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WHAT NFP DIRECTORS SHOULD HAVE ALREADY DONE AND WHAT THEY NEED TO DO NEXT



The framework for the JobKeeper legislation came out on 8 April and the "Rules and Explanatory Statement" came out after the Easter break. The devil is in the detail, we now have the definition of 'turnover', which will refer to the GST turnover definition, with a slight modification being **donations will be included** in the turnover test. Therefore, organisations can start robust forecast models to plot their future.

The amount of information that has been produced by the sector, accountants, lawyers and other commentators is extensive and can be quickly out of date. What we have pulled together is **a checklist for NFP's** to use to ensure they are up to date.

Step 1: Understand your current financial position

If you are behind in your management reporting, it needs to be brought up to date with a matter of urgency. Working remotely makes it difficult for finance teams to process data, and some non-cloud-based accounting and management reporting systems further hinder reporting. Stakeholders need to be engaged, particularly with regards to grant or restricted funding and how any business interruptions impact any funds previously received. If management / board receive P&L reports and not cashflow, the reporting needs to be changed immediately.

We have spent the last 6 months advising clients about the impact of reporting revenue under Accounting Standards. The time now is to set aside these standards (for management reporting only) and look at analysing revenue on a cash receipts basis.

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Stabilise the business and implement immediate cost reduction measures

You must make a conscious decision to reduce the cost base of the business if revenue has been depleted. Whilst this is never a nice thing to do, inaction can place the whole organisation at risk. Many organisations have stood down employees, reduced working hours or enforced leave. To fully ensure you have stabilised the business you need a robust forecast model.

Stabilisation of the business involves ensuring staff and clients are safe and which new protocols are non-negotiable.

The concept of fixed and variable costs has now gone. All costs are variable. Open and honest conversations with landlords, IT providers, utilities through to cleaners are seeing the financial pain being spread amongst organisations.

The Geordie phrase “shy bairns get ney sweets” translates to quiet children don’t get any sweets, which effectively means if you don’t ask you won’t get. Run through your list of expenses and establish what conversations can be had and who is going to have them. Obviously look for the waiver of costs in the first instance, but a timing deferral can also be beneficial. Please ensure any cost savings or deferrals are properly reflected in the robust forecast model.

Step 2: Build a robust forecast

Having a flexible cashflow forecast, built from the organisation’s operational drivers and lead revenue indicators, is more critical now than ever. If you have ever doubted the organisation’s ability to properly prepare forecast models, now is the time to invest some money on getting it right.

Forecasts will need to consider the following factors to accurately understand the position over the next 6 to 12 months

1. Government subsidies (www.hlb.com.au/covid-19-advisory)
2. Employee stand down arrangements and Job Keeper payment access
3. Bank and ATO forbearance arrangements
4. Commercial arrangements with landlords and other suppliers/stakeholders.

Step 3: Maximising the government incentives

The JobKeeper Payment of \$1,500 per fortnight provides the largest incentive for NFP businesses that see a 15% decline in turnover. Specific charities that are public or private Universities (Table A or Table B providers of the ITAA) or a schools within the meaning of the GST ACT (that is pre-schools, primary schools, secondary schools and education for children

with disabilities) will not qualify for the 15% revenue decline but could qualify for the 30% or 50% revenue decline.

Turnover is defined as per the definition under the GST Act. You need to consider the projected GST turnover either in a month (starting from March 2020) or a quarter (starting from 1 April) compared to the actual comparative in the prior year’s month or quarter, if there is a 15% reduction then you are an eligible employer and you do not need to re-test.

Projected GST Turnover for NFPs is defined as follows:

Projected GST turnover threshold is \$150,000

Projected GST turnover is based on gross income excluding:

- Sales that are input taxed
- Sales not connected with an enterprise carried on by the NFP
- Sales not made for consideration (unless the sales are made to associates)

Examples of input-taxed supplies excluded from projected GST turnover are:

- Dividends
- Unit trust distributions
- Interest
- Residential rent

Gifts or donations

Projected GST turnover has been modified to include donation and gifts. *Normally a gift, or donation, is not considered payment for a sale and is not subject to GST. Also the value of a gift is also excluded when calculating GST turnover.*

Grants and sponsorship

- Grants and sponsorship income may constitute taxable supplies (and will therefore need to be included in GST turnover), depending on the terms of the funding arrangement.
- An organisation does not have to pay GST on a grant funding payment, unless it is required to make a ‘supply’ in return for the payment.
- This ‘supply’ may be the supply of an obligation to provide specified services, in return for the funding. In this situation, GST would be payable and the amount would be required to be included in GST turnover.
- If the grant funding does not specify any supply obligation on the recipient organisation, no GST is payable on the amount. It would not be included in GST turnover.

