

# Guide to Fundraising (ACT)

Information for organisations undertaking fundraising activities in ACT

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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.**

This guide covers the laws on charitable collections (commonly called fundraising) in the Australian Capital Territory (**ACT**) only, including the *Charitable Collections Act 2003* (ACT) (**the Act**) and the *Charitable Collections Regulation 2003* (ACT) (**the Regulation**), (collectively, **ACT's fundraising law**).

The ACT's fundraising law uses the word 'collection' to refer to what is more commonly known as 'fundraising'. In this guide, we use the terminology from the ACT law.

When organisations conduct a collection, they need to comply with legal requirements for collections, including applying for a licence where necessary.



## Collections

Collections include money solicited or received:

- by participation in a lottery, art union or competition
- by placing clothing in a clothing bin operated by a charity
- by giving goods to an op-shop
- by sponsorship for a walkathon, telethon or similar event, and
- in relation to the supply of food, entertainment or other goods or services

Access Canberra is the regulator of collections in the ACT.

Each Australian state and territory has its own rules relating to collections or fundraising activities and there are differences across jurisdictions. Your organisation may need to comply with laws in multiple jurisdictions (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 at the end of this guide.

## What is a collection in the ACT?

The ACT's fundraising law regulates all types of 'collections' made wholly or partly for a 'charitable purpose'.

Generally, fundraising conducted by an organisation for the objects and purpose of the organisation is not a collection unless the entity is using the money or benefit for a **charitable purpose**.



## What is a charitable purpose?

'Charitable purpose' is defined to include any benevolent, philanthropic or patriