions
- Large registered entities be required to disclose remuneration paid to responsible persons and senior executives, in aggregate
- All exemptions related to governance and financial reporting for "basic religious charities" be reviewed
- The use of the Charity Passport by Commonwealth departments and agencies be mandated

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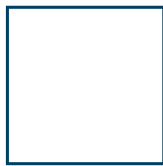
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- Responsibility for the incorporation and all aspects of the regulation of companies which are registered with the A CNC be transferred from ASIC to the ACNC, except for those related to criminal offences
- The Commissioner be given a discretion to disclose information about regulatory activities, including investigations when necessary to protect public trust and confidence.

The report also noted that "... in the long term, there is a need for a national scheme based on the referral of powers by the States to the Commonwealth."

We'll have to see which of the recommendations the Commonwealth government will adopt.

The full report can be found at:
<https://treasury.gov.au/review/acnc-legislation-review/>



Governance

RSL charities enter governance undertakings

Two RSL charities have entered into enforceable undertakings with the Australian Charities and Not-for-profits Commission ("ACNC"), that aim to right governance failures.

The compliance action against RSL New South Wales and RSL LifeCare follows investigations into the charities' activities and operations.

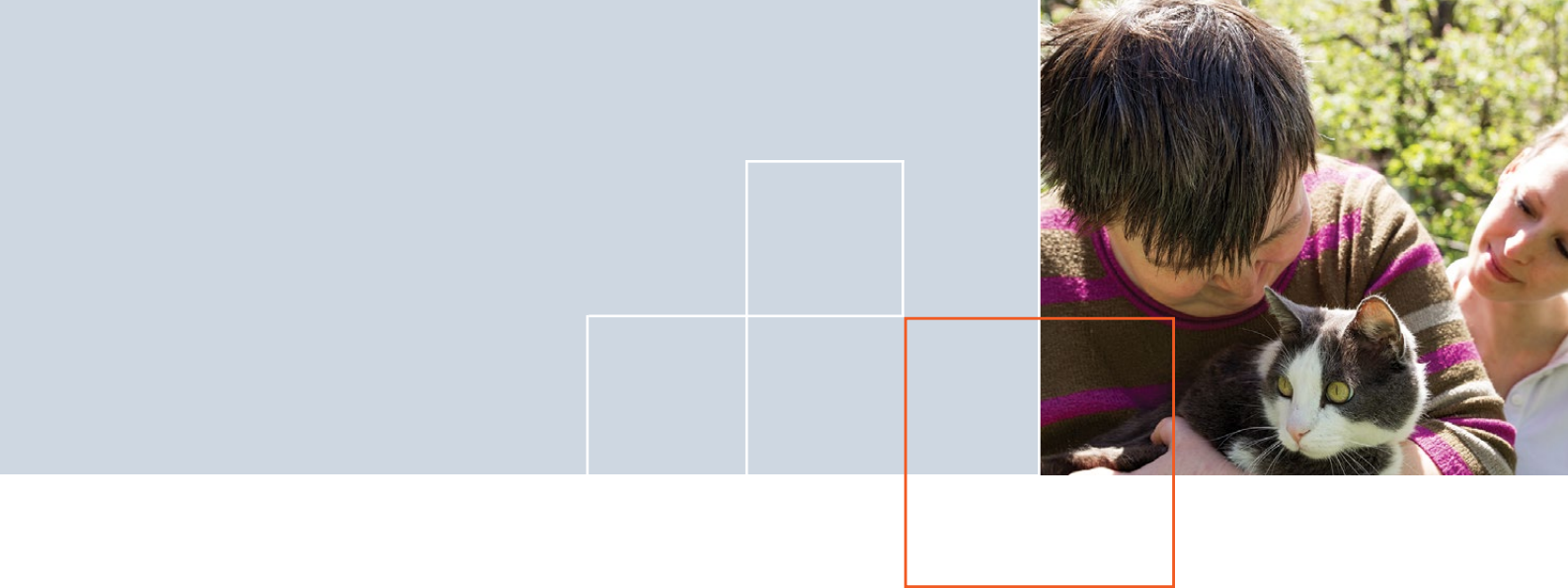
The undertaking between the ACNC and RSL NSW is in response to serious

issues that the ACNC identified during its investigation into the charity's governance, specifically:

- The misuse of charity funds by former State President Don Rowe
- The former State Council's failure to investigate properly the misuse of funds or to report allegations to police, and
- The State Council's misleading statements on the circumstances of the former State President's resignation.

RSL NSW has committed to 15 measures to demonstrate improved governance, transparency, and financial management.