- Under a sponsorship arrangement, a NFP may receive financial support, in return for advertising, signage or some other benefit of value. In these types of circumstances, where the sponsor receives something of value in return for the sponsorship, the payment is not a gift and is subject to GST. As a taxable supply it would be included in GST turnover.

When do you need to Test – you can test on a monthly basis starting from March 2020 or on a quarterly basis starting from 1 April 2020 to 30 June 2020. The projected income is compared to the prior year's actual income for the corresponding month or quarter. If there has been a 15% decline in either case, then you are entitled to JobKeeper so long as other criteria are met.

If your organisation is eligible, the first payment will be paid by the ATO in the first week in May and every month after that.

We would recommend all NFP's register their interest for the JobKeeper, whether they get it or not will depend on the detail. Also the ATO has published on their website more information about applying for JobKeeper and what you need to do as an employer to get it. <https://www.ato.gov.au/general/JobKeeper-Payment/>

NFPs are also eligible for the “Boosting cashflow for employers” incentive. Legislation has been enacted to provide support for organisations who continue to employ staff in the form of two cash flow boosts beginning 28 April. The total amount available is in the range of \$20,000 to \$100,000 and is calculated based on the PAYG withholding as recorded in your activity statement. To be eligible, NFPs must have an annual turnover of less than \$50 million, must have held an ABN on 12 March 2020 and continue to be active, and paid wages where amounts are required to be withheld.

The incentive packages across state and federal boundaries are changing almost daily. Please speak to HLB Mann Judd about which ones are applicable to your organisation. A comprehensive list of the current packages can be found [here](#)

Step 4: Assess any Funding Requirement

Assess the outcome of the Forecast and if funding is required determine whether:

1. Directors/Stakeholders can provide that funding (and whether that should be secured); or
2. Are other options potentially available (increased bank facility, new equity or new finance facilities).

Step 5: Consider an external business review to test the approach taken and options available

There is a moratorium on Insolvent trading liability for 6 months so Directors will not need that protection at present; however, should the business survive through this period, consideration of how the business will be able to survive with significant accrued debts should be planned for now.

Please do not lose sight of the **personal liabilities for the Directors**. The Government has stated that directors cannot be held responsible for insolvent trading for a period of 6 months; however, Directors duties are unaffected and personal liability still exists for SCG obligations unpaid by the due date, PAYG withholding unpaid and unreported within 3 months of the due date and now also GST liability in some cases.

Step 6: Develop a flexible business plan based of forecast to manage key drivers/issues

Depending on the seasonality of your business operations or cashflow, or the level of reserves you may have, a staged approach to your short-term strategic plan may be appropriate. Put some boundaries in place – if we get to X then we do Y. Having a defined plan and effective and appropriate communication of the plan is important for stakeholder and employee engagement.

It might seem strange to be talking about long-term planning at this stage, but many of our clients are looking at this disruption as a once in a lifetime event that changes the landscape. A well-positioned organisation can look to expand or merge with other providers to emerge as a stronger force with increased market-share on the other side.

Step 7: Consider all informal and formal restructuring options (if applicable) depending on the forecast and any changes to that position.

Step 8: Check if your statutory deadlines have been amended

Government bodies have been amending statutory deadlines (including those relating to lodging of financial reports, AIS, holding of AGMS etc).

Announcements are being regularly so remember to check the respective government website, or reach out to your HLB Mann Judd contact to ensure that you don't miss any deadlines, or can delay some work to assign time and effort to higher cashflow priorities that have arisen as a result of COVID-19.

ASIC GUIDANCE ON WHISTLEBLOWER POLICIES

The Australian Securities & Investments Commission has released guidance on writing a whistleblower policy for employees.

Public companies, large proprietary companies and proprietary companies that are trustees of registrable superannuation entities were to have a policy available for officers and employees by 1 January.

Regulatory guide 270 *Whistleblower policies* helps these companies establish policies that support and protect whistleblowers. The guide sets out *legally binding* components of a policy.

They include:

- Types of matters covered by a policy
- Who can make and receive a disclosure
- How to make a disclosure
- Legal and practical protections for disclosers
- Investigating a disclosure, and
- Ensuring fair treatment of individuals mentioned in a disclosure.

The guide also helps companies develop and implement policies that are tailored to their operations.

‘Robust and transparent whistleblower policies are essential to achieving sound risk management and corporate governance,’ said Commissioner John Price.

‘Whistleblower policies will influence behaviour and corporate culture in positive ways – for example, by encouraging greater disclosures of wrongdoing and by deterring people from doing the wrong thing. They play a crucial role in achieving a more fair and accountable corporate environment.’

ASIC *does* not require public companies that are not-for-profits or charities with annual revenue of less than \$1 million to have a whistleblower policy.

