

Guide to Fundraising (NSW)

Information for organisations undertaking fundraising activities in New South Wales

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What is fundraising?

What is fundraising?

Organisations that fundraise need to comply with laws about fundraising. These laws are different in each state and territory.

This guide covers the laws relating to 'fundraising appeals' in New South Wales only, including the *Charitable Fundraising Act 1991* (NSW) and the *Charitable Fundraising Regulation 2015* (NSW) (collectively, **NSW Fundraising Law**).

When any person or organisation conducts a fundraising appeal, they need to comply with legal requirements for charitable collections, including applying for a charitable collection licence where necessary.



Fundraising appeals

Fundraising appeals include:

- telephone appeals
- public auctions
- doorknock appeals
- tin collections
- clothing bins
- public appeals to support clubs, associations, causes or people, and
- a range of other activities that raise funds

The government body responsible for regulating charitable fundraising in NSW is NSW Fair Trading (**Fair Trading**).

Each Australian state and territory has its own rules relating to fundraising activities and there are differences across jurisdictions. Your organisation may need to comply with multiple jurisdictions' fundraising laws (including registering as a fundraiser in multiple jurisdictions) if it intends to fundraise in more than one state or territory.

For further information, a link to the relevant state and territory government agencies is provided in the resources section below.

What is a fundraising activity?

A fundraising activity can be a single event over a limited period of time or an ongoing activity. Generally, fundraising activities involve asking the public for money or property and may include:

- doorknock appeals
- telephone appeals
- traffic intersection and highway collections
- golf days, movie nights and trivia nights
- dinner dances and balls
- public auctions
- raffles, bingo, sweepstakes and other forms of community gaming permitted under the *Community Gaming Act 2018* (NSW) (**note** – in addition to requiring a charitable fundraising authority you may require an authority from Fair Trading)



- clothing bins
- public appeals to support clubs, associations, causes or people
- events or challenges where people are invited to sponsor one or more participants in the challenge. For example, giving up smoking, abstaining from alcohol, climbing a mountain, running or riding a particular distance or course, and
- sale of goods or services



Related Not-for-profit Law resource

For more information on gaming activities, see our fact sheets on [Raffles](#) and [Trade promotion lotteries and games of chance](#).

What is a regulated fundraising activity?

NSW Fundraising Law regulates 'fundraising appeals' for a purpose that is, or includes, a 'charitable purpose'.



'Fundraising appeal'

Fundraising appeal means the soliciting or receiving by any person of any money, property or other benefit if, before or in the course of any such soliciting or receiving, the person represents that:

- the purpose of that soliciting or receiving, or
- the purpose of an activity or enterprise of which that soliciting or receiving is a part, is or includes a charitable purpose.

This includes the soliciting or receiving money or benefits using a wide variety of methods (for example, in person, by post, telephone or other electronic means).

Money or benefits received:

- as a donation (for example, to a lottery or competition)
- by sponsorship (for example, sponsoring a walkathon), or
- in connection with any other commercial undertaking (for example, the supply of food, entertainment or other goods or services)

are also included.



'Charitable purpose'

'Charitable purpose' includes charitable purposes as defined under common law (see below), with the addition of any benevolent, philanthropic or patriotic purpose.



Note

There are four main categories of charitable purposes under the common law definition:

- relief of poverty, age or impotence
- advancement of education
- advancement of religion, and
- other purpose beneficial to the community, that is within the spirit and intention of the Statute of Charitable Uses. A long list of 'other purposes' has developed over time through judge made law including:
 - advancing culture and the arts
 - advancement of scientific research
 - aiding disadvantaged Indigenous people
 - disaster relief, and
 - promoting animal welfare

Generally, regulated fundraising activities are those that meet the following requirements:

- you ask or target the public (people outside your organisation)
- you ask for money or other benefits, such as goods (for example, food, clothes) or services, and
- you ask for the money or benefit for a charitable purpose



Example

A company sells a toy and a portion of the profits from the sale of the toy are given to an orphanage overseas. As the money is being obtained, in part, for a charitable purpose, the company will require a licence.



