

MOBILE / 0413 807 660
FAX / 07 5564 9259

EMAIL / IB@CAAAS.COM.AU
WEB / WWW.CAAAS.COM.AU

PO BOX 43 NOBBY BEACH QLD 4218

CAAAS
ABN 41 109 663 489

NOT-FOR-PROFIT RISKS AND COMPLIANCE NEWS

OCTOBER 2018

IN THIS ISSUE:

Governance

RSL National President steps down
DGR reforms proposed
Reminder about ACNC governance standards

Financial reporting insights

NFP accounting standards operative
NFPs' reporting rules unlikely to change

Fraud and NOCLAR

Finance officer banned and fined
Former Palm Island CEO fined

Governments and ATO

NFPs and the Common Reporting Standard
Single-touch payroll out of the blocks
ATO guidance on NFPs' company tax

Continued funding for Islamic school
Draft ruling on 'in Australia' condition
Successful series addressed NFPs' financial risks

About CAAAS Audit Services

Overview
Contact information

Governance

RSL National President steps down

The president of registered charity The Returned and Services League of Australia Robert Dick resigned at the charity's board meeting on 19 July.

The announcement comes after an Australian Charities and Not-for-profits Commission's investigation into the organisation.

The ACNC has noted that Mr Dick's decision to resign from RSL National puts the interests of the charity and the RSL first. His decision acknowledges the need for new leadership and significant changes, the commission said.

In February, the ACNC issued a formal direction to RSL National requiring it to engage a governance expert to conduct a review of the charity's board and practices. RSL National engaged KPMG to carry out the work.

KPMG will set out a detailed action plan that RSL National must follow to improve its governance.

The commission will continue to work closely with the board of RSL National to ensure that it has the expertise to implement the plan.

ACNC commissioner Gary Johns said: 'The [plan] will contain a clear set of recommendations to address current, critical governance issues and the need for a broader, more strategic process of reform and improvement.

'RSL National will soon have a clear path forward and know what steps it must take to get back on track. The ACNC will continue to work closely with [it] and monitor progress.'

President of RSL ACT John King will take the role of RSL National chair until new appointments are made.

'RSL National is committed to improving its governance and accountability [to] fulfil our important role as the peak body of RSL in Australia,' said Mr King.

'We will soon appoint a new chair and board members.

'Over the coming months the board, including newly appointed [...] members, will focus on implementing the recommendations in the action plan.'

Once governance and compliance are improved, RSL members can elect a new national president.

DGR reforms proposed

Treasury has released a consultation paper on the government's proposed deductible-gift-recipient reforms.

Proposed reforms include:

- The requirement of non-government organisations with DGR status to register with the ACNC as charities from 1 July 2019

- Transition arrangements to support organisations with DGR status to register as charities
- The commissioner of taxation's has discretion to exempt in limited circumstances organisations with DGR status from the requirement to register as charities, and
- The abolition of certain public-fund requirements.

The government's package is intended to strengthen DGR governance arrangements, reduce administrative complexity and ensure appropriate oversight of DGR-status entities.

Submissions closed on 21 September.

The Australian Taxation Office and the ACNC will release guidance materials on the practical application of the proposed reforms.

Reminder about ACNC NFP governance standards

In light of compliance issues and forthcoming 31 December year-ends, it is timely to look at the ACNC's governance rules.

While governance standards apply to charities and not non-charity NFPs, the latter should however consider the latter as best practice. Remember that the ACNC stands for the Australian Charities and Not-for-profits Commission.

Apart from a limited class of 'basic religious charities', charities must meet ACNC standards to remain registered.

Charities do not need to submit proof to the ACNC that they are meeting standards but must be able to provide it if requested.

The standards are a set of core, minimum principles that deal with how charities are run (including their processes, activities and relationships) and their governance.

They require charities to remain charitable, operate lawfully, and be run in an accountable and responsible way. Adherence to them helps charities to remain trusted by the public. Because the standards are high-level principles, not precise rules, your charity must decide how it will comply with them.

It must be able to demonstrate that the steps it has taken to comply are appropriate (considering factors such as size, purpose and activities).

The ACNC expects that most charities meet governance principles and it will focus on those that have seriously or deliberately breached them by, for example:

- Diverting money to non-charitable purposes
- Not disclosing serious conflicts of interest, and
- Being grossly negligent with their finances.

For further information on how the standards can be applied visit www.acnc.gov.au.

The five governance standards are:

Standard	Requirement
Standard 1: Purposes and not-for-profit nature	Charities must be not-for-profit and work towards their charitable purpose. They must be able to demonstrate this and provide information about their purposes to the public.
Standard 2: Accountability to members	Charities that have members must take reasonable steps to be accountable to them, providing them with adequate opportunity to raise concerns about how the charity is governed.
Standard 3: Compliance with Australian laws	Charities must not commit a serious offence (such as fraud) under Australian law or breach a law that may result in a penalty of 60 penalty units (currently \$10,200) or more.
Standard 4: Suitability of responsible persons	Charities must take reasonable steps to: <ul style="list-style-type: none"> • Be satisfied that its responsible persons (such as board and committee members and trustees) are not disqualified from managing a corporation under the <i>Corporations Act 2001 (Cth)</i> or disqualified from being a responsible person of a registered charity by the ACNC commissioner, and • Remove any responsible person who does not meet these requirements.
Standard 5: Duties of responsible persons	Charities must take reasonable steps to make sure that responsible persons are subject to, understand and carry out the duties set out in this standard.

Financial reporting insights

NFP accounting standards operative

AASBs become operative for NFPs as follows:

Australian Accounting Standard	For Annual Reporting Periods beginning on or after	To 31 December year-ends on or after	To 31 December year-ends on or after
AASB 9 and AASB 7	1 January 2018	31 December 2018	30 June 2019
AASB 15	1 January 2019	31 December 2019	30 June 2020
AASB 16	1 January 2019	31 December 2019	30 June 2020
AASB 1058	1 January 2019	31 December 2019	30 June 2020

Remember that comparative and third statements of financial positions are required.

New AASB staff FAQs can help. They are:

- Which standards are applicable to the recognition of income and revenue by NFP entities?
- If I early-adopt AASB 9, AASB 15, AASB 16 or AASB 1058, what is the impact?
- When would an NFP's revenue be within the scope of AASB 15 *Revenue from Contracts with Customers*? and
- If my entity performs research activities, which standard do I apply when accounting for grants received and when do I recognise revenue?

Answers at www.aasb.gov.au.

The AASB has also released AASB 2018-3 *Amendments to Australian Accounting Standards – Reduced Disclosure Requirements* effective for annual periods beginning on or after 1 January.

The standard amends AASB 16 *Leases* (February 2016) and AASB 1058 *Income of Not-for-Profit Entities* (December 2016), establishing reduced-disclosure requirements for entities preparing general-purpose financial statements.

NFPs' reporting rules unlikely to change

The Australian Accounting Standards Board has decided that proposals in the invitation to comment 39, (consultation paper *Applying the IASB's Revised Conceptual Framework and Solving the Reporting Entity and Special Purpose Financial Statement Problems*) will apply only to for-profit entities.

As foreshadowed, an approach to removing special-purpose financial statements for NFP private-sector entities is dependent on ACNC legislation-review proposals and discussions on reporting requirements among the commission and states and territories.

After hearing feedback from the NFP sector and having had recent discussions with the ACNC and

the other regulators, the AASB considers that proposals in ITC 39 are relevant for for-profit entities only.

The board will shift the focus of its roundtables this month to cover only the for-profit private sector.

While the aim to replace special-purpose financial statements with a simple, comparable, proportionate, transparent financial-reporting framework remains unchanged, the board has recognised that the journey for NFP private-sector entities will be very different from that of the for-profit private sector.

The AASB will continue to research optimal outcomes, collaborate with regulators, and regularly consult with NFPs to ensure a simple and fair framework and a smooth transition for NFP private-sector entities.

The impact of removing special-purpose statements is significant, options need to be considered, and more time is needed to consider the best outcome for the NFP private sector.

The AASB will soon release a document containing targeted proposals for NFP private-sector entities.

The removal of special-purpose financial statements is expected to have little impact in the NFP public sector. The AASB's preference is to pursue financial-reporting reform in the public sector via consultation based on discussion paper *Improving Financial Reporting for Australian Public Sector*.

NFPs should:

- In the short term – you have extra time to explore the recommendations set out in the ACNC legislation review and there is no need to comment on phase 2 of ITC 39 as this will apply only to for-profit entities
- In the medium term – the AASB will issue a consultation document on reporting options open to NFP private-sector entities, and
- In the long term – a simple, comparable, proportionate, transparent financial-reporting framework for NFPs will become available.

Fraud and NOCLAR

Finance officer banned and fined

The Federal Court in Perth has disqualified for seven years the former finance officer of Murchison Regional Aboriginal Corporation Abul Fazad Mohammed Abdus Shahid.

Mr Shahid was banned from managing Aboriginal and Torres Strait Islander corporations for seven years and ordered to pay the corporation compensation of \$207,956.75, a pecuniary penalty to the Commonwealth of \$100,000 and the proceedings' costs.

A court registrar investigated Mr Shahid's conduct during his tenure as finance officer between 1 July 2011 and 18 November 2014.

An investigation found that Mr Shahid had:

- Caused the corporation to pay him money that failed to advance the objects of the corporation and were not approved by its directors and members
- Treated the payments as unsecured interest-free loans repayable by 30 June of each financial year
- Failed to ensure that the payments were accurately and properly documented, and
- Improperly documented the payments knowing that funding from the Department of Housing was to be discontinued.

Mr Shahid received 117 separate payments totalling \$1,371,413.55.

The court found that Mr Shahid had contravened subsections 265-1 and 265-5 of the CATSI Act by

failing to discharge his duty to act with care and diligence, in good faith and in the best interests of the corporation.

Mr Shahid was also found to have contravened subsection 265-10 of the Corporations (Aboriginal and Torres Strait Islander) Act by improperly using his position to gain an advantage for himself and causing detriment to the corporation.