‘We [...] understand that these entities may face a compliance burden that outweighs the benefits a policy might otherwise offer,’ said Commissioner Price.

All companies are bound by whistleblower protections in the Corporations Act from 1 July 2019, regardless of whether they are required to have a whistleblower policy.

ASIC plans to survey the policies of a sample of companies next year to review compliance.

INTERNAL AUDITORS POSE NFP GOVERNANCE QUESTIONS

The Institute of Internal Auditors – Australia has released a new guide for directors of NFPs, drafting 20 critical questions they should be asking.

IIA-Australia CEO Peter Jones said the questions were a quick and easy reference for an estimated 257,000 Australian NFPs.

The Australian Charities and Not-for-profits Commission reported that charities’ annual revenue in the 2016 financial year was more than \$142 billion, said Mr Jones.

They remained among Australia’s most significant employers.

‘Good governance structures are [as] important in the charity and NFP sectors as it is in the financial-services sector,’ he added.

Mr Jones said that following investigations in 2017–18, the ACNC revoked the charity registrations of 22 organisations, the highest ever.

The 20 critical questions include:

- Is the NFP organisation’s governance framework contained in a formal document that adopts a holistic multidimensional approach to capture all structures and processes across the organisation: code of conduct and conflict-of-interest policy covering members, paid employees, non-paid volunteers and suppliers; strategic management, based upon risk and with strategically-based budget-setting; cash-reserves policy; risk management, insurance, fraud risks; resource management; information management; compliance and reporting; and audit and review?
- Have NFP organisational and fraud risks been identified? Are there appropriate risk-management actions in place, monitored and regularly reported to the board?
- Have governance activities, responsibilities and delegations been clearly defined, specifically for NFPs, and detailed in a fit-for-purpose governance document that is regularly reviewed and updated?
- How does the board gain assurance that all government and regulatory requirements have been identified and assigned, and that the NFP conforms with these requirements?

And a killer question: How does the NFP board know that its governance and assurance is operating effectively to ensure the organisation’s long-term sustainability?

They’re available at <https://www.iaa.org.au/technical-resources/20-critical-questions-series>.

WHAT GOOD LOCAL GOVERNMENT INTEGRITY FRAMEWORKS LOOK LIKE

A new 88-page research report shows how several local governments protect themselves against corruption.

Released by the Independent Broad-based Anti-Corruption Commission, *Local government integrity frameworks review* identifies a sample of councils that have built solid anti-corruption frameworks, providing models for other councils.

A key objective of IBAC's review is to help councils strengthen their own measures against corruption.

IBAC found that six councils had sound frameworks and good practice in several areas. The commission reported that improvements could be made in others.

Corruption risks were identified in procurement, cash-handling, conflicts of interest, gifts, benefits and hospitality, employment practices, and misuse of assets and resources.

IBAC CEO Alistair Maclean said that the review was undertaken to show councils what a good integrity framework might look like. IBAC would support councils in examining their approaches and identify opportunities to improve their systems and controls to identify and manage corruption risks.

'We recommend [that] all Victorian councils use the findings from this important review to assess their own integrity frameworks and identify where they can improve,' Mr Maclean said.

'Corrupt conduct by public-sector employees, including council employees, adversely [affects] delivery of vital services and facilities. It wastes significant time and public money, means there is unfairness in the opportunity to provide services to councils, and damages reputations and community trust.'

The review showed that councils could improve on the development and communication of a clear policy on conflicts of interest, a broader consideration of corruption risks associated with employment practices, and ensuring that suppliers understood the probity standards expected of them.

