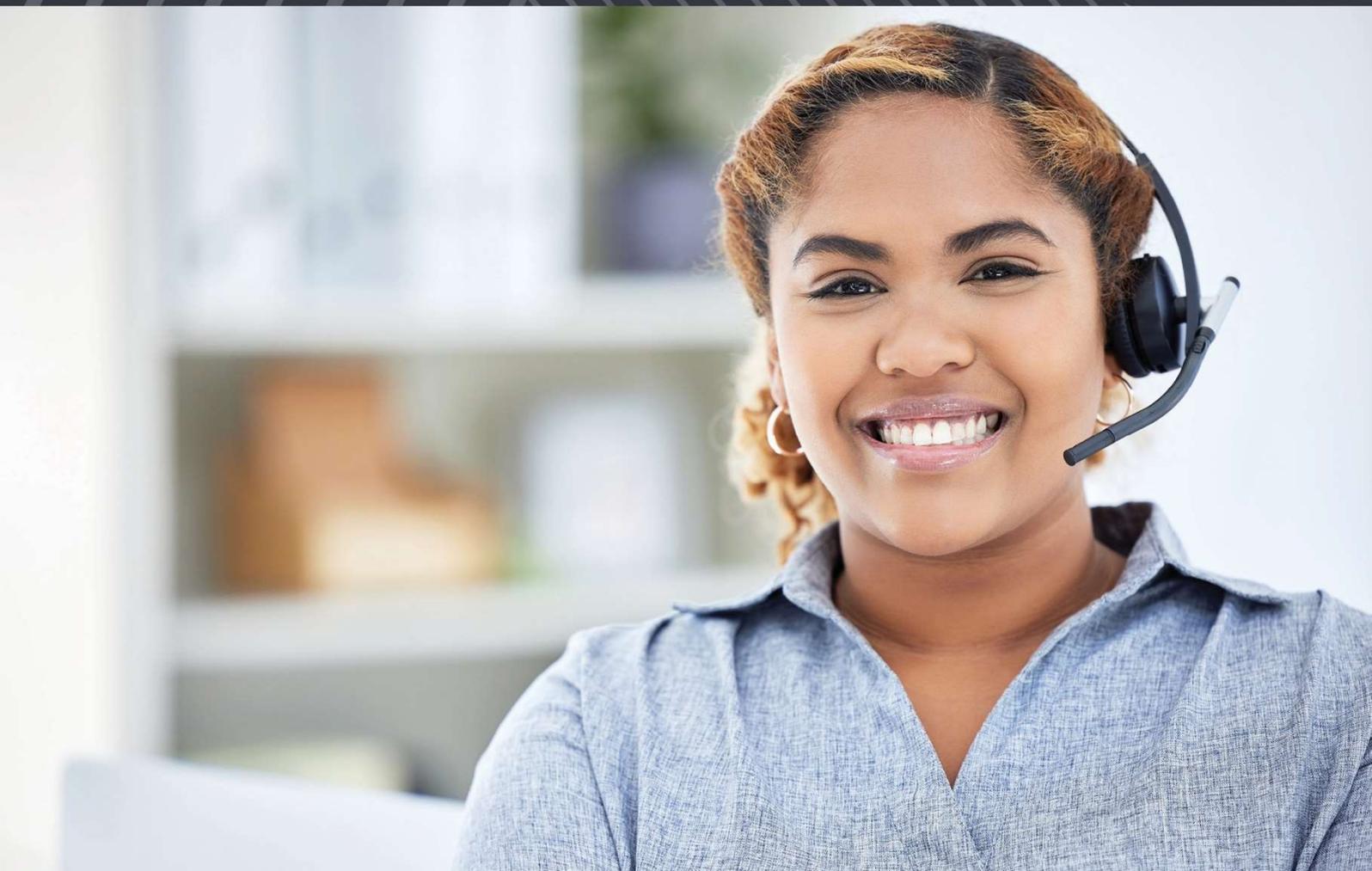


National Fundraising Principles: Victoria's Implementation Plan

Three Year Plan



Contents

Minister's Foreword	3
Director of Consumer Affairs Victoria's Foreword	4
The case for change	5
Our immediate response	9
Our vision for the future	10
Conclusion	11

Minister's Foreword



I am pleased to introduce the Victorian Government's plan for implementing the National Fundraising Principles in Victoria.

Our charities and non-profit organisations work tirelessly to serve their communities and create a better future for all. They come together to make a positive change in the world and are fuelled by their deep desire to make a difference. However, despite their best efforts, these organisations are often bogged down by complex and convoluted fundraising laws.