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In summary, the undertaking requires RSL NSW to:

Area	Undertakings
Governance	<p>Ensure that all State Councillors (RSL NSW's responsible persons) complete a course with the Australian Institute of Company Directors within six months of their appointment or within six months of entering into the undertaking.</p> <p>Develop a State Council induction document outlining councillors' obligations and duties. The document will be provided to councillors appointed after RSL NSW enters into the undertaking.</p> <p>Implement and adopt a policy that councillors must familiarise themselves with specific ACNC guidance materials within a month of their appointment.</p> <p>Continue to employ a suitably qualified management team that includes a General Manager/Chief Executive Officer, Company Secretary and at least one employed legal counsel.</p>
Conflicts of interest	<p>Maintain a conflicts of interest policy that addresses the declaration and management of perceived and actual conflicts of interest involving RSL NSW's State Councillors or arising from Councillors having roles with any entity, trust or organisation that is related to or affiliated with RSL NSW.</p> <p>Include declarations of conflicts of interest as a standing agenda item at Council meetings.</p> <p>Maintain a conflicts of interest register.</p> <p>Create and maintain within 60 days of entering into the undertaking a register of related party transactions.</p>
Transparency	<p>Maintain an externally managed whistle-blower hotline with a link to the hotline contact details on RSL NSW's website.</p> <p>Publish details on RSL NSW's website of expenditure incurred by councillors.</p> <p>Develop and adopt following:</p> <ul style="list-style-type: none">■ Code of conduct for responsible persons and employees■ Fraud prevention policy■ Internal complaints handling procedure, which will include reporting and escalation procedures, and■ Risk management policy and a risk register.
Financial management and accounting	<p>Maintain a significant contracts register.</p> <p>Implement and maintain a financial accounting system that accurately records the source of funds received, including by separately identifying funds received from charitable fundraising appeals. The system must record accurately how funds received from particular sources are distributed or spent.</p> <p>Maintain expenses policies and procedures that:</p> <ul style="list-style-type: none">■ Regulate the reimbursement of expenses incurred by State Councillors and employees of RSL NSW■ Regulate the use of credit cards issued to Councillors and employees for expenditure incurred for the purposes of RSL NSW, and■ Require Councillors and employees to keep records of their expenses and in exceptional circumstances, when no record is kept, to provide a statutory declaration describing the nature of the expense. Ensure that expense reimbursement claims and credit card expenses are properly reviewed and verified as falling within RSL NSW's expenses policies. <p>Maintain a financial delegations matrix that clearly identifies limits and policies in relation to expenditure incurred by Councillors and employees.</p>



Governance (cont)

The enforceable undertaking between the ACNC and RSL LifeCare also responds to serious issues that the ACNC identified during its investigation into the charity's governance, specifically:

- The charity's directors approving and receiving remuneration and allowances in breach of their obligations
- The charity's funds being used to pay

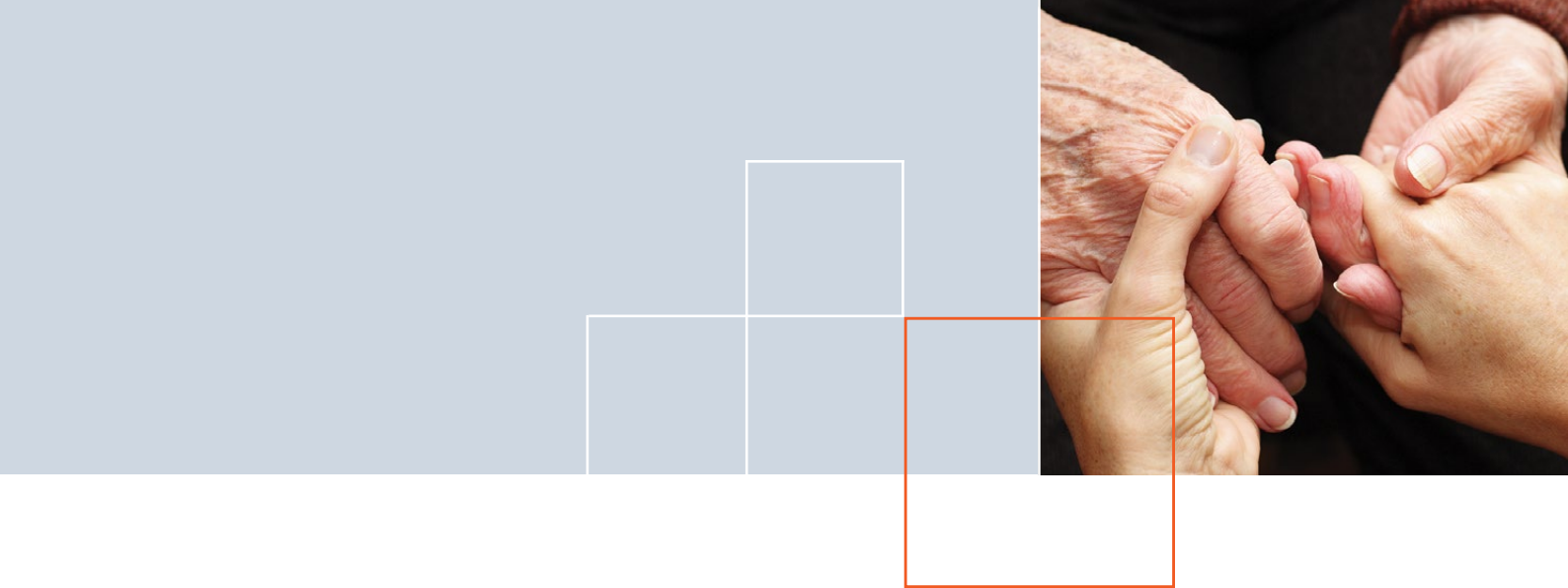
for directors, staff and others to attend functions linked to the Liberal Party of Australia without consideration as to whether attendance was compatible with RSL LifeCare's charitable purposes, and

- Non-compliance with the charity's fundraising authority under the NSW Fundraising Act.