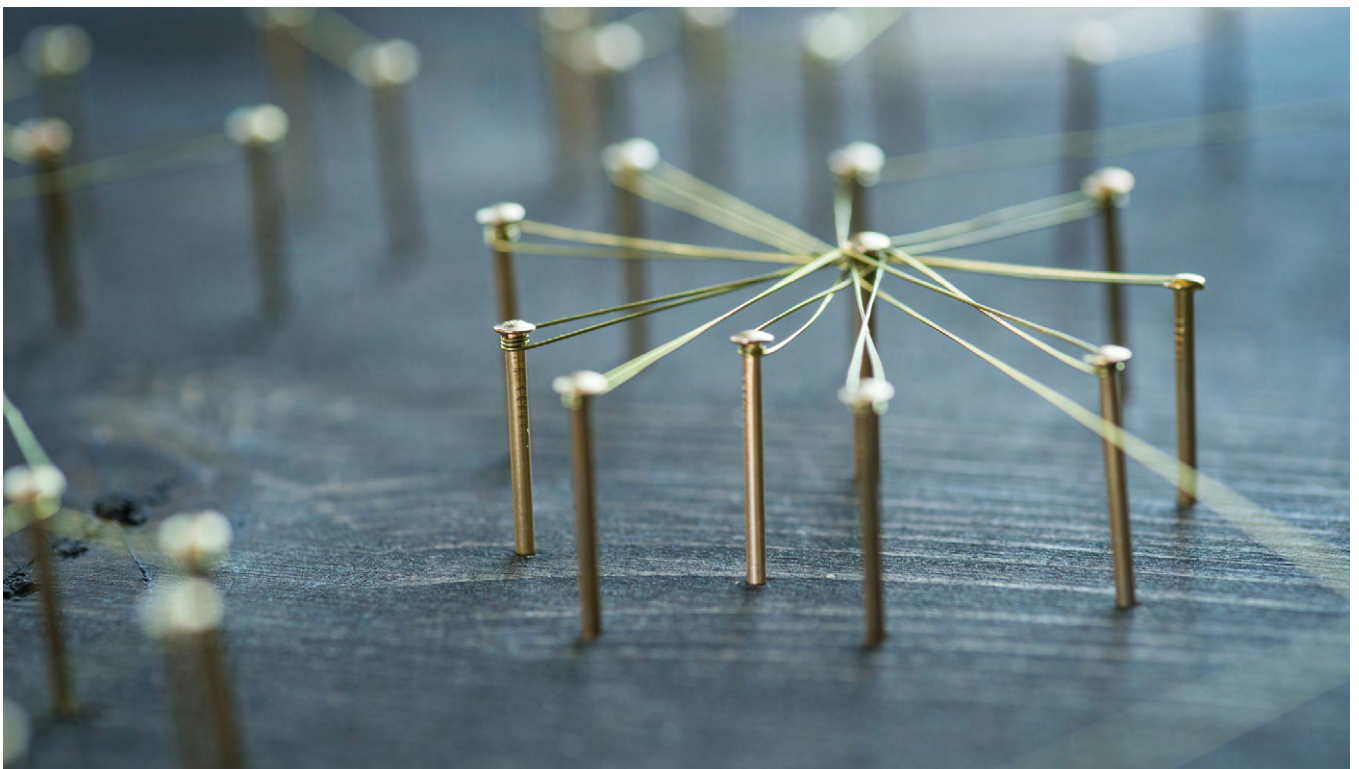
The IBAC review also found that councils could do more to encourage reporting of suspected corrupt conduct.

'It is critical that councils increase efforts to reassure employees they can be protected and that their report will be taken seriously,' Mr Maclean said.

IBAC's review sample included metropolitan, outer-metropolitan and regional councils. They were not identified.

The review was not an audit, the focus being on good practice and potential opportunities for improvement.

The full report and summary are available at www.ibac.gov.au



REMINDER FOUR EXTERNAL-CONDUCT STANDARDS TO COMPLY WITH

Registered charities that operate overseas, including those classified as 'basic religious' charities, must comply with four new external-conduct standards to maintain their ACNC registration. Charities with activities outside Australia, however minor, must comply with them.

They operate in addition to existing governance standards.

The standards cover:

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

See the appendix External conduct standards for charities registered with the ACNC.

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

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

AVOIDING COMMON AIS MISTAKES

The ACNC has provided eight ways in which you can avoid errors in completing the 2019 AIS.

- Make sure your charity has completed last year's statement before starting work on the next
- Check your charity's financial year-end date to ensure that the correct reporting period is used
- Check your charity's 'address for service' email – use a generic email address rather than a personal one
- Know what's needed if you're a basic religious charity. The AIS contains several questions to help you determine if yours is a basic religious charity. Religious charities must advance religion and comply with five other requirements. Only a small number of charities that advance religion meet all five requirements. Read more at [acnc.gov.au/BasicReligiousCharity](https://www.acnc.gov.au/BasicReligiousCharity)
- Ensure you select the right activities for your charity. A question allows charities to select 'other categories'. Make this selection only in exceptional circumstances
- Remember to provide financial information
- Take up streamlined reporting opportunities. By answering questions about fundraising and incorporated-association details, many charities will no longer have to double-up and provide the same information to state and territory-based regulators. Have your charity's incorporated association number as well as information about your organisation's AGM, membership and fundraising handy so that you can answer these questions, and
- Look over your responses to AIS questions at the end of the form, and you may print out and review your AIS before submission to ensure you have completed it correctly. Remember to press the submit button. If you do not press submit, the commission will not receive the AIS. After you submit, you can save or print a PDF of your responses. The ACNC will also send you by email your responses.

Further tips follow for medium-sized charities that must submit a financial report that is either reviewed or audited. Large charities must submit a financial report that is audited.

- Know your financial-report type – general-purpose or special-purpose. Notes to financial statements must clearly state the type of financial report a charity has prepared. Ensure that accounting-policy disclosures highlight the type of financial report prepared
- Will you provide a consolidated financial statement? Although the ACNC accepts consolidated reports, don't forget that the AIS's financial information questions are only for the registered charities and not the entire group
- Attach all required documents
- If you prepare special-purpose financial statements, you must comply with the four mandatory accounting standards, and
- General-purpose financial statements must have complete and high-quality related-party disclosures. Ensure that all relevant accounting standards are complied with, and provide sufficient detail of transactions among related parties and key management personnel.

 “Registered charities that operate overseas, including those classified as 'basic religious', must comply with four new external-conduct standards to maintain their ACNC registration.”

COMPLIANCE ORDER LIFTED AGAINST RMLA

The ACNC has revoked a compliance direction against Role Models and Leaders Australia Ltd. The charity runs school-based engagement programs for Aboriginal and Torres Strait Islander girls that increase skills, employability, mental health and well-being, and empower girls to achieve educational success.

After an investigation into a range of concerns about the charity's governance, the ACNC issued the direction in December 2018. RMLA has worked closely with the ACNC to address a range of issues identified by a forensic audit.

ACNC Commissioner Gary Johns said: 'The agreement outlined in the joint statement represents a compliance success story. RMLA has taken substantial steps to strengthen its governance.

'By working closely with us, RMLA leaders have been able to set the charity back on the right path. Our aim is always, if we can, to help charities achieve compliance with their [...] obligations.'

RMLA acknowledged a range of governance deficiencies spanning record-keeping, policies and procedures, financial and risk management and board oversight, which led to financial-control weaknesses and external fraud.

In the joint statement, it was also noted that RMLA failed to focus on maintaining and strengthening its governance during a period of rapid expansion.

The leadership of the organisation has been renewed, new board directors having relevant skills and compliance experience.

'With the right structures and processes in place, we believe RMLA can continue to deliver its important Girls Academies programs,' said Dr Johns. '[The] ACNC is here to support RMLA to achieve its charitable purposes and provide governance advice should it be required.'

FINANCIAL REPORTING INSIGHTS

YEAR-ENDERS MUST APPLY NEW STANDARDS

This year is big for NFPs that report in compliance with accounting standards.

The following complex accounting standards apply for annual reporting commencing on or after 1 January 2019. Year-enders on 31 December are first cabs off the rank. The standards to watch out for are:

- AASB 1058 *Income of Not-for-profit Entities*
- AASB 16 *Leases*, and
- AASB 2018-8 *Amendments to Australian Accounting Standards – Right-of-Use Assets of Not-for-Profit Entities*.

AASB 15 *Revenue from Contracts with Customer* is operative for NFPs for financial years that began on 1 January 2019. The AASB has also issued implementation guidance and illustrative examples which should be consulted.

The Australian Accounting Standards Board late last year issued amending standard AASB 2018-8 *Amendments to Australian Accounting Standards – Right-of-Use Assets of Not-for-profit Entities*, which affects leases.

AASB 2018-8 provides a *temporary* option for NFP lessees to elect to measure a class (or classes) of right-of-use assets arising under 'concessionary leases' at initial recognition, either:

- At cost, in accordance with AASB 16 *Leases* paragraphs 23–25, which incorporates the amount of the initial measurement of the lease liability, or
- At fair value (under AASB 13 *Fair Value Measurement*) in accordance with AASB 16 paragraph Aus25.1 (as amended).

There are important disclosure requirements where the 'cost' option is chosen.

This extra information helps financial-statements users to assess:

- An entity's dependence on leases that have significantly below-market terms and conditions principally to enable the entity to further its objectives, and
- The nature and terms of the leases, including lease payments, a description of underlying assets and restrictions on the use of underlying assets specific to the entity.

Information must be provided separately for each material lease that has significantly below-market terms and conditions principally to enable the entity to further its objectives or in aggregate for leases involving right-of-use assets of a similar nature.

You will need to consider the level of detail necessary to satisfy the disclosure objective and how much emphasis to place on each of the various requirements.

Remember to aggregate or disaggregate disclosures so that useful information is not obscured by either the inclusion of a large amount of insignificant detail or the aggregation of items that have substantially different characteristics.

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

AMENDMENTS AFFECT RESEARCH GRANTS

Are you a not-for-profit entity with December year-end that receives research grants? If so, you will now have an option to apply the AASB 15 *Revenue from Contracts with Customers* and AASB 1058 *Income of Not-for-Profit Entities* to research grants for annual reporting periods beginning on or after 1 July (instead of 1 January) last year.