Across Australia, charities are burdened by a web of regulations and compliance obligations that make it incredibly difficult for them to fundraise effectively. This current system is the product of a practice formed over decades by governments who have responded to community concerns to ensure donations are put to good use, albeit in fragmented ways.

The National Fundraising Principles reforms can simplify the compliance obligations of charities and streamline the fundraising process to unleash the sector's full potential, allowing them to focus on what they do best.

I want to take this opportunity to recognise that these reforms are a product of more than a decade of advocacy by the charities and not-for-profit sector. I thank them for their tireless work and look forward to continuing to collaborate on improvements to fundraising regulations.

The Victorian Government supports a streamlined approach to charity regulation in alignment with other jurisdictions. That is why we are providing red-tape relief for charities registered with the Australian Charities and Not-For-Profits Commission, by rolling out the National Fundraising Principles for all charitable fundraising activity.

We owe it to these charities and the people they serve to make fundraising easier and more efficient. By removing unnecessary red tape, we can help charities maximise their impact and create a better and fairer Victoria.

A handwritten signature in cursive script that reads "Gabrielle Williams".

Gabrielle Williams MP

Minister for Government Services
Minister for Consumer Affairs
Minister for Public and Active Transport

Director of Consumer Affairs Victoria's Foreword



This implementation plan sets out the key steps that Consumer Affairs Victoria will take to implement the National Fundraising Principles.

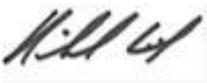
At Consumer Affairs Victoria, our mission is to promote a fair and competitive marketplace for Victorian consumers and businesses, and this includes ensuring that the charities and not-for-profit sector operates in a transparent, accountable, and ethical manner.

Consistent with this goal, the implementation of the National Fundraising Principles can deliver a clearer and more consistent regulatory framework that charitable fundraisers can follow leading to more effective protections for donors.

Consumer Affairs Victoria commits to taking all the necessary and appropriate steps outlined in this plan to ensure the National Fundraising Principles are adopted and to reduce unnecessary red tape for charitable fundraisers.

Importantly, this plan reflects our deep appreciation for the importance of collaboration with the charitable and not-for-profit sector on implementation of these reforms.

I am proud to present this implementation plan. I look forward to continuing our work with all stakeholders to ensure continued public confidence in Victorian fundraising activity.



Nicole Rich

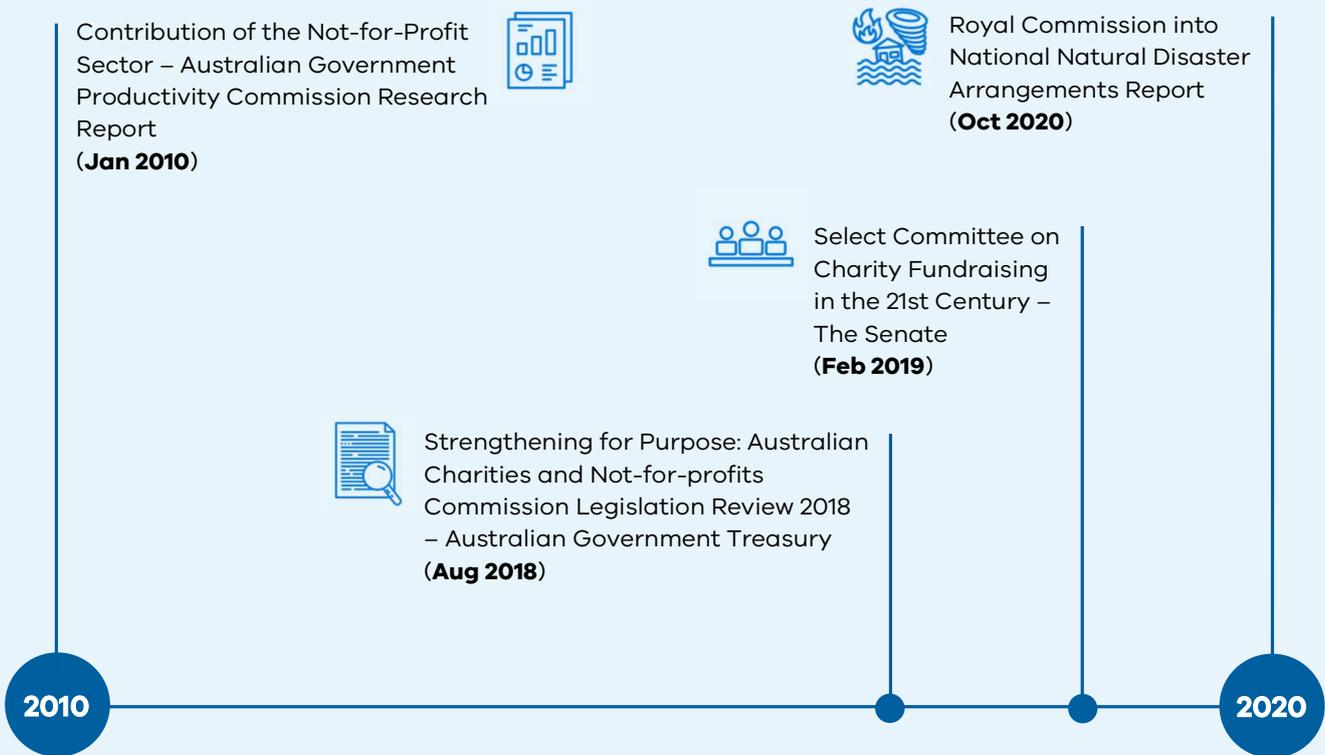
Director, Consumer Affairs Victoria

The case for change

This implementation plan has been informed by the sustained campaign for reform

Charities have campaigned for over a decade to fix fundraising to address obsolete and overlapping fundraising regulations across states and territories. Compliance is currently a time-consuming and arduous process that hinders charities' capacity to carry out their core mission and diverts valuable resources towards navigating the convoluted regulatory landscape. In developing this implementation plan, it is important to recognise the sustained work of advocates, highlighted through the series of reviews and reports into fundraising laws since at least 2010, which have culminated in this moment.

Chronology of reports



Contribution of the Not-for-Profit Sector – Australian Government Productivity Commission Research Report (Jan 2010)

The regulation of fundraising was considered by the Productivity Commission as part of a broader inquiry into the not-for-profit (NFP) sector in 2010.

The Commission identified differing state and territory fundraising legislation as a major problem for the sector, highlighting issues such as inconsistency in definitions, reporting requirements and the application of exemptions.

The Commission noted that state and territory legislation was outdated with respect to electronic forms of fundraising and inappropriate reporting requirements that failed to take account of the size of different NFPs.

The Commission recommended that Australian governments “agree to and implement mutual recognition and harmonised fundraising regulation across Australia, through the establishment of model fundraising legislation” (recommendation 6.3)

Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislation Review 2018 – Australian Government Treasury (Aug 2018)

The review found that the seven different state and territory regulatory regimes for fundraising are inconsistent, complex and inefficient. Fundraising reform was identified as a major opportunity to reduce the regulatory burden on charities in Australia.

In addition, technology and the digital economy were said to create new opportunities for fundraising in ways not contemplated by state and territory legislation. New mechanisms such as crowd funding, commission-based face-to-face fundraising and third-party commercial fundraising presented new issues for regulators.

That review concluded that a principles-based approach to regulation that can apply to any entity operating across jurisdictions in Australia or online would be appropriate. The recommended mechanism for this was amendment to the Australian Consumer Law combined with the development of a mandatory code of conduct, although it was noted the ACCC did not support using the ACL as a replacement for state and territory fundraising legislation.

Select Committee on Charity Fundraising in the 21st Century – The Senate (Feb 2019)

On 19 June 2018, the Senate established the Select Committee to inquire into and report on the current framework of fundraising regulation for charities and suggest options for reform.

The committee highlighted issues related to the existing regulatory environment having a negative impact on fundraising activities, including inconsistent definitions, confusion around donations across jurisdictions, duplication and fragmentation, and unintentional non-compliance due to complexity. The committee heard that the regulatory burden was particularly challenging for small charities and volunteer-based organisations.

Evidence submitted to the committee included how current fundraising legislation fails to reflect the rapid adoption of new technologies in the sector. Despite the shift towards online fundraising, only two jurisdictions' laws explicitly addressed digital mechanisms. In relation to online third-party platforms, the committee heard that the lack of interaction with donors on these platforms was incompatible with transparency and accountability.

A range of proposals for reform were presented in the report, including amending the ACL to ensure fundraising activities are covered and repealing existing state and territory fundraising legislation; expanding the role of the Australian Charities and Not-for-profits Commission (ACNC) to more comprehensively regulate the not-for-profit sector; introduction of a national mandatory code of conduct; and harmonisation of state and territory legislation. The Committee did not indicate a preferred regulatory model for implementation.

The committee's report was also sensitive to the urgency of reform, recommending that a national model for regulating not-for-profit and charitable fundraising activities be developed by 2021.

Royal Commission into National Natural Disaster Arrangements Report (Oct 2020)

The Royal Commission was established on 20 February 2020 in response to the extreme bushfire season of 2019-2020. Major fundraising efforts often occur in reaction to natural disasters and contribute significantly to recovery.

It was recognised in the Commission's report that the current legislative system, whereby the ACNC is the national regulator of charities but fundraising is regulated by state and territory governments, results in complexity when both raising and distributing funds following a natural disaster.

The overwhelming majority of fundraising activities during the 2019-2020 bushfires were undertaken online. It was acknowledged in the findings that social media and digital platforms, including the growth of crowd funding, present new challenges for regulators with respect to compliance and addressing the risk of fraud.

The Report, released on 28 October 2020, included a recommendation that *"Australian, state and territory governments should create a single national scheme for the regulation of charitable fundraising"* (Recommendation 21.2 Reform fundraising laws).

The Council of Federal Financial Relations agreed to develop a national model fundraising framework

In November 2021, the Council of Federal Financial Relations tasked the Working Group on Reform of State and Territory Fundraising Laws with developing a proposed national model fundraising framework.

The working group was co-chaired by the Victorian and Commonwealth Governments and comprised officials from all jurisdictions and the ACNC. The working group developed the National Fundraising Principles (**the Principles**).



National Fundraising Principles

When conducting fundraising activities, charitable organisations must ensure that their employees, volunteers, contractors and anyone else who they engage or arrange to raise funds on their behalf:

1. Always explain the purpose of their charity and the purpose to which the funds raised will be applied in ways that are appropriate for the audience.
2. Always be clearly, and individually, identifiable by the public (including to display identification that contains the individual's name, whether they are a volunteer, employee or acting in some other capacity for a charitable organisation or commercial fundraising organisation, and that organisation's name and contact details).
3. Always make and keep written records of fundraising activities that can be easily read and understood.
4. Always acknowledge and comply with a:
 - a. refusal to make a donation
 - b. request not to receive future solicitations (including marketing and promotional materials)
 - c. request to be contacted at a more convenient time or by a different means
 - d. request to limit the number, type or frequency of solicitations.
5. Never conduct door-to-door or telephone fundraising activity at the following times:
 - a. before 9 am or after 5 pm on a weekend
 - b. before 9 am or after 6 pm (door-to-door) or 8 pm (telephone) on a weekday
 - c. on a public holiday, unless the public holiday is closely connected with a fundraiser's charitable purpose.
6. Never mislead, deceive or knowingly use false or inaccurate information when fundraising.
7. Never place undue or unreasonable pressure on a person when fundraising, or act unconscionably in any way to obtain a donation.
8. Never exploit the trust, lack of knowledge, lack of capacity, apparent need for care and support, or vulnerable circumstances of any donor.
9. Always make it clear whether a donation is a one-off or an ongoing donation, and clearly explain how to end an ongoing donation.
10. For commercial fundraisers engaged to fundraise for a charitable organisation, never accept a donation without having explained that they are part of an organisation that makes a profit from fundraising as well as how they are paid.

At all times, charitable organisations must:

11. Conduct all reasonable due diligence when engaging third parties to assist, support or deliver fundraising activities on its behalf.
12. Make and keep written records of the total funds raised and the purposes for which funds are applied.
13. Take all reasonable measures to protect the health, safety and wellbeing of fundraisers employed or directly engaged by them, as well as members of the public, when fundraising.
14. Establish and maintain a complaints process that allows for proper investigation and redress of fundraising complaints that may be made by the public and encourage anyone with concerns about a fundraising activity conducted by or on behalf of the charity to contact them.
15. Ensure information covered by the *Privacy Act 1998* (the Act) is collected, used and managed in accordance with the Australian Privacy Principles where required under the Act.
16. Always ensure remuneration to commercial fundraisers engaged to fundraise for a charitable organisation is not excessive when compared to money or goods received for the charitable purpose of the fundraising.

The National Fundraising Principles can enable charities and donors to have a clearer understanding of permitted conduct, but also appropriately allow for greater flexibility as to how they achieve compliance.

The Principles have also been crafted in a manner that is conscious of alignment with existing codes of conduct in order to minimise the impacts on fundraisers that are already members of industry associations.

The Principles are designed to replace the existing prescriptive and outdated fundraising laws and regulations that are currently in place. In this way, the benefits of the Principles can only be fully realised once all participating jurisdictions both adopt the Principles and cease requiring compliance with their previous regulatory requirements that apply to fundraising conduct.