RSL LifeCare has already taken significant steps to address its governance failures. As part of the enforceable undertaking, the charity has committed to four measures that demonstrate improved board governance. They include addressing board remuneration and risk management as well as adherence to its political-advocacy policy

In summary, the undertaking requires RSL LifeCare to:

Area	Undertakings
Governance	<p>Review, develop and adopt:</p> <ul style="list-style-type: none"> ■ A revised code of conduct for its responsible persons ■ A revised risk management framework that includes a risk management policy ■ A revised director induction programme, and ■ A professional development policy that requires the charity to identify at board meetings relevant training opportunities for directors.
Remediation plan	<p>Monitor and evaluate the effectiveness of remediation steps that have been implemented (or are in the process of being implemented), including:</p> <ul style="list-style-type: none"> ■ Implementation and compliance with governance policies, including political advocacy, conflicts of interest, related party transactions, and risk management ■ Risk management and compliance reporting (including a risk management matrix and administrative compliance reporting) ■ Reviewing governance training by responsible persons ■ Defining the functions of the independent remuneration panel ■ Implementation of a director remuneration policy, and ■ Review of board performance (to include a review of directors' education and training and conference attendance to bolster general governance skills and specific industry skills).
Reporting to ACNC	<p>Provide updates to the ACNC on steps taken to implement recommendations from a governance review by an independent consultant.</p> <p>Notify the ACNC of any material non-compliance with any of the policies.</p>



The undertakings last three years. RSL NSW and RSL LifeCare must provide quarterly reports to the ACNC on compliance with their respective agreements during the first 12 months, then annual reports for the two years after that.

‘Over the [past] nine months we have made public statements regarding compliance action against registered charities under the RSL umbrella,’ ACNC Assistant Commissioner David Locke said. ‘[The] announcement of enforceable undertakings [...] follows lengthy, in-depth investigations into the activities and operations of the two charities.

‘Governance failures occurred at the highest levels of these charities. [Both]

charities must now demonstrate improved governance to remain registered with the ACNC. These enforceable undertakings outline exactly what RSL NSW and RSL LifeCare need to do, and by when.’

We recommend that all charities should look at the undertakings required of the NSW RSL entities, and consider whether such procedures should be adopted by your charity.

ACNC issues direction to RSL QLD

The ACNC has issued a direction to RSL Queensland in response to significant governance failings identified during its investigation into the charity.

Last year RSL Queensland developed a governance plan in response to the Commission’s initial concerns. The Commission became concerned about the lack of progress in implementing key aspects of the plan. Hence, the direction.

The Commission found that RSL Queensland had breached governance standard 5, which requires the charity’s board to manage its financial affairs responsibly and act in the charity’s best interests.

The ACNC also found that the charity had not met financial and operational record keeping obligations.

In summary, the ACNC believes that RSL Queensland has breached the following obligations:

Area	Alleged breaches
Governance standard 5(f) which requires that a charity takes reasonable steps to ensure that its responsible persons comply with the duty to ensure that the charity’s financial affairs are managed responsibly (Section 45.25(2)(f) of the ACNC regulation).	<p>RSL Queensland did not take reasonable steps to ensure that its directors managed charitable funds in a responsible manner. The investigation found that it was a long-established practice for RSL Queensland to make monthly payments to its directors to cover ‘out-of-pocket’ expenses. However, RSL Queensland did not have appropriate controls in place, such as a tailored policy, guidance or agreement to manage the payments. This resulted in RSL Queensland being unable to demonstrate to the ACNC how charitable funds of more than \$400,000 were spent over the period of the investigation.</p> <p>RSL Queensland did not take reasonable steps to ensure that its directors identified and mitigated the financial risk of attracting a taxation liability due to the type and treatment of entitlements provided to its directors. For example, RSL Queensland did not have appropriate controls in place, such as tailored financial systems, policies and procedures, to manage responsibly its taxation obligations.</p>

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Governance (cont)

In summary, the ACNC believes that RSL Queensland has breached the following obligations:

Area	Alleged breaches
Governance standard 5(a) which requires that a charity takes reasonable steps to ensure its responsible persons act with reasonable care and diligence (Section 45.25(2)(a) of the ACNC regulation).	<p>RSL Queensland did not take sufficient steps to ensure that its directors exercised the required care and diligence in applying charitable funds and assets, which resulted in directors receiving remuneration as opposed to being reimbursed for out-of-pocket expenses. The remuneration was in direct breach of its constitution.</p> <p>RSL Queensland did not take reasonable steps to ensure that its directors applied the required care and diligence in implementing key aspects of a governance plan that was developed by RSL Queensland and submitted to the ACNC in November 2017 as a means of addressing the Commission's governance concerns.</p>
Governance standard 5(b) requires that a charity takes reasonable steps to ensure that its responsible persons act honestly in the best interests of the charity and for its purposes (Section 45.25(2)(b) of the ACNC Regulation).	RSL Queensland has allowed the board of directors to make payments to directors to cover 'out-of-pocket' expenses in a manner that was inconsistent with its constitution and by-laws and in doing so has not acted in RSL Queensland's best interests.
Financial record keeping, which requires that a charity keep certain written financial records (Section 55-5(1) of the ACNC Act).	RSL Queensland has breached financial record keeping obligations by failing to retain financial records pertaining to the majority of transactions covered by payments to directors for 'out-of-pocket' expenses, for example receipts and a robust acquittal process.
Operational record keeping, which requires that a charity keep certain operational records (Section 55-5(2) of the ACNC Act)	RSL Queensland has breached operational record keeping obligations by failing to retain records (for example, log books) of directors' use of RSL Queensland vehicles.