Delivering his judgment, Judge Michael Barker said: 'It is important that all persons subject to the obligation imposed by the CATSI Act in the management and operation of Aboriginal corporations are fully aware of their responsibilities and are not under any misapprehension that the revenue, assets and property of the corporations are ... at their private control.'

Former Palm Island CEO fined

The former chief executive officer of Coolgaree Aboriginal Corporation Robert Bruce Beattie has been fined \$3000 and issued with a reparation order of \$3000 to the Commonwealth for dishonestly using his position to gain a personal financial advantage.

On 6 November 2014, Mr Beattie attended a charity event run on Magnetic Island in Queensland where he bid for and won tickets to the Clipsal 500 motorsport event being held in Adelaide in 2015.

Mr Beattie used the corporation's credit card to buy the tickets, though the charity event and purchases were not linked to the corporation's business and did not further its objectives.

Governments and ATO

NFPs and the Common Reporting Standard

NFPs may be affected by the Common Reporting Standard (CRS).

The CRS is the single global standard for the annual collection, reporting and exchange of financial information on foreign tax residents.

The CRS requires 'financial institutions' to collect and report 'financial account' information on those deemed to be foreign tax residents.

Some NFPs will be financial institutions and may have obligations to report to the ATO. NFPs could be classified in this way either by possessing managed investments or by conducting an investment business.

Even if an NFP is not a financial institution, it may be asked by other entities for 'self-certification', which

requires a financial institution to ask new (and some existing) financial account holders questions about their residence and entity status for tax purposes.

Where self-certification shows that an account holder is from a foreign jurisdiction, the financial account will have to be reported to the tax office.

If CRS applies, an NFP should have reported by 31 July on the period 1 July to 31 December last year. In the future, the reports will cover full calendar years.

Single-touch payroll out of the blocks

Thousands of employers have shifted to single-touch payroll in the first month of its operation.

Employers with 20 or more employees need to report STP information on paydays, be they weekly, fortnightly or monthly. They report simultaneously superannuation information.

ATO assistant commissioner John Shepherd said that the STP information would give employers a better picture of their tax position.

'Employees will be able to check their year-to-date tax and super information by logging into myGov and accessing ATO online services,' he said.

The STP rollout is being staggered, and the ATO expects to have around 60,000 of the 70,000 employers on-board and reporting each payday by December.

If you have failed to move to STP, talk to your software provider if you are unsure about what you need to do. Apply for a later start date if you need to.

The ATO has several factsheets, checklists, information packs and technical guidance available to download from the ATO website.

Need more information? Visit ato.gov.au/stp

ATO guidance on NFPs' company tax

The ATO has issued guidance on company tax returns for NFPs.

The guide will help NFP clubs, societies and associations not exempt from income tax to complete their 2018 return.

Continued funding for Islamic school

Federal funding for Malek Fahd Islamic School Limited will continue if its board meets several conditions.

The Department of Education has advised that the school has corrected management issues, putting in place new governance and financial arrangements.

About CAAAS Audit Services

Ian Barfoot B.Bus, M.Prof.Acctg, MAICD, GIA(Cert), is a Registered Company Auditor (RCA), specialising in assurance services for member based entities including companies limited by guarantee and incorporated associations with a number of clients being registered as charities with the Australian Charities and Not-for-profit Commission (ACNC).

CAAAS's NFP client base includes licensed clubs, community associations, sporting associations and charitable organisations.

CAAAS is committed to providing a professional service that is conducted efficiently and cost effectively using well developed audit methodologies.

To remain an approved authority, the school will need to:

- Ensure that the board is demonstrably independent of the Australian Federation of Islamic Councils
- Demonstrate that sale or lease arrangements for school land are commercially sound
- Provide advance notice of new or changed arrangements with the federation, and
- Maintain a separate bank account for its federal funding.

The department has reserved the right to consider compliance action if the conditions are not met.

Education Minister Dan Tehan said: 'The Australian Government will not tolerate the misuse of taxpayer dollars intended for schools. All school authorities must meet the requirements of the Education Act to ensure taxpayer dollars, as well as any private investment by parents, is spent to benefit Australian students.'

Draft ruling on 'in Australia' condition

The ATO has published draft ruling TR 2018/D1 about the 'in Australia' requirement for certain deductible-gift recipients and income-tax-exempt entities.

The ruling explains what it means for:

- A DGR to be 'in Australia' as a condition of its endorsement
- Certain entities to have a 'physical presence in Australia' as a condition for its income's being exempt from tax, and
- A registered charity or DGR to have a 'physical presence in Australia' as a condition for their qualifying for a refund of franking credits.

You can be assured that when you engage CAAAS, you are selecting an auditor with knowledge and experience in the Not-For-Profit sector.

Should you require any further information about the services provided, please contact:

Ian Barfoot, Director, CAAAS Audit Services

Phone: 0413 807 660

Email: ib@caaas.com.au

Postal: PO Box 43, Nobby Beach QLD 4218

Website: www.caaas.com.au

LinkedIn: <https://www.linkedin.com/in/ian-barfoot-912a0234/>

© GAAP Consulting This newsletter was authored by Colin Parker, GAAP Consulting, and is used with permission from the author.