AASB 2019-6 *Amendments to Australian Accounting Standards – Research Grants and Not-for-Profit Entities* provides you with an extended implementation period for research grants only.

It also amends illustrative examples accompanying AASB 15.

RIGHT-OF-USE ASSETS AMENDMENTS

AASB 2019-8 *Amendments to Australian Accounting Standards – Class of Right-of-Use Assets arising under Concessionary Leases* amends AASB 16 *Leases* and AASB 1049 *Whole of Government and General Government Sector Financial Reporting* and applies to annual periods beginning on or after 1 January last year.

The amendments:

- Specify for NFPs that right-of-use assets arising under concessionary leases can be treated separately from right-of-use assets arising under other leases for the purposes of AASB 16, and
- Provide an option for a whole-of-government and general-government sector to measure right-of-use assets arising under concessionary leases at cost or at fair value.

NEW DISCLOSURE REQUIREMENTS FOR SOME NFP PREPARING SPFS

Under AASB 2019-4 *Amendments to Australian*

Accounting Standards – Disclosure in Special Purpose Financial Statements of Not-for-Profit Private Sector Entities on Compliance with Recognition and Measurement Requirements new disclosures are required – effective for annual reporting periods ending on or after 30 June 2020.

The extra disclosures will provide clarity on compliance with the recognition and measurement requirements in Australian Accounting Standards.

Research has shown that the quality of disclosures in a significant number of special-purpose statements has not been sufficient to enable a user to determine what additional information they might need. For example, 44 percent of medium and large charities lodging special purpose financial statements (SPFS) with the ACNC failed to clarify whether or not they complied with recognition and measurement demands of accounting standards.

NFPs are not required to change existing accounting policies.

WHO IS AFFECTED?
Medium and large charities registered with the ACNC preparing SPFSs
NFP entities that are lodging SPFSs with ASIC under the Corporations Act 2001 (for example, companies limited by guarantee)
WHO IS NOT AFFECTED?
Small charities registered with the ACNC
Medium and large charities registered with the ACNC that are not required to comply with ACNC reporting requirements due to ACNC transitional-reporting arrangements
NFP entities required by federal, state and territory legislations to prepare financial statements in accordance with accounting standards (for example, incorporated associations, co-operatives and charitable fundraising organisations that are preparing SPFS and not specifically required to comply with AASB 1054)
NFP public-sector entities
For-profit private and for-profit public sector entities

You must disclose why you chose to prepare an SPFS.

Except for consolidation and equity accounting, for each material accounting policy applied and disclosed that does not comply with recognition and measurement requirements in Australian accounting standards, you must indicate where it does not comply, or disclose that an assessment of compliance has not been made, and whether or not the SPFS complies overall with the recognition and

measurement requirements or state that such an assessment has not been made.

If the NFP entity has determined that its interests in other entities give rise to interests in subsidiaries, associates or joint ventures it must disclose whether or not it has consolidated or equity-accounted for those interests in accordance with the requirements in AASB 10 *Consolidated Financial statements* and AASB 128 *Investments in Associates and Joint Ventures*. If it has not, it must say so and say why.

If the NFP entity has not made this assessment and was not required by legislation to do so, it must instead disclose that no assessment has been made.

Implementation guidance and illustrative examples to help preparers understand the new disclosures is available.

AASB STAFF POST FAQs FOR NFPs

Australian Accounting Standards Board staff have posted eight new frequently-asked questions that will help NFPs.

They concern AASB 15 *Revenue from Contracts with Customers*, AASB 1058 *Income of Not-for-Profit Entities* and AASB 16 *Leases*.

They cover the standards' scopes and effective dates, performance obligations under research grants, and identifying and recognising performance obligations in NFP schools.

FRAUD & NOCLAR

STUDY SPOTLIGHTS NFP CRIME THREAT

Thousands of crimes targeting Australia's NFPs are going unreported, a detailed study into not-for-profit governance has revealed.

The Institute of Community Directors Australia's latest *Spotlight Report* examines the impact of fraud and cybercrime on NFPs.

Informed by a nationwide survey of nearly 1900 community leaders, *ICDA Spotlight Report: Fraud & Cybercrime* shows that one in five organisations suffered a crime of some sort in the year leading up to the survey.

Applying those figures to an estimated 600,000 Australian NFPs – many of them small organisations with limited resources – would suggest that as many as 114,000 organisations have been affected by fraud or cybercrime.

Yet nearly two-thirds of those crimes are not reported to police, according to survey results, and just one in five is reported to an insurance company.

According to the study, asset theft and cyber-hacking are the most common crimes, followed by credit-card fraud and cash thefts.

In about a quarter of asset theft cases, the perpetrator was either a staffer or a volunteer.

Cash thefts were the most likely to be reported to police.