Note

The definition of charity at a federal level (which is the definition used to assess whether an organisation is eligible to register as a charity with the Australian Charities and Not-for-profits Commission), is a different definition. Read more about the federal definition on [our charity webpage](#).



Obtaining authority to fundraise

Obtaining authority to fundraise

This section covers:

- ▶ does our organisation need to obtain authority to fundraise?
 - ▶ how does our organisation obtain authority?
 - ▶ what if my organisation breaches the NSW Fundraising Law or undertakes fundraising without an authority to fundraise?
 - ▶ what other relevant permissions and laws do I need to consider when fundraising?
 - ▶ what are our obligations after obtaining authority to fundraise?
-

It's important to understand the registration and authorisation process before you begin fundraising activities.

Failing to contemplate whether you need authority to fundraise before you begin activities can lead to issues further down the track.

Generally – an organisation that conducts a fundraising appeal will need to register as a 'fundraiser' in NSW, unless:

- the law says the activity is not a regulated fundraising appeal, or
- your organisation is an exempt organisation

Does our organisation need to obtain authority to fundraise?

What activities are not regulated 'fundraising appeals'?

NSW Fundraising Law identifies certain activities that will not be regulated (even if they involve soliciting funds for a charitable purpose).

If you are conducting the following activities (only) then you will **not** need to obtain authority under NSW Fundraising Law (although you may have to comply with other legal obligations outlined below):

- asking for and receiving fees for renewal of membership of an organisation
- fundraising that occurs within an organisation to its members
- seeking bequests (see our [webpage on gifts, wills, bequests and endowments](#))
- fundraising within a workplace for a benevolent or philanthropic purpose directly connected with an employee or their immediate family member
- applying for grants of money, goods, services or benefits such as scholarships from a government body
- requesting or receiving money, property or other benefits from a registered club for the purpose of community development (the grant must be in line with [ClubGRANTS guidelines](#) and eligible for a tax rebate under the *Gaming Machine Act 2001* (NSW))
- requesting or receiving money as a genuine fee or charge for
 - educational facilities or services
 - child-minding services
 - goods or services provided through a supported employment service for people with disabilities
 - nursing or medical services, or

- other care or welfare services

Which organisations are exempt from the NSW Fundraising Law?

Certain religious organisations do not need to comply with NSW Fundraising Law (other than the rule that prohibits directors or management committee members from being remunerated in that role without ministerial approval).

These organisations are:

- religious organisations authorised to marry people
- religious organisations listed in the *Charitable Fundraising Regulation 2015* (NSW), and
- organisations that are officially affiliated with the religious organisations that are exempt under NSW Fundraising Law

Which organisations are exempt from obtaining an authority?

Some organisations are exempt from the requirement to hold a fundraising authority even if they conduct regulated fundraising appeals. Although there may not be a need for these types of organisations to hold an authority, they must still comply with the NSW Fundraising Laws (see below).

Organisations that do not need to hold an authority undertake fundraising appeals are:

- small fundraisers (an organisation or person that receives less than \$15,000 in a financial year from fundraising, does not receive any remuneration for conducting fundraising and only engages participants in its fundraising appeals on a voluntary basis)
- local councils
- trusts where local council is a trustee, and
- universities



Caution

Just because you are exempt from the requirement to have an authority in NSW doesn't mean that you are also exempt in other states and territories. You should check with the local regulator in each state and territory if you are conducting activities in other states and territories (see **Interstate Funding** below) and, if required, seek legal guidance.

Authorising others to fundraise on your organisation's behalf

An organisation that has an authority to fundraise in NSW can authorise others to fundraise on its behalf in NSW. This means that the person or organisation doing the fundraising doesn't need to have a fundraising authority of its own.

