

Charities Crisis Cabinet



Making Australia the world's most generous nation  
when it's needed most

Proposing a way forward for  
better fundraising regulation

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## Making Australia the world's most generous nation when it's needed most

Australia is currently ranked 7<sup>th</sup> in the world in terms of giving, according to the longest running and most reliable international [survey](#). We are being prevented from taking top spot because of an outdated, inflexible and disjointed system of separate state-based laws, which prevent and restrict the true level of giving from occurring.

The #FixFundraising coalition, the [Charities Crisis Cabinet](#) and many other supporters urge Australian governments to build on the work currently underway to harmonise states' regulation of fundraising. Urgent action is needed to reduce costly red tape and create a genuinely national system in three main areas: Registration; Regulation (ongoing obligations); and Reporting. A review on the efficacy of the new system would be conducted after two years.

### Registration

When a charity is registered by the ACNC it will:

- automatically hold a 'deemed authority' to fundraise in every jurisdiction under each state and territory's charitable fundraising law
- indicate which jurisdictions (if any) it is intending to fundraise in during the next 12 months.

This deemed authority would cover all contracted parties fundraising on behalf of the charity. This contracted fundraising remains the responsibility of the charity.

Information about where fundraising is proposed to occur and any contracted parties would be updated annually.

Each jurisdiction would be automatically notified by the ACNC on registration and on reported changes.

Charity directors (its Responsible Persons) must agree to comply with the *Australian Fundraising Principles* (below) as a condition of the deemed authority being granted by the jurisdictions (ACNC Governance Standards 3 and 5).

### Regulation (ongoing obligations)

The Australian Fundraising Principles would be simultaneously adopted by each jurisdiction in their own laws, as the 'Standard Conditions of Deemed Authority', to harmonise the rules that fundraisers have to follow.

The Australian Fundraising Principles cover all major areas of potential public harm that may be caused by the actions of fundraisers and they are consistent with the Australian Consumer Law.

To ensure national harmonisation, each jurisdiction would adopt ACNC Governance Standard 4's definition of a suitably responsible person, and a single definition of charitable institution.

Each jurisdiction would retain its own existing enforcement and investigation powers (or ideally harmonise them with other jurisdictions).

If a jurisdiction finds a charity to be in breach of the Australian Fundraising Principles, it could unilaterally remove that charity's deemed authority to fundraise and take any other appropriate enforcement actions under their laws.

The enforcing jurisdiction would notify the ACNC which will then notify all other jurisdictions of the decision. The ACNC may choose to separately conduct its own investigations and take other possible enforcement actions.

### Reporting

Each jurisdiction would amend their reporting and auditing thresholds to align to ACNC thresholds, so that the ACNC Annual information Statement satisfies reporting requirements of all jurisdictions.

Each charity would report its compliance with the Australian Fundraising Principles in its Annual Information Statement.

Each jurisdiction would (if necessary) amend their regulatory threshold to \$50,000 of revenue to exempt all very small charities from any fundraising-specific regulation or reporting requirements, and harmonise other exemptions.

## Australian Fundraising Principles

### Context

The following principles are designed to provide a nationally harmonised standard for fundraising in place of the current confusing, expensive and ineffective state-based system.

Underpinned by the Australian Consumer Law, Privacy Act, Telecommunications Industry Standard, local council regulations and the ACNC, but with states retaining their oversight and enforcement powers, these principles would lead to stronger fundraising *and* better regulation. These principles are designed to complement existing self-regulatory fundraising codes, and do not require any additional compliance to meet them.

### Principles

**As a charity registered with the Australian Charities and Not-for-profits Commission (ACNC), we pledge to take all reasonable steps to ensure our fundraising is lawful, truthful and transparent. To do this, we will adhere to the following principles of ethical fundraising practice.**

1. We will not mislead or deceive or use false or inaccurate information when fundraising.
2. We will not place undue or unreasonable pressure on a person when fundraising, or act unconscionably in any way to obtain a donation.
3. When fundraising, we will take all reasonable measures to never exploit the trust, lack of knowledge, lack of capacity, apparent need for care and support, or vulnerable circumstances of any donor.
4. We will ensure that our fundraisers are always clearly, and individually, identifiable by the public.
5. We will take responsibility for the standards, practices and conduct of all our fundraising activities, regardless of who conducts them (us, or a contractor or agent on our behalf), or how they are delivered.
6. We will conduct all reasonable due diligence when engaging contractors or agents to assist, support or deliver fundraising activities on our behalf.
7. When we incur costs for our fundraising, such as using paid fundraisers or other contractors or agents, we will explain this as clearly and simply as possible to the public, before they choose to donate.
8. We will be open and honest in our annual reporting about our fundraising strategy, results and costs, and why they are appropriate for our cause at this time.
9. To justify the trust shown by donors in the efficient and effective use of the resources given to our organisation, when fundraising (and in our reporting) we will clearly explain the purpose to which funds raised will be, or have been, applied.
10. We will ensure that fundraisers employed, or directly engaged by us, only work within the designated hours of operation as permitted by relevant national, state/territory or local laws, or by a properly constituted self-regulatory body if no such laws exist.
11. We will only contact the public to seek support where we have the proper and lawful authority to do so, where this is required.
12. We will ensure personal information we collect, use and manage is done so in accordance with the Australian Privacy Principles.
13. We will take all reasonable measures to protect the health and well-being of fundraisers employed or directly engaged by us, and members of the public, during our fundraising activities.
14. We will operate a complaints process that allows for the proper investigation and redress of fundraising complaints by the public, and encourage anyone with any concerns about fundraising activity conducted in our name to contact us.