Other serious crimes, such as payroll fraud, bribes, data theft or ransom, or expenses fraud were

reported by less than 3 per cent of organisations.

Most credit-card fraud (59 per cent) and cyber attacks (53 per cent) were perpetrated by online criminals.

In a concerning result, the study found that up to 20 percent of crime-affected organisations reported suffering several criminal incidents in a year.

The largest proportion of uncovered fraud comes from staff whistleblowers.

BIG INCREASE IN CHARITY 'CONCERNS'

The ACNC received 2323 'concerns' about charities in 2018-19, an increase of 24 per cent on the previous year.

In total, 1544 of the concerns were within its jurisdiction, an increase of 16 per cent on the 716 in 2017-18.

A third of the concerns were outside the ACNC's jurisdiction and the rest progressed to an assessment.

Before investigating, the ACNC conducts risk assessments and information reviews. Assessments help the commission to understand the significance, likelihood and consequence of issues raised and an appropriate response.

A third of 107 risk assessments proceeded to an investigation, and the remainder resulted in providing regulatory guidance or no further action.

TOP FIVE SOURCES OF CHARITY CONCERNS	2017-18 TOTAL	2018-19 TOTAL
Other government agency referral	167	64
Members of the public	133	667
Responsible persons (current and prior)	78	116
Charity employees (current and prior)	61	137
Funding providers/ donors/volunteers	60	89

TOP FIVE TYPES OF CONCERNS - RISK CATEGORY	2017-18 TOTAL	2018-19 TOTAL
Private benefit	183	574
Poor governance	132	148
Criminal or improper purposes	116	387
Other	64	94
Harm to beneficiaries	44	52

The ACNC assessed 325 concerns of non-compliance associated with 277 charities that controlled \$5.3 billion of charitable assets.

If a charity's non-compliance is significant and its responsible persons are willing and able to correct matters, the ACNC response might involve only a compliance agreement or enforceable undertaking.

These are effectively action plans, and the ACNC monitors them. The commission issued 28 compliance agreements, enforceable undertakings and directions.

When the commission identifies that a charity is unwilling or unable to address serious wrongdoing, it uses regulatory powers. It revoked the registration of 12 charities.

FORMER FRANKSTON COUNCIL MANAGER CHARGED

[Victoria's independent broad-based anti-corruption commission has charged a former Frankston City Council manager with 79 offences, including obtaining property by deception, making false documents, using false documents, and misconduct in public office.](#)

The commission has also charged an electrical supplier to the council with 78 similar offences.

The charges follow Operation Topi, an IBAC investigation into allegations of improper procurement to obtain Frankston City Council funds.

The investigation began after a council tip-off.

Under mandatory notification requirements that came into effect in 2016, all heads of Victorian public-sector departments and agencies, including council CEOs, must by law notify IBAC of any matter that they suspect, on reasonable grounds, involves corrupt conduct.

CHARITIES RECEIVE BOGUS ACNC EMAILS

Phishing emails that purport to be from the ACNC are being sent to some charities. They ask the charity to provide personal information.

While the ACNC may request personal information from a charity, for example, in a registration application, charities should be wary about to whom they provide personal information.

If you receive an email purporting to be from the ACNC and are unsure of its legitimacy, call your registration analyst or the advice team on 13 22 62.

Any request for information from the ACNC will include a signature block containing telephone and email contact details of the person sending the request.

INQUIRY INTO 'WAGES THEFT'

[The senate has referred terms of reference to its economics-references committee into the causes, extent and effects of unlawful non-payment or underpayment of employees' remuneration.](#)

The terms include:

- The forms of and reasons for wage theft and whether it is regarded by some businesses as 'a cost of doing business'
- The cost of wage and superannuation theft to the national economy
- The best means of identifying and uncovering wage and superannuation theft, including ensuring that those exposing wage/superannuation theft are adequately protected from adverse treatment
- The taxation treatment of people whose stolen wages are later repaid to them
- Whether extension of liability and supply-chain measures should be introduced to drive improved compliance with wage and superannuation-related laws
- The most effective means of recovering unpaid entitlements and deterring wage and superannuation theft, including changes to laws that would assist with recovery and deterrence
- Whether federal government procurement practices can be modified to ensure that public contracts are awarded only to businesses that do not engage in wage and superannuation theft, and
- Any related matters.

The committee is to report to the senate by the last sitting day of June.

RED TAPE REDUCED FOR NT CHARITIES

Northern Territory charities no longer need to submit an annual return to both the ACNC and Licensing NT. The new exemption comes into force on 1 July.

‘This is welcome relief for registered charities that are also incorporated associations in the Northern Territory’, said acting ACNC commissioner Catherine Willis.

‘The change [means] that charities registered with the ACNC and Licensing NT [...] will only have to submit an annual return once to the ACNC.’