Because such fundraisers are acting under your organisation's authority, anything they do or don't do that leads to a breach of the law is your organisation's responsibility. You should therefore take care to ensure that the person or organisation your organisation is authorising to fundraise is trustworthy, knows what they are doing and will comply with all of the NSW Fundraising Laws. You may even consider preparing a set of guidelines or even a short legal agreement for any person or organisation fundraising on your behalf, obliging them to comply with the fundraising laws and with your organisation's fundraising terms and conditions.

How does our organisation apply for an authority to fundraise?

If your organisation needs to be authorised as a fundraiser, you need to apply to Fair Trading.

There is no fee to apply and application forms are available on the [Fair Trading website](#).

NSW Fundraising Law requires your organisation to nominate an address in NSW as its registered office for authority purposes. If more than one branch of an organisation will carry out fundraising, the address of each branch must be included on the application.

You will need to include supporting documentation with your application. Supporting documentation will generally include:

- governance documents (such as your organisation's constitution and statement of objects registration details or certificates of incorporation), and
- details of your nominated auditor and, if you are applying for a renewal of an authority to fundraise, your most recent set of audited accounts

Fair Trading may require further information from you before granting the authority to fundraise. Your organisation will have three months to supply any additional information that is requested.

The assessment process may take up to 60 days by law. Your organisation should apply for the authority to fundraise well in advance of any planned fundraising activities.

Single or specified time

You may be authorised for a single fundraising event, or you may be granted authority to fundraise for a specified time period.

Conditions

Fair Trading will impose conditions on your authority to fundraise. The conditions imposed will be of two types – standard and special.

Standard conditions apply to all authorities issued.

Special conditions are imposed on certain authority holders, or a class of authority holders, in response to special or exceptional circumstances. In some instances an authority condition may be modified or replaced with another condition. The conditions are generally common-sense requirements to promote the safety, accountability and fairness of your fundraising activities.

Register

The NSW Government Licensing Service maintains a [register of authorised fundraisers](#) through which you can search for authorised organisations that have been issued with a licence to fundraise in NSW.

Penalties

If your organisation is required to obtain authority for its fundraising activities and fails to do so, your organisation will be committing an offence under the NSW Fundraising Law. At October 2020, the penalty for fundraising without an authority to fundraise is \$5,500.

If you or your organisation is untruthful with employees, agents or collectors about whether the organisation has an authority to fundraise, you may face a fine of \$5,500, 6 months imprisonment, or both.

What other relevant permissions and laws do I need to consider when fundraising?

Depending on the fundraising activity, your organisation may need to comply with additional rules imposed by other government bodies in addition to Fair Trading.

Extra permissions needed

- **door knock appeals** – you may require permission from the local council of the area in which the door knock is to be conducted.
- **street collections** – you may require permission from the local council of the area in which you are collecting. You may also require a permit from the NSW police.
- **large event taking place outdoors** – again, you should consider whether you need to contact other authorities such as the local council or the police to obtain additional permits.
- **running lotteries or raffles** – in NSW, the rules regarding the conduct of community gaming are found in the *Community Gaming Act 2018* (NSW). Engaging in these types of community gaming is also administered and regulated by Fair Trading. For more information on gaming activities, see our fact sheets on [raffles](#) and [trade promotion lotteries and games of chance](#).



Further reading

For more information on running fundraising events, see [our webpage on events](#).

Other relevant laws

- **Australian Consumer Law (ACL)** – It's important to consider the ACL when fundraising particularly when your fundraising involves the sale of goods or services (like merchandise or event tickets).

The ACL prohibits conduct in:

- 'trade or commerce' (many fundraising activities would be in 'trade or commerce') that is misleading or deceptive, and
- prevents fundraisers from making false or misleading representations in relation to the sale of goods (like merchandise or event tickets) and services as part of a fundraising campaign

For more information, see [our guide to the laws of advertising and your community organisation](#).