On 16 February 2023, the Commonwealth Assistant Minister for Competition, Charities and Treasury together with the Victorian Minister for Consumer Affairs announced the agreement of Commonwealth, state and territory Treasurers to the National Fundraising Principles and that each participating jurisdiction would release an implementation plan explaining how it will give effect to the principles through regulatory changes or legislation. This implementation plan has been prepared to acquit Victoria's commitment in this regard.

Our immediate response

Given the ongoing impacts on charitable fundraisers and in recognition of the sustained advocacy for reform by the sector, the Victorian Government has decided to take certain immediate steps to implementing of the National Fundraising Principles in Victoria and enhance fundraising regulation.

Work to prepare and carry out each of these steps is to commence immediately and be completed to enable the National Fundraising Principles to be adopted and replace existing requirements in Victoria in early 2024.

'Turning on' the Principles as conditions of fundraising for registered charities

The Governor in Council, on the advice of the Minister for Consumer Affairs, may make regulations prescribing matters in relation to the registration of Commonwealth registered entities under the *Fundraising Act 1998* ('the Act').

It is proposed that this mechanism be used to 'turn on' the Fundraising Principles by prescribing compliance with the Principles as a condition for continued registration of Commonwealth-registered entities.

'Turning off' existing outdated prescriptive requirements

The Governor in Council, on the advice of the Minister for Consumer Affairs, may make regulations to exempt individuals or groups of people from having to comply with requirements of the *Fundraising Act 1998*.

It is proposed that such an exemption be granted to 'turn off' certain existing prescriptive requirements for those whose conditions of registration require compliance with the Fundraising Principles. That exemption would cover the following existing requirements

#	Summary of existing requirement	Reference
1.	When fundraising in a public place or on a private premises without prior invitation, a fundraiser must wear an identifying badge that meets various specific requirements.	<i>Fundraising Act 1998</i> (FA) s 9 and Fundraising Regulations 2019 (FR) r 7
2.	Fundraisers must keep, in accordance with various requirements, records of the badges issued.	FR r 8
3.	Physical collection of money in receptacles must meet various specific requirements to ensure they are secure, numbered, labelled, and be supervised.	FA ss 10 and 11
4.	Requirements relating to the disclosure of the amount or percentage of funds applied for beneficial or benevolent purposes	FA ss 12A and 12B

Our vision for the future

By 2025, our vision is that:

1. All charitable fundraisers can operate more effectively and efficiently, as they would no longer need to comply with multiple and inconsistent fundraising regulations across states and territories.
2. All charitable fundraisers would have a better understanding of what they are required to do and why.
3. All charitable fundraisers would have more consistency in their experiences of being regulated, with more common approaches by state and territory fundraisers to their work in monitoring, assessing, and enforcing compliance.
4. Regulators be able to take joined up approaches to enforcement, particularly for fundraising conduct that occurs nationally or across borders.
5. Victorians, if not all Australians, retain their confidence in charitable fundraising as a sector that operates ethically and transparently.

To realise this vision for the future, legislation may need to be developed in different jurisdictions to ensure that laws in relation to compliance monitoring and enforcement powers align.

Victoria plans to collaborate with other states and territories in the development of the further national fundraising reforms by undertaking the following steps.

Policy development

Future work includes consideration of the suite of regulatory tools considered appropriate to monitor and enforce compliance with the Principles, developed through consultation with other States and Territories. Our expectation is that there will also be further and ongoing opportunities for consultation and engagement with the sector on fundraising regulation, and we will seek the views of key stakeholders on the best approaches to future engagement.



Parliament

Once the Bill is drafted, it will then be presented by the Minister to Parliament for debate. If the Bill passes, and is given Royal Assent by the Governor, it will then commence on a date to be fixed in the Bill.



Legislative drafting

Following Ministerial approval, work will need to be undertaken to draft a Bill for Parliament to give effect to aligned amendments for a reformed compliance and enforcement approach.



Approvals

Once the working group has prepared the advice, it is anticipated that progress of any proposed amendments will first be considered by senior officials prior to being submitted to relevant responsible Ministers for approval.



Conclusion

In conclusion, the implementation of reforms to implement the National Fundraising Principles represents a significant opportunity to streamline and harmonise state and territory requirements on charitable fundraiser conduct, reduce the cost and complexity of compliance for charities, and promote greater transparency and accountability in the sector.

Through stakeholder consultation, and careful planning and management, we are confident that the implementation of the Principles can alleviate the administrative burden placed on charities while supporting transparency, accountability, and ethical behaviour in fundraising.

We look forward to working collaboratively with stakeholders to ensure a smooth transition to the new framework and to promote a culture of compliance and transparency in the sector.