Acting Licensing NT director-general Sally Ozolins confirmed that the new streamlined reporting arrangement could save hundreds of charities from duplicating their annual return. They need only comply with certain exemption requirements.

More information about the exemption is available at acnc.gov.au/NT.

NEW VICTORIAN FUNDRAISING REGULATIONS

New Victorian fundraising regulations began on 1 June, amending counterparts a decade old.

They prescribe:

- Certain activities as not being fundraising appeals
- Certain record-keeping requirements
- Information and consents required for an application to renew registration as a fundraiser
- The fee for inspecting records
- Infringement penalties for offences in section 61D of the Fundraising Act
- Extra information that may be contained in the register of fundraising appeals, and
- Other matters necessary to give effect to the act.

VICTORIAN FUNDRAISING CHANGES

The Victoria government’s Consumer Legislation Amendment Act 2019 (Part 4) amends the Fundraising Act 1998.

Noteworthy changes are:

- Organisations already registered with the ACNC will no longer need to go through separate steps to register with Consumer Affairs Victoria (CAV) as a fundraiser. Instead, they will need only to notify CAV of their intention to fundraise to be considered registered. They will remain registered until they are deregistered as a charity by the ACNC or deemed by CAV to be no longer a registered charity, and

- The legislation will give CAV the power to deregister ACNC-registered organisations as fundraisers if they have ‘paid an excessive commission or other remuneration to a collector or commercial fundraiser’. ‘Excessive commission’ is not defined.

SENATE COMMITTEE TABLES FUNDRAISING REPORT

A senate select committee on charity fundraising has urged the government to develop within two years national regulations for NFPs and fundraisers.

The recommendation is a core proposal in its recently tabled 89-page report.

The committee heard that many charities failed to comply with relevant regulations and that non-compliance with various commonwealth and state laws was both accidental and deliberate.

It made two recommendations to the government:

- To provide urgently a public response to recommendations made in a review panel’s report *Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislation Review*, and
- To commit to working with state and territory governments and the NFP sector to develop a consistent national model for regulating NFP and charitable fundraising activities within two years.

Charity Fundraising in the 21st Century is divided into five chapters:

- Chapter 1 provides an overview of the conduct of the inquiry
- Chapter 2 details previous inquiries and recent developments relevant to the inquiry’s terms of reference
- Chapter 3 outlines the current legislative and regulatory frameworks governing charity fundraising and NFPs at the state, territory and federal levels as well as bodies responsible for their oversight and enforcement
- Chapter 4 highlights issues identified in the absence of a consistent nationwide regulatory framework for charity fundraising, and
- Chapter 5 outlines the options for reform and sets out the committee’s views and recommendations.



NFPs MOVE TO STP

If your NFP has 19 or fewer employees you will need to start reporting through Single Touch Payroll from 1 July.

It means that you report your employees' tax and superannuation information to the ATO each time you pay them.

The tax office has made several resources available to make the change, including a guide for small employers, a list of STP software providers and a news, events and resources page.

If your NFP has between one and four employees and doesn't use payroll software, other ways to report STP information are:

- Implementing a no-cost and low-cost solution for STP that may include simple payroll software, mobile phone apps and portals, and
- Working with a registered tax or BAS agent. You may report your STP information quarterly simultaneously with business activity statements rather than each payday. Your tax or BAS agent will still need to report your STP information through an STP-ready solution. The option is available only until 30 June 2021.

For more information visit <https://www.ato.gov.au/Non-profit/Newsroom/Lodgment-and-concessions/Single-touch-payroll-for-small-employers/>.

QUEENSLAND PROPOSES CHANGES TO INCORPORATED ASSOCIATIONS

Queensland's Associations Incorporation and Other Legislation Amendment Bill 2019 has been referred to a parliamentary committee for detailed consideration

Explanatory notes say the bill:

- Clarifies the operation of the Associations Incorporation Act 1981
- Improves the internal governance of incorporated associations
- Reduces regulatory burden for incorporated associations and charitable entities, and
- Streamlines, enhances and improves government processes.

The bill provides that a regulation may exempt classes of associations from the requirement to provide annual financial reports to the chief executive. It allows the government to exempt associations that are registered with the ACNC from Queensland reporting requirements.

Associations will not have to submit annual financial reports to both a commonwealth and state regulator. The bill proposes a similar exemption power for classes of entities that are required to report under the *Collections Act 1966*.

It clarifies the role of management committees by introducing penalties for failure to observe basic governance principles, and improves the internal governance of associations by introducing a grievance procedure.

Associations may develop their own grievance models, but if they don't the model rule grievance procedure will apply.

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CLIENT CHOICE AWARDS WINNER 2020

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