The direction, which is a formal compliance power under the ACNC Act, sets out the findings of the investigation, the actions RSL Queensland must take, and possible future regulatory action if the breaches are not addressed.

In summary, the ACNC has directed RSL Queensland to:

- Engage a governance expert to provide independent evaluation and monitoring of RSL Queensland's implementation
- of the *Good Governance Guide* set out under a governance plan in accordance with a detailed scope of works specified by the ACNC
- Submit to the ACNC a board resources policy that explains the scope and limitations of RSL Queensland's director entitlements and resources compared with the duties they need to fulfil. Submit a copy of a governance expert's report on the suitability and effectiveness of the policy
- Submit to the ACNC a board meeting standard that sets out particular procedural and conduct requirements specified by the ACNC and a copy of the governance expert's report on the standard's suitability and effectiveness
- Engage a suitably qualified independent governance expert to conduct an evaluation of the board's performance and effectiveness so that RSL Queensland may determine what training is required to enable RSL



Queensland to comply with its duties under governance standard 5

- Take action to comply with aspects of the governance plan, including ensuring that RSL Queensland's corporate governance manager is responsible for performing the duties of a company secretary, and that directors complete the requirements of a skills-gap analysis conducted by the Australian Institute of Company Directors
- Ensure that directors begin or complete within 12 months a diploma course in corporate governance that addresses duties of care and diligence, acting in the charity's best interests and responsible financial management, and
- Communicate specific information to RSL Queensland members on the recent Australian Taxation Office private binding ruling on the characterisation of payments made to directors that the ACNC considers is necessary to meet RSL Queensland's obligations under the ACNC legislation.

AICD revises governance principles

The Australian Institute of Company Directors seeks feedback on its review of its *Good governance principles and guidance for not-for-profit organisations*.

The review has three key aims:

- To refine the principles to reflect up-to-date good governance informed by an understanding of the operational context of the NFP sector
- To introduce descriptions of good governance in the form of 'supporting practices', and
- To identify and provide additional resources to help NFPs to apply the principles in their unique circumstances.

First released in 2013, the document sets out 10 fundamental principles of good governance specifically for NFPs. The AICD is seeking to update them to reflect new challenges and opportunities across the not-for-profit sector.

The Institute has released a consultation paper that provides background and outlines proposed revisions.

The revised principles will be launched late this year.

DFAT calls for friendship grant applications

The Department of Foreign Affairs and Trade has opened applications from charities and other eligible organisations for friendship grants.

From \$30,000 to \$60,000, the grants aim to expand existing aid activities in the Indo-Pacific region and finance new projects.

Activities that may be funded include those that improve the lives of poor and vulnerable people, projects that use successful or innovative approaches to problem solving and that have potential for wider application, and activities that assist and strengthen an overseas community's socio-economic situation.

Applications close in August. To find out more or register your interest, visit dfat.gov.au/FriendshipGrants.

New guidance on AEC reporting obligations

The Australian Electoral Commission has recently published new guidance designed to help explain obligations under the Commonwealth Electoral Act 1918 that might affect 'third-party campaigners'.

Changes to the political expenditure disclosure requirements came into effect in March and charities that participate in political debate may have an obligation to report to the AEC.

They should contact the AEC – contact details are available on the AEC's website at aec.gov.au/contact.

The Department of Foreign Affairs and Trade has opened applications from charities and other eligible organisations for friendship grants.



ACNC (cont)

ACNC boosts money-laundering and terrorism-financing intelligence

The Australian Senate recently passed legislation that includes the ACNC in the list of designated agencies named in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

It allows the Commission to have direct access to information collected by the Australian Transaction Reports and Analysis Centre, a rich source of intelligence on terrorism financing and money laundering risks in the not-for-profit sector.

The ACNC's addition to the designated agencies list will allow the Commission to work more closely with AUSTRAC and other relevant organisations, to share information and investigate areas of concern.

Donations to charities continue to grow: new ACNC research

Donations and bequests to registered charities grew by almost 15 per cent between 2014 and 2016, according to new research published by the ACNC.

Growth and change in Australia's charities: 2014 to 2016, a sub-report of the *Australian Charities Report 2016*, was produced by the Commission in partnership with the Centre for Social Impact and the Social Policy Research Centre at the University of New South Wales.

The report assessed the annual information statements of more than 45,000 charities over three years to identify trends in income, workforce, location and activities.

Key statistics are:

- The total income of the 45,455 charities surveyed increased by 10 per cent – from \$110.7 billion in 2014 to \$121.8 billion in 2016 (not all charities are required to provide reports)
- Total expenditure grew 12.7%, from \$101.0 billion in 2014 to \$113.9 billion in 2016
- Total charity assets increased by 14.8% from 2014 to 2016
- Donations and bequests increased by 14.8% – \$1 billion
- The most common main activities for Australia's charities are 'religious activities' and 'education and research'
- The number of paid employees increased by 4.4%, and
- During the period, the ACNC revoked the charity status of 11,698 organisations and registered 9,044 new charities.

ACNC Commissioner Gary Johns welcomed the research and its insights into the sector.

'This is the ACNC's first comparative report, analysing changes over multiple years,' Dr Johns said.

