

Australia's fundraising laws are a mess. That's why Justice Connect is leading the campaign to #FixFundraising.

The aim of the #FixFundraising campaign is for simplified, nationally consistent laws for charitable fundraising laws that protect the wishes of donors and lessens the red tape burdening charities and the Australian communities they serve.

Why we need to #FixFundraising

Currently, Australia's fundraising laws are a mess. Complex. Out of date and ineffective.

- Australia has seven different sets of fundraising laws – in every state and the ACT.
- These laws were developed before the internet, the Australian Consumer Law (ACL), and the Australian Charities and Not-for-profits Commission (ACNC).
- Charities need permission under each of these laws to fundraise online, and then need to comply with and report to seven different state & territory regulatory bodies.
- In addition to these seven sets of laws, charities must comply with the Australian Consumer Law (don't mislead or deceive donors), criminal laws (fraud) and local government laws (door knocking and street collections) and various codes (what time you can phone people).

We have many laws but no clear, practical answer to the common question charities ask:

"What rules do we have to follow so we can add a donate button to our website?"

A [recent research report](#) published in May 2021 showed that the majority of the 600 charities and not-for-profit organisations involved in the survey find fundraising registration complex, more than half are being significantly impacted by Australian fundraising law compliance and 39% are not aware of the regulations that apply to online fundraising.

We're not the only ones to have recognised the burden these laws place on the community sector. It's been made clear by the Royal Commission into National Natural Disaster Arrangements, earlier Senate Committee and Productivity Commission Reports, and other independent inquiries spanning decades.

The need to #FixFundraising has ramped up with COVID-19. Public collections and fundraising events (like fun runs or sausage sizzles) have been cancelled, leading to more charities conducting fundraisers online.

What we've achieved so far

We've built a coalition of peak bodies, professional advisers and hundreds of not-for-profit organisations of all shapes and sizes from across Australia.

The #FixFundraising campaign has achieved steady, incremental progress.

The campaign has helped ensure most states and territories have changed their laws so registration with the ACNC provides a streamlined path to holding a fundraising licence. We are still advocating for Western Australia, Queensland and Tasmania to do the same and for all states and territories to use the ACNC reports to satisfy their fundraising reporting requirements.

As a result of our advocacy, we now also have clear guidance about how the [Australian Consumer Laws applies to charitable fundraising](#). This law, which is enforced co-operatively by state, territory and federal agencies, provides important protections for donors and means many of the old fundraising laws aren't necessary.



Visit our website to see more about the work of our [campaign so far](#).

What we're calling for to #FixFundraising

Despite some progress, more work needs to be done. We need a single set of clear principles to replace the mess of laws still in place. Three things need to happen to urgently #FixFundraising in Australia.

1. Single point for registration

If a charity has been registered with the ACNC and is complying with its ACNC requirements (i.e. has its ACNC 'tick'), it shouldn't have to apply for an authority to fundraise in every state and territory. Being an ACNC-registered charity should give that charity 'deemed authority' to fundraise.

This system of 'deemed authority' should extend to those employed or engaged by the charity to fundraise on their behalf. To promote transparency, the names of any commercial (third party) companies fundraising on behalf of the charity should be publicly available on the ACNC register.

2. Single set of rules to help ensure ethical fundraising practise

Introducing the Australian Fundraising Principles (AFPs), which are backed up by the Australian Consumer Law and self regulatory codes.

We know seven different sets of fundraising laws are not workable, especially because most fundraising doesn't happen within state borders. Fundraising is increasingly conducted online – a shift that's being hampered by laws that are stuck in the past. There are too many layers of regulation and too much inconsistency. There will be better compliance if the rules are simpler and relevant.

Australia needs fundraising regulation that:

- is the same in every jurisdiction
- promotes transparency and ethical behaviour with remedies for potential public harm
- is consistent with the Australian Consumer Law and existing self-regulatory codes of conduct.

We've worked with the sector to design a set of rules that would work: the Australia Fundraising Principles (AFPs).

The AFPs are principles of ethical behaviour, rather than details like the font size to go on a name badge. As principles, they are future-proof, and allow charities to consider their particular situation.

The AFPs are a draft proposal, discussed and tested with charities and experts. Each state and territory would need to adopt the AFPs instead of applying their existing requirements to ACNC registered charities.

If a charity breaches the AFPs, the relevant state or territory would be able to investigate and, if necessary, remove that charity's deemed authority to fundraise. The ACNC would be notified and may choose to conduct its own investigation (for example, if they are concerned that the funds raised hadn't been used for the charitable purpose for which they were given).

The Australian Consumer Law would remain as it is. The existing guidance explains how this works. The Australian Competition and Consumer Commission (ACCC) would continue its focus on scam fundraising.

3. Single place of reporting – 'report once, use often' via the ACNC

With this regime in place, fundraising charities would only be required to report once a year, to one regulator: the ACNC.

Each state and territory needs to align with the ACNC reporting and auditing thresholds (and stay aligned when the Federal government increases the current reporting tiers from 1 July 2022).

Charities would report their compliance with the AFPs to the ACNC through the Annual Information Statement (AIS). It would be on the public register for donors and available to state and territory regulators.

To stay informed, subscribe to our NFP Law updates and join the campaign to #FixFundraising.