- **The Telecommunications (Telemarketing and Research Calls) Industry Standard 2017**, published by the Australian Communications and Media Authority, which sets out rules relating to fundraising telemarketing, including information to be provided in calls, timing of calls, caller identification and termination of calls (for more information, see the full Standard at www.acma.gov.au).
- **Privacy laws** (state and federal), which set out requirements relevant to the collection, use and disclosure of 'personal information' in connection with fundraising activities (for more information, see [our Privacy Guide and Privacy Compliance Manual](#)).
- **Work, health and safety (WHS) laws**, which set out obligations around protecting the health, safety and welfare of employees and other persons who are at, or come into contact with a 'workplace' (for more information, see [our WHS guides](#)).

There are also a range of self-regulatory codes that fundraisers can sign up to that provide further requirements as well as guidance on properly conducting fundraising activities.

More information on self-regulation is available on [our fundraising webpage](#).



Note

Organisations often engage third party commercial fundraisers to raise funds on their behalf.

The ACNC has published a guide, '[Working with fundraising agencies](#)', to help charities identify and manage key issues associated with these arrangements. The guide is a useful resource for any not-for-profit organisation engaging third parties to assist with their fundraising.

What are our obligations when fundraising?

Obligations when fundraising

Generally, when undertaking a regulated fundraising appeal (even if exempt from the requirement to obtain an authority) organisations should:

- ensure that fundraising campaigns are truthful, that no misrepresentations are made, and comply with requirements around adding licence or registration numbers to advertising materials, packaging or communications
- ensure that any money raised is given to the intended beneficiaries or used for the purpose for which it was obtained



- ensure that high standards of governance and risk management are applied to any campaign, including considering whether people involved in administering the campaign are suitably qualified and of proper character (you may like to consider screening volunteers and staff – see our [webpage on recruitment and engagement of employees](#)), and whether appropriate safety measures have been taken to protect staff and volunteers involved
- meet all legal requirements for involving children in fundraising and ensure appropriate risk management and specific obligations are met for the involvement of children in appeals
- ensure all authorised to collect on their behalf are aware of particular obligations applicable to the fundraising activities
- provide people participating in an organisation's campaign with an identification badge including a unique identifying number, and keep records of collector identity and identifying numbers (see specific requirements below)
- properly account for funds received through fundraising activities, which may include issuing receipts (especially where donations are received in cash), and putting funds raised into a dedicated bank account
- conduct the fundraising in accordance with the application your organisation made to Fair Trading
- comply with any conditions attached to the authority (failure to do so may attract a penalty of up to \$5,500)
- inform Fair Trading of changes in circumstances within specified time periods, including:
 - changes to the purposes of the fundraising
 - changes to the structure, address, incorporated status, objects or non-profit nature of your organisation
 - change of name or contact details for contact person, the appeal manager or other key staff, or bank account details
 - ensure appropriate safeguards are in place for managing cash donations in regards to collection, storage and emptying of collection tins, boxes and envelopes
 - comply with directions given by the regulator (for example, providing certain information or documentation relating to the fundraising activities), if and when a written notice is given
- meet reporting requirements in relation to funds raised
- apply funds to the 'charitable purpose' or purposes for which they were raised

Obligations while fundraising

NSW Fair Trading has published a set of [Fundraising Authority Conditions](#) that are generally attached to all fundraising authorities (special conditions may be added and other conditions replaced or modified, in certain circumstances).