For more information or to download *Growth and change in Australia's charities: 2014 to 2016*, visit australiancharities.acnc.gov.au.

Victoria signs on to reduce red tape

From 1 July 2018 thousands of Victorian charities will benefit from new streamlined reporting arrangements.

The ACNC and Consumer Affairs Victoria ("CAV") have worked closely to end duplicative reporting obligations, which were costing Victorian charities both time and money.


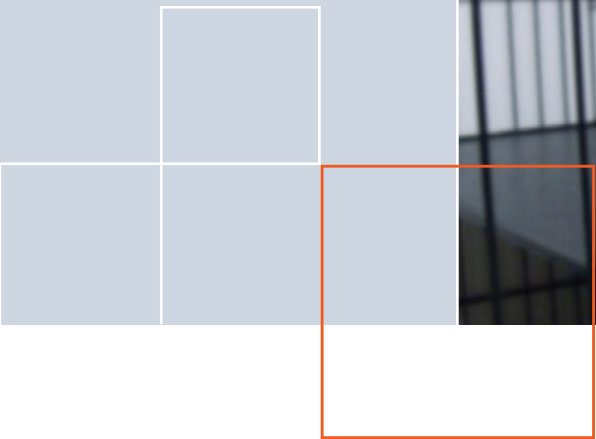
Victoria's Minister for Consumer Affairs, Gaming and Liquor Regulation Marlene Kairouz has signed the exemption order that will reduce red tape for incorporated associations that are also charities registered with the ACNC. These charities will no longer need to lodge an annual statement with CAV and pay a lodgement fee.

The charities will continue to submit ACNC annual information statements and the Commission will share relevant data with CAV on the charity's behalf.

ACNC Commissioner Gary Johns welcomed the announcement and thanked the Victorian government for its commitment to reducing red tape.

'With this announcement, Victoria joins South Australia, Tasmania and the ACT in their commitment to streamlined reporting arrangements for charities,' said Dr Johns. 'I hope to be able to announce that more States [will be] coming on board later this year.'

'All going well, about 70 per cent of registered charities will no longer face duplicative reporting requirements.'



Some exceptions may apply. For more information about the changes or to determine if they apply to your charity visit acnc.gov.au/VIC or the Consumer Affairs Victoria website.

Charity statuses revoked

The ACNC has revoked the charity status of the Australian Foundation for Disabled Children and Youths Ltd, Pockets Australia Pty Limited, Pets Haven Foundation Limited, and St Pauls Prevention Rehabilitation.

Pets Haven Foundation Limited, also known as 'Pet's Haven Animal Shelter', had its status revoked on 9 April 2018, backdated to 3 December 2012.

Dr Johns said that the animal shelter had been involved in serious misconduct.

'Pets Haven Foundation has abused [its] position as a trusted charity in the community,' Dr Johns said.

All registered charities must meet the ACNC's governance standards, which are a set of minimum standards by which charities operate lawfully and get run responsibly.

'Revocation is the most serious action we can take when a charity has been mismanaged,' said Dr Johns.

'In most cases we are able to resolve issues with charities without reaching this stage. However, in this instance, we have been left with no choice but to revoke Pets Haven Foundation's charity status.'

'When we take regulatory action, we carefully consider both the necessity of the action and the risks to involved parties and ensure [that] the action that we take is proportionate,' Dr Johns said.

'So far in 2017-18, the ACNC has revoked the charity status of 21 organisations, and more are likely to follow in the next month.'

According to the *Charity Compliance Report 2017* the ACNC received almost 1,700 concerns about charities. Of the concerns assessed, 23% were raised by members of the public.

Individuals can report their concerns about charities online at acnc.gov.au/raiseaconcern or by calling 13 ACNC (13 22 62).

Double-defaulter charities lose status

More than 100 charities that failed to report to the ACNC for two years, known as double-defaulters, have lost their charity status. They lose entitlement to claim charity tax concessions.

Charities must submit annual information statements to retain their status. The statements also provide transparency and accountability.

The ACNC was unable to contact the 109 charities despite several attempts.





Financial Reporting

New standards effective at 30 June 2018

While financial reporting changes for 30 June 2018 have been minimal, a storm of changes a next wave of Standards is close.

AASB 9 and AASB 7 are operative for 31 December year-ends, and AASB 15, AASB 1058 and AASB 16 are operative from 1 January 2019 for 31 December 2019 year-ends.

You should be well advanced in understanding the new Standards, having prepared detailed accounting policies, revised systems and internal controls, and involved governance and your auditors.

The list of Accounting Standards effective for the *first time* at 30 June 2018 is short; we do not expect the changes to have an impact for private sector NFPs.

AASB releases materiality guidance

The Australian Accounting Standards Board's Practice Statement 2 *Making Materiality Judgements* aims to help management solve problem disclosures – they arise when an entity provides too much irrelevant information and not enough of the opposite.

The goal for preparers is to exercise judgement by reviewing them through the eyes of their stakeholders. The aim is to give a clear and accurate picture of financial transactions and their associated risks

The steps identified are:

- Identify information that has the potential to be material

- Assess whether the information identified is, in fact, material
- Organise the information within draft financial statements in a way that communicates the information clearly and concisely to primary users, and
- Review 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.

The statement provides non-mandatory guidance and does not change or introduce new requirements in standards.

Standards issued but not yet effective

Several standards soon come into force. The effects of some of them are substantial.