The Australian Fundraising Principles (AFPs)

As a charity registered with the 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. These principles are designed to provide a national 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, we believe these principles will 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.

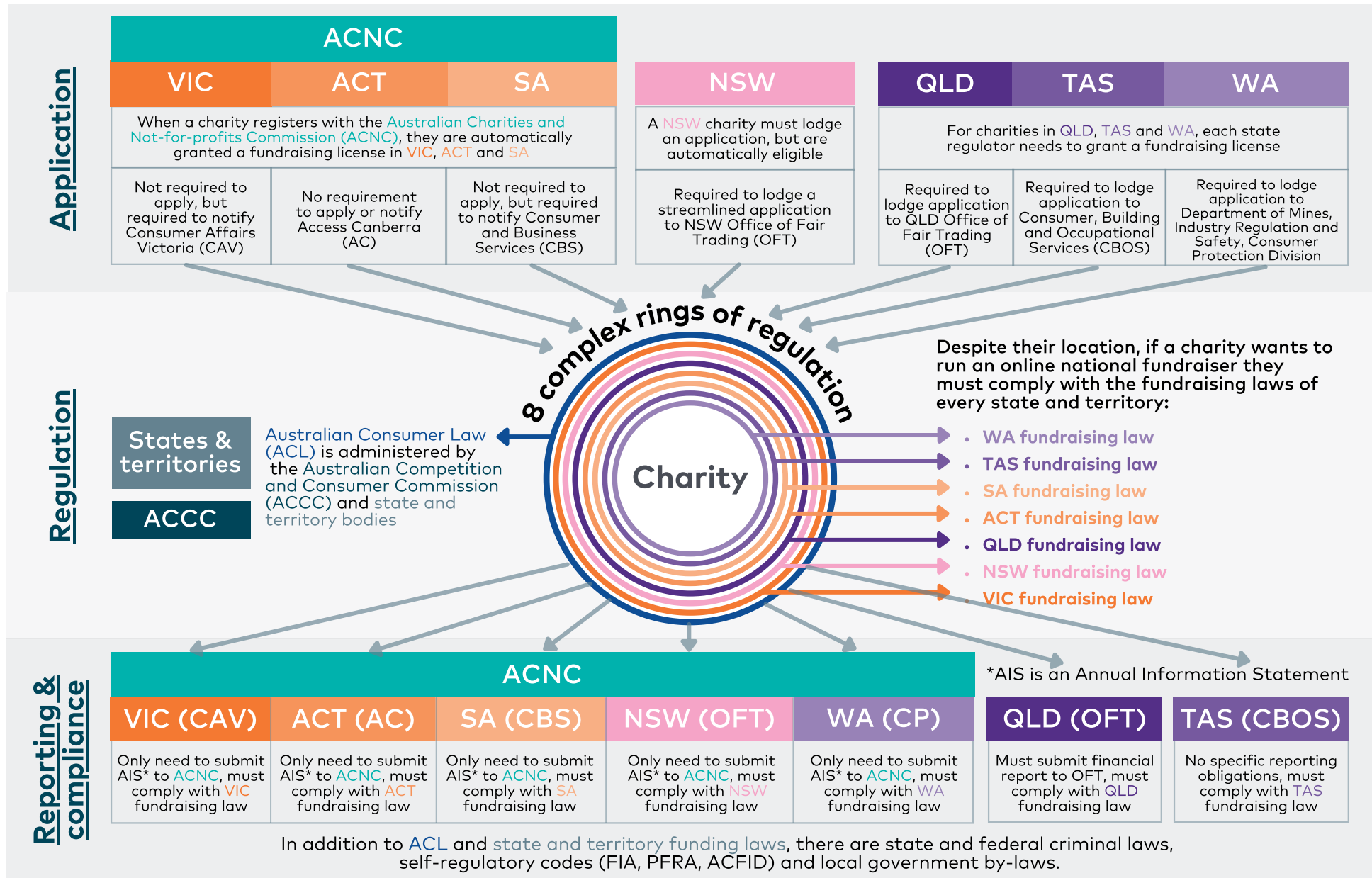
- 1 When fundraising, we will always try to explain the purpose of our charity, and the purpose to which the funds raised will be applied, where that is reasonably possible.
- 2 We will not mislead or deceive or use false or inaccurate information when fundraising.
- 3 We will not place undue or unreasonable pressure on a person when fundraising, or act unconscionably in any way to obtain a donation.
- 4 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.
- 5 We will ensure that our fundraisers are always clearly, and individually, identifiable by the public.
- 6 We will take responsibility for the standards, practices and conduct of all our fundraising activities, regardless of who conducts them (us, or a third party on our behalf), or how they are delivered.
- 7 We will conduct all reasonable due diligence when engaging third parties to assist, support or deliver fundraising activities on our behalf.
- 8 When we use paid fundraisers we will tell the public this before they donate.
- 9 Where we use third parties, we will ensure this information includes the name of the company, and how we pay them.
- 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.
- 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 the course of our fundraising activities.
- 12 We will ensure personal information we collect, use and manage is done so in accordance with the Australian Privacy Principles.
- 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.

About Justice Connect

In the face of rising levels of unmet legal need, we design and deliver high impact interventions to increase access to legal support and progress social justice.



The current, broken fundraising law system



How we can #FixFundraising