For example, an organisation must comply with the following obligations when undertaking certain fundraising activities (this is not an exhaustive list):

- **face-to-face appeals** – collectors must wear badges which are consecutively numbered, include the authorised fundraiser's name and phone number, the collector's name and include the words 'paid collector' (if applicable), indicate the issue and expiry date for the appeal, are signed and dated by authorised fundraiser, are large enough to be easily read and are recovered by authorised fundraiser once collector's involvement in the appeal has ended
- **telephone appeals** – must be conducted in accordance with Part C of the ADMA Code of Practice published by the Australian Direct Marketing Association.
- **children participating in fundraising appeals** –
 - the minimum age is eight years for volunteering and 13 years for paid work, and children must not participate in a fundraising appeal for more than four hours or later than 8:30pm on a school day or more than six hours on any other day
 - the organisation must ensure adequate supervision having regard to the age, sex and degree of maturity of the child



the organisation must take all reasonable steps to notify a parent of the child before allowing the child to participate in the appeal (and must not allow the child to participate if a parent of the child notifies the organisation that they object to the child's participation)

- **using collection boxes, bins or bags** –
 - must be securely constructed, sealed, consecutively numbered
 - must be labelled with name of the authorised fundraiser, and
 - the authorised fundraiser must ensure the use and emptying is properly supervised and controlled
- **advertisements, notices and information** –
 - certain details must be included on communication about fundraising and products being sold, such as the authority number and address of the fundraiser (these details are usually included as conditions attached to a fundraising authority)



Note

In NSW, a fundraising appeal **must not** be conducted by soliciting from people in motor vehicles.

Financial management and reporting obligations

Organisations undertaking regulated fundraising appeals must:

- keep appropriate accounts and records, which include detailed records of income and expenditure including transaction receipts, and
- keep a separate bank account exclusively for funds raised by your organisation's fundraising activities and ensure all money is immediately banked in the bank account (this requirement may be relaxed in accordance with the conditions attached to your authority to fundraise if accounting practices are in place at an organisation that allows for easy differentiation of different types of income). The account must be in the name of, or on behalf of, the fundraiser conducting the appeal and be operated by at least two people.

NSW incorporated associations which are registered with the Australian Charities and Not-for-Profits Commission (**ACNC**) only need to report annually to the ACNC (with the Annual Information Statement). The ACNC will share this information with NSW Fair Trading.

All other organisations that **hold an authority** to fundraise must submit annual financial accounts (reports) to NSW Fair Trading, which include an income statement and balance sheet. If certain thresholds are met, additional requirements apply:

- if the gross income from any fundraising appeals is more than \$100,000 in a financial year, information must accompany the income statement (including accounting principles and methods adopted in the preparation of the statement), and
- if the gross income from any fundraising appeals is more than \$250,000 in a financial year, audited financial reports must be prepared and submitted to NSW Fair Trading. The audit must be completed by an independent auditor

People authorised to fundraise or unincorporated organisations are also required by law to submit returns to Fair Trading which contain details about how much money was raised, before and after your expenses have been deducted, and how it has been spent.

All organisations and people seeking donations of money only (rather than goods and services) must take all reasonable steps to ensure that total expenses are not more than 50% of the gross proceeds.



Related resources

There are situations where community organisations may be required to report to government in addition to its fundraising obligations, such as annual reporting to the organisation's incorporating regulator (such as NSW Fair Trading or ASIC) and to meet notification requirements (for example, change of directors).

Depending on its structure, your organisation may need to report to:

- the ACNC (for charity annual reporting)
- the Australian Taxation Office (in relation to tax)
- the Australian Securities and Investments Commission (for organisations that are structured as companies limited by guarantee), or
- NSW Fair Trading (for organisations that are incorporated associations).

For more information about various reporting obligations, go to our [webpage on reporting](#).



Fundraising and tax

Fundraising and tax

Some not-for-profit organisations may be entitled to certain tax concessions in relation to their fundraising.

Your not-for-profit organisation must be registered with the ACNC in order to be classified as a charitable organisation, and to be eligible to apply for charitable tax concessions from the ATO. The ATO then determines whether your charitable organisation is entitled to any tax concessions. The ACNC link in the resources section at the end of this guide provides further information on registering as a charity.

What are some of the tax concessions available?

GST

A not-for-profit organisation is required to register for goods and services tax (**GST**) when its annual turnover is \$150,000 or more, but can choose to voluntarily register if its turnover is less. If your organisation is registered for GST, or is required to be registered, it may be required to pay GST on any goods or services sold (supplied) as part of its fundraising events. These amounts must then be remitted to the ATO.

An organisation registered for GST can choose to treat all sales made in connection with fundraising events as 'input taxed'. This means that its sales will not be subject to GST. However, the choice to treat the sales as 'input taxed' must be made before any sales take place. Additionally, the organisation will not be able to claim 'input tax credits' for the costs incurred in making the sales (ie. the GST component that was paid by the organisation in initially acquiring the supplies).

For more information about whether your organisation is exempt, see [our tax webpage](#).

We recommend your organisation talk to a specialist about GST.

Income Tax

An organisation operating as a charity must be endorsed by the ATO to be exempt from income tax. Unless it is exempt from income tax, an organisation may be required to pay income tax on money received as part of its fundraising activities. An organisation exempt from paying income tax will still have income tax obligations with respect to any employees (such as Pay As You Go (**PAYG**)).

For more information about income tax generally and whether your organisation is exempt, see our [tax webpage](#).

Tax deductible donations

Your organisation can only offer 'tax deductible donations' (for example, claiming to the public that 'donations over \$2 are tax deductible') if it has been endorsed by the ATO as a deductible gift recipient (**DGR**) or if it has been listed by name in tax legislation as a DGR.

Unless your organisation has received DGR status, members of the public who donate to your fundraising activity are not entitled to claim a tax deduction on their donations to you and you can't provide a tax deductible receipt. For more information about DGR status and tax deductible donations see the [ATO website](#) or visit our [DGR webpage](#).

**Note**

It's important that your organisation can identify whether a donor or contributor might be entitled to a tax deduction so that you can accurately inform a potential donor and provide appropriate receipts.



Interstate and online fundraising

Interstate and online fundraising

This section covers:

- ▶ interstate fundraising, and
- ▶ fundraising online

Interstate fundraising

The information in this guide covers the laws on fundraising in NSW only.

Each Australian state and territory has its own rules on fundraising activities, including different registration systems.

If your fundraising appeal will be conducted in more than one state or territory, or will be aimed at residents from another state or territory, then you will need to ensure that you are complying with the requirements in each of the relevant state or territories. This includes applying for a fundraising authority where necessary or ensuring you have a 'presence' (an address) in the state or territory.



Related Not-for-profit Law resource

Our 'Guide to fundraising laws in Australia' on our [fundraising webpage](#) provides information to help organisations and people undertaking fundraising activities understand the requirements of the different regimes and assess whether they require additional permits in other states or territories.

The table below sets out the relevant departments in each state or territory and an overview of their general requirements for registration, approval or licencing with respect to fundraising activities.

Links to further information are set out in the resources section below. There are fundraising guides available for each jurisdiction on our [fundraising webpage](#).



Note

The Northern Territory does not have laws on general fundraising activities.

State or territory	Body	Definition of 'fundraising'	Requirements for registration
New South Wales	NSW Fair Trading	Soliciting or receiving money, property or some other benefit with the representation that it will go in whole or part to a charitable purpose.	Any person or organisation that fundraises in NSW must apply for an 'authority to fundraise' licence or enter an arrangement with a holder of a licence to