AASB 15 *Revenue from Contracts with Customers* and AASB 1058 *Income of Not-for-Profit Entities*

AASB 9 *Financial Instruments*

AASB 16 *Leases*

AASB 17 *Insurance Contracts* and associated amending standards

AASB 1059 *Service Concession Arrangements: Grantors*

Interpretation 22 *Foreign Currency Transactions and Advance Consideration*

Interpretation 23 *Uncertainty over Income Tax Treatments and associated amending standards*

AASB 2014 – 10 *Sale or Contribution of Assets between an Investor and its Associate or Joint Venture*

AASB 2016-5 *Classification and Measurement of SBP transactions*

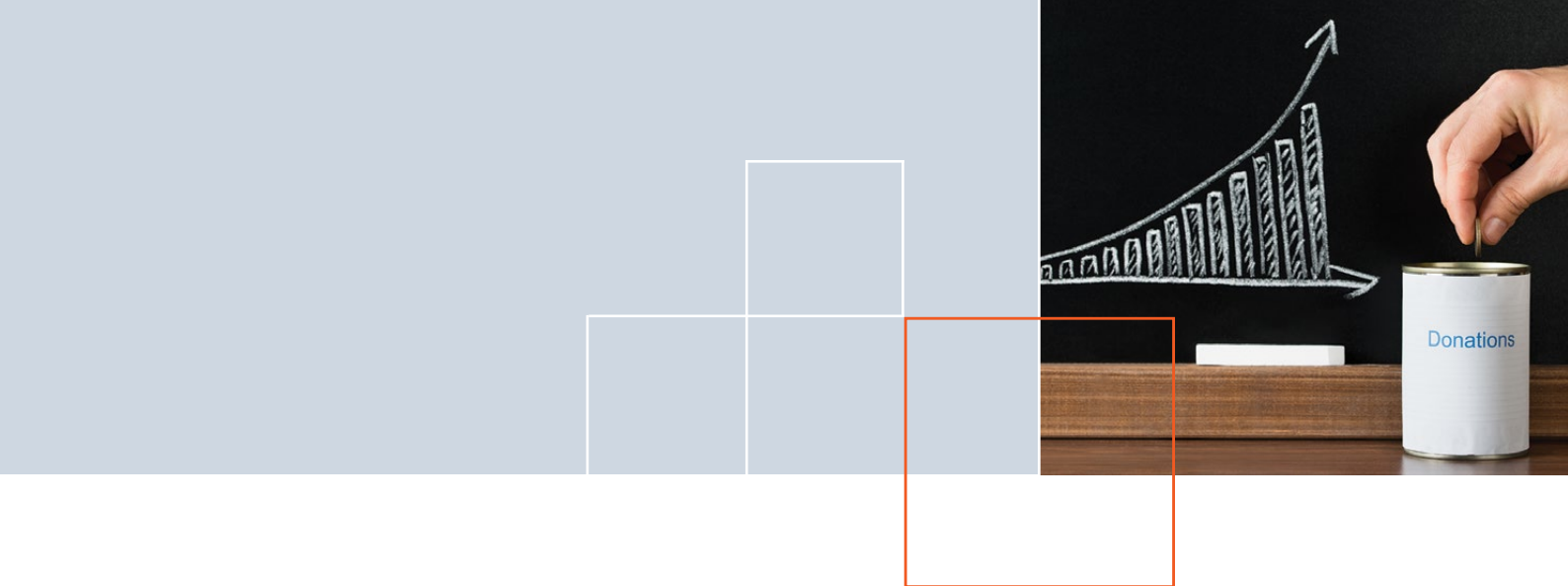
AASB 2017-1 *Amendments to Australian Accounting Standards – Transfers of Investment Property Annual Improvements 2014-2016 and Other Amendments [AASB 1, AASB 128, AASB 140]*

AASB 2017-6 *Amendments to Australian Accounting Standards – Prepayment Features with Negative Compensations*

AASB 2017-7 *Amendments to Australian Accounting Standards – Long-term Interests in Associates and Joint Ventures*

AASB 2018-1 *Amendments to Australian Accounting Standards – Annual Improvements Cycle 2015-2017*

AASB 2018-2 *Amendments to Australian Accounting Standards – Plan Amendments, Curtailment or Settlement*



Let's focus on what will most affect NFPs.

Financial Instruments

AASB 9 Financial Instruments is applicable for annual reporting periods beginning on or after 1 January 2018 (that is, 31 December 2018 and 30 June 2019 year-ends) and contains several significant changes from present financial instrument accounting.

AASB 9 introduces new models for classifying financial assets. An entity's business model for managing financial assets and their contractual cash flow characteristics drive classification and measurement.

The models are 'hold and collect' and 'hold and sell' and include the condition that a financial asset – to qualify for amortised cost or fair value through other comprehensive income ("FVOCI") – needs to give rise to cash flows that are 'solely payments of principal and interest' on the principal amount outstanding (referred to as a *basic lending arrangement*). Financial assets falling outside these parameters default to fair value through profit or loss ("FVTPL").

Equity instruments are measured at fair value, with changes in FVTPL unless a choice is made on an instrument-by-instrument basis on initial recognition, to present fair value changes in Other Comprehensive Income. This option is irrevocable and applies only to equity instruments that are neither held for trading nor are a contingent consideration in a business combination.

Dividends received on these investments are recognised in profit or loss unless the distribution clearly represents a recovery of part of the cost of the investment (for example, a return of capital).

An entity may irrevocably designate a debt instrument as FVTPL on initial recognition if doing so eliminates, or significantly reduces, an accounting mismatch. Only an accounting mismatch permits the fair value option for financial assets. The FVTPL option is generally only relevant to financial assets and financial liabilities that would be otherwise measured at amortised cost.

There is no longer an *available for sale* classification for financial assets. As a result, there is no need for significant or prolonged decline assessment, nor recycling of gains and losses upon derecognition to profit and loss.

AASB 9 requires investments in equity instruments (other than those in subsidiaries, associates and joint ventures) to be measured at fair value in accordance with AASB 13 *Fair Value Measurement*. AASB 139 allowed an entity to measure investments in equity instruments at cost if they failed to have a quoted price in an active market and their fair value could not be reliably measured. Many entities used the latter condition as a reason for not "fair valuing investments" – they remained at cost.

Furthermore, AASB 9 introduces a new impairment model based on expected credit losses. This model makes use of more forward-looking information and

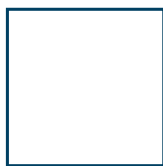
For NFP entities, the impact of AASB 9 should be low to medium. We expect that the biggest change is likely to be the treatment of available-for-sale investments

applies to financial instruments that are subject to impairment accounting.

AASB 9 must be applied retrospectively in accordance with AASB 108 *Accounting Policies, Changes in Accounting Estimates and Errors*.

AASB 7 contains significant and numerous disclosure requirements in the first year of adoption of AASB 9. There are also new disclosures that reflect the Standard's revised requirements.

For NFP entities, the impact of AASB 9 should be low to medium. We expect that the biggest change is likely to be the treatment of available-for-sale investments (that is, shares in listed entities held on a long-term basis as part of an investment strategy). They are no longer required to be tested for impairment and movements in fair value will remain in Other Comprehensive Income as well as any gains or losses on sale.



Financial Reporting (cont)

The change should reduce the time and effort spent on analysing whether an instrument has been subject to a significant or prolonged decline in value.

NFPs will need to decide whether to designate instruments as Other Comprehensive Income. If the designation is declined, then instruments will be measured through at FVTPL which will result in all unrealised gains and losses being taken to the result for the year.

NFPs that have more complex financial instruments should review AASB 9 to assess its impact.

Don't forget that revised disclosures in AASB 7 *Financial Instruments*: *Disclosures* affect new classification and measurement rules in AASB 9.

Revenue for NFP entities

Two new revenue standards for NFP entities become effective for annual reporting periods beginning on or after 1 January 2019 (that is, 31 December 2019 or 30 June 2020 year ends).

They are AASB 15 *Revenue from Customer Contracts* and AASB 1058 *Income of Not-For-Profit Entities*.

A lot of work needs doing to satisfy them, including the possibility of amendments to grant agreements.

NFP entities should not delay in looking at their impact.

AASB 15 *Revenue from Customer Contracts* applies to goods and services under a contract with a customer where

there are sufficiently specific performance obligations and enforceable rights. The board has issued Appendix C to AASB 15 (currently included in AASB 2016 – 8) that will assist NFPs to interpret the standard.

AASB 15 requires deferral of revenue related to the transfer of control of promises to customers, but grant agreements and other contracts will need to be reviewed to ensure that they meet the “sufficiently specific” and “enforceable” criteria – the deferral of grant income is not automatic.

Any peppercorn leases will need to be reviewed as we expect the fair value of the right to use assets granted under lease agreements will from now on be recorded on the Statement of Financial Position with a corresponding entry to revenue/retained earnings (on transition only). As the lease term progresses, this right to use an asset will be depreciated, which may result in some NFPs making a loss due to the ongoing depreciation charge.

We encourage NFPs to review AASB 15 and to begin the process of determining its impact on relevant revenue streams.

AASB 1058 *Income of Not-For-Profit Entities* will require revenue that falls outside the scope of AASB 15 to be recognised when control is received. This is most likely to be on receipt of funds as well as in dealing with areas such as peppercorn leases and volunteer services.

Leases

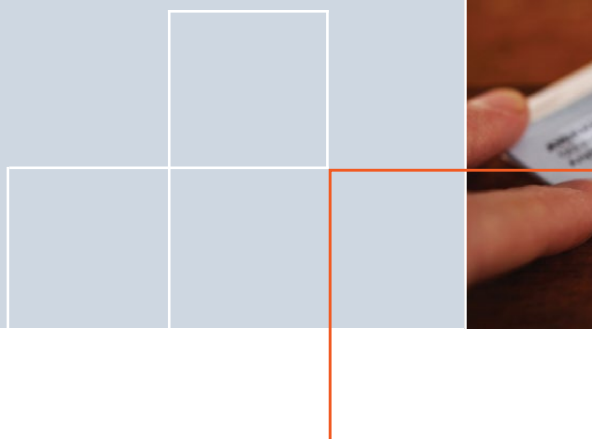
AASB 16 *Leases* is effective at the same time as the revenue standards – annual reporting periods beginning on or after 1 January 2019 (31 December 2019 or 30 June 2020).

The Standard requires the majority of leases held by an NFP to be brought onto the balance sheet (statement of financial position). The distinction between operating and finance leases will be removed if the agreement meets the definition of a lease and is within the scope of the standard.