State or territory	Body	Definition of 'fundraising'	Requirements for registration
			fundraise on that holder's behalf, unless exempt.
Victoria	Consumer Affairs Victoria (CAV)	Soliciting or receiving money or some other benefit with the representation that it is not solely for the profit or commercial benefit of that person or any other person.	A person or organisation that fundraises in Victoria must register as a fundraiser by submitting an application to CAV, unless exempt. If registered with the ACNC, a charity will only need to notify CAV of its intention to fundraise in Victoria in order to be considered a registered fundraiser (ie. it will not need to apply separately to CAV).
South Australia	Consumer and Business Services (CBS)	Collecting or attempting to collect money or property, wholly or partly for a 'charitable purpose'.	Any person or organisation that fundraises in SA must apply for a licence or obtain authority from a holder of a licence to fundraise on that holder's behalf, unless exempt. ACNC-registered charities that have notified CBS of their intention to fundraise in SA are automatically licenced.
Queensland	QLD Office of Fair Trading	Any appeals for support for a charitable and/or community purpose.	Any person or organisation that fundraises in QLD must be registered as a charity (under QLD fundraising law), have a sanction to fundraise for a charitable or community purpose or an authority to fundraise on behalf of a registered charity, unless exempt.
Tasmania	Consumer Building and Occupational Services	Soliciting for goods, services or donations for a charitable purpose.	Any person or organisation based outside Tasmania that fundraises in Tasmania, or an unincorporated Tasmanian body, must apply for approval to fundraise.
Western Australia	Department of Mines, Industry Regulation and Safety, Consumer Protection Division	Collecting money or goods from the public for a charitable purpose.	Any organisation that fundraises in WA must obtain a licence or authority to fundraise on behalf of a holder of an existing licence, unless exempt. Individuals and unincorporated groups must also obtain an authority to fundraise on behalf of an existing licence holder.
Australian Capital Territory	Access Canberra	Collecting money or benefit for a purpose that is wholly or in part a charitable purpose.	An organisation collecting for charitable purposes must apply to Access Canberra for a licence or obtain authority from an existing licence holder to collect on their behalf, unless the organisation is registered or is otherwise exempt.



Caution

If your organisation is using raffles, lotteries or other gaming activities to fundraise, there may be other laws and obligations that apply in each state or territory. We recommend you seek advice on each state or territory's particular laws.



Related resource

Not-for-profit Law supports a new framework for a nationally consistent approach to charitable fundraising regulation. For more information about our position, go to our [Law and Policy Reform page](#).

Online fundraising

Organisations often use or obtain assistance from online fundraising websites to raise money for their cause. These online websites may help your organisation in fundraising from guiding you on setting up a website for fundraising to acting as a portal to securely receive donation funds on your behalf.

Your organisation might use the internet or electronic communications to undertake fundraising activities such as:

- through a website or charity portal that may direct donations from shopping or other third party websites
- by updating or sending out fundraising appeals by email or SMS
- by adding podcasts, wikis and blogs to your fundraising activities, or
- by using social networking to fundraise, such as Facebook, Twitter or YouTube

New technologies create new challenges for fundraising regulation and may require careful consideration and assessment of the risks and benefits before use.

For example:

- **nuisance and spam** – there is potential for nuisance or spam to be created if the internet or electronic communications used for fundraising activities are overused. For example, it's against the law to send mass emails to people if they have not agreed to it under the *Spam Act 2003* (Cth)
- **privacy and data protection issues** – to enable the sending of mass communications to potential donors (for example, SMS, emails) and the collection, storage and use of people's information may subject your organisation to compliance with privacy laws where such information is considered 'personal information' (for example, name, address, telephone numbers, email addresses)
- **reputational issues and fraud** – the public may find it difficult to verify the identity of fundraisers operating on the internet. Others may claim to be affiliated with or collect funds on your organisation's behalf fraudulently
- **compliance with state and territory laws and laws in other jurisdictions** – when donations are received online, the person donating may be from another state or territory (or even outside Australia). By creating your own online donations service you may need to be aware of the laws of those other states and territories. The laws governing this area can be quite unclear.



Caution

When you fundraise on the internet and receive funds from persons in different States and Territories in Australia, you will need to comply with the fundraising laws in those jurisdictions, including potentially applying for multiple fundraising permits or registrations.

A strategy to manage this tricky issue may be to choose a limited number of states and territories for your campaign, making clear on your campaign materials which states and territories the campaign relates to, and requiring donors to confirm they are in those states and territories before making a donation. That way, you only need to comply with fundraising regulation in the states and territories listed.