There are limited exceptions for short-term leases and low-value assets; however these will not apply to the leases of premises – probably most NFP leases.

Income statements will no longer show rental income. Instead we will see

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depreciation expense (relating to the right-of-use asset) and interest expense (relating to the lease liability).

The recording of a right-of-use asset (non-current) and lease liability (apportioned between current and non-current) may cause issues for bank covenants and other balance sheet ratios. NFPs need to ensure as soon as possible that they have considered these business impacts.

It is likely that this lease liability might be the largest liability on your balance sheet!

Can you implement the new standards?

How are your implementation plans for the new Standards going? We suggest the following:

- Governance and management should ensure that progress is monitored against plans, and action taken where milestones are not met
- Identify systems, processes, and any associated internal control changes needed to produce information required under the new Standards, including related disclosures, and
- Determine the impact of financial condition requirements on compliance, including thresholds for regulatory reporting.

NFPs by their nature have small financial teams. They need to consider transitional arrangements for these Standards to obtain the most favourable outcomes –



the assessment needs to be undertaken now. The standards are complex. NFPs will need to consider whether they have the resources to implement them.

If you're an NFP without adequate resources how will you manage? You can talk about it with your HLB contact.

Remember that each of these Standards requires comparatives (and transitional provisions apply) and that a third statement of financial position is required for the start of comparative periods.

ACNC extends transitional-reporting arrangements

The ACNC has extended transitional reporting arrangements to cover the 2018 and 2019 reporting periods.

Transitional reporting allows the ACNC to accept reporting originally prepared for other government agencies. These include:

- Financial reports lodged by some incorporated associations, co-operatives and fundraisers with State and Territory regulators where streamlined reporting arrangements are not yet in place
- Financial questionnaires and statements lodged by non-government schools with the Federal Department of Education and Training, and
- Annual returns and financial reports lodged by indigenous corporations with the Office of the Registrar of Indigenous Corporations.



Fraud and NOCLAR

Former CEO of Aboriginal housing corporation disqualified and fined

The Federal Court in Perth has banned and fined Ashley Taylor, former CEO of Murchison Regional Aboriginal Corporation ("MRAC").

Mr Taylor has been disqualified from managing Aboriginal and Torres Strait Islander corporations for seven years. He was also ordered to pay compensation of \$182,527.41 to MRAC, a pecuniary penalty of \$250,000 to the Commonwealth and the registrar's costs of the proceedings.

MRAC is a charitable corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*. The corporation provides affordable housing to Aboriginal people in the Murchison and Gascoyne regions of Western Australia.

The Federal Court in Perth has banned and fined Ashley Taylor, former CEO of Murchison Regional Aboriginal Corporation ("MRAC").

The registrar's evidence showed that despite knowing that funding to the corporation from the WA Department of Housing was about to cease, Mr Taylor arranged unsecured and interest free 'staff loans' for himself and another officer that resulted in serious cash flow issues for MRAC.

During the time he was CEO, Mr Taylor received 107 separate payments totalling \$211,612.41. The payments were not approved by directors or members.

The court found that Mr Taylor failed in his duties as an officer of the corporation, failed to act with care and diligence, in good faith, in the best interests of the corporation and for a proper purpose. Mr Taylor was also found to have improperly used his position to gain an advantage for himself and someone else and caused detriment to the corporation.

Justice Barker said: '...[the] court will make it quite blunt, not only to Mr Taylor but also to others who might perform similar roles in other corporations [...] as to the nature, extent and seriousness of their responsibilities under the CATSI Act.'

Acting registrar Mike Fordham said: 'Providing housing to disadvantaged Aboriginal and Torres Strait Islander people in the Gascoyne region should have been at the forefront of Mr Taylor's mind. Instead, he was selfish and placed the corporation at serious financial risk.'

'My office will continue to pursue individuals that misuse their positions to line their own pockets.'

Association president fined for misusing donated money

A Darra woman has been fined \$7,000 in Beenleigh magistrates' court following an investigation by the Queensland Office of Fair Trading.

Kylie Nicholls, acting President of the incorporated association Furkids Animal Rescue Inc was found guilty of two counts of breaching the *Collections Act 1966* by converting money from the Furkids bank account for her own use.

In sentencing, the court considered that Ms Nicholls's dishonest conduct was a serious breach and said a substantial penalty was required to send a strong message to the community.

Lifesavers defrauded

Sharryn Maree Fahy has been jailed for six years after she was convicted of defrauding the Picnic Bay Surf Life Saving Club of more than \$270,000 between 2011 and 2015.

She had been the club's full-time administrator.

She made 379 fraudulent transactions, the first just four days after starting the job. The frauds varied from \$35.70 to \$3,800 and she often made several transactions a week, sometimes on consecutive days or many times a day.

The court heard that an audit of the club's accounts in the 2014-2015 financial year revealed that money was being transferred into Ms Fahy's personal



account. The club reported the matter to police and hired a forensic accountant.

Judge William Everson described the offences as 'absolutely despicable' and noted that she had 'offended right up until she was sacked'.

'Stealing this amount of money from a position of trust is bad enough, but when you do it from a community organisation it's particularly heinous,' he said.

Sharryn Maree Fahy has been jailed for six years after she was convicted of defrauding the Picnic Bay Surf Life Saving Club of more than \$270,000 between 2011 and 2015.



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