Tips – if your organisation fundraises online

If your organisation does fundraise online we recommend you take the following precautions:

- seek advice on each state and territory's requirements on online fundraising to see whether your organisation requires a licence or authority
- use a safe and trusted third party website through which to organise your donations
- ensure your online fundraising website has clear information on how the funds raised will be used
- ensure your online fundraising website is secure to protect personal information such as credit card details, and
- keep a clear account of the funds collected



Tips - if your organisation uses third party online fundraising sites to promote or conduct your fundraising activities

It's worth checking:

- if those third party sites charge any fees, as some charge a percentage of any donations
- what payment systems are in place for your donors and security
- what payment options are available and commissions payable for credit card facilities
- how, and how quickly, you receive the money from the third party, and
- reviews of such online fundraising sites to see whether they have a good track history or whether donors have complained about them



Related resource

For guidelines on how to fundraise online ethically see the [Fundraising Institute of Australia's Standards](#) on 'Electronic Fundraising' and 'Social Media Fundraising'.

Resources

Related Not-for-profit Law resources

The [Not-for-profit Law website](#) contains many fact sheets and guides on different topics. The following topics contain relevant further information:

▶ [Running the organisation](#)

This page contains resources to assist those running not-for-profit organisations to understand and comply with legal requirements.

▶ [Fundraising and Events](#)

This page contains resources on the main legal issues when seeking funds or holding events, including in other states and territories.

▶ [Communications and Advertising](#)

This section offers information on advertising and promotions and social media, such as Facebook and Twitter.

▶ [Registering as a charity](#)

This page provides information on how to register as a charity and what's involved.

▶ [Tax](#)

This page includes information about accessing tax concessions, including Deductible Gift Recipient endorsement.

Legislation

▶ [Charitable Fundraising Act 1991 \(NSW\)](#)

▶ [Charitable Fundraising Regulations 2015 \(NSW\)](#)

▶ [Community Gaming Act 2018 \(NSW\)](#)

▶ [Gaming Machines Act 2001 \(NSW\)](#)

▶ [Australian Charities and Not-for-profits Commission Act 2012 \(Cth\)](#)

Other related resources

NSW Fair Trading Resources

▶ [NSW Fair Trading – Charitable fundraising](#)

▶ [NSW Fair Trading – Charitable fundraising application form](#)

▶ [NSW Fair Trading – Intention to fundraise](#)

▶ [NSW Fair Trading – Starting a charity](#)

▶ [NSW Fair Trading – Fundraising controls](#)



- ▶ [NSW Fair Trading – Charitable purpose](#)
- ▶ [NSW Fair Trading – Investigating charities](#)
- ▶ [NSW Fair Trading – Best Practice Guidelines for Charitable Organisations](#)

Australian Charities and Not-for-profits Commission (ACNC)

- ▶ [Australian Charities and Not-for-profits Commission - Charity Tax Concessions](#)
- ▶ [Australian Charities and Not-for-profits Commission – Registration](#)
- ▶ [Australian Charities and Not-for-profit Commission - Ongoing Obligations to the ACNC](#)
Provides an overview of all present and future obligations of registered charities and not-for-profits

Australian Taxation Office (ATO)

- ▶ [Australian Taxation Office - Gifts and Fundraising](#)

Fundraising bodies of other states and territories

- ▶ [Australian Capital Territory, Access Canberra – Charitable collections licensing](#)
- ▶ [Victoria, Consumer Affairs Victoria – Fundraisers](#)
- ▶ [South Australian Consumer and Business Services - Charities](#)
- ▶ [Queensland – Charities and Fundraising](#)
- ▶ [Tasmanian Consumer, Building and Occupational Services - Charities](#)
- ▶ [Western Australia Department of Mines, Industry Regulation and Safety](#)

Other useful links

- ▶ [Fundraising Institute of Australia - FIA Code](#)
A voluntary code of conduct for best practice fundraising in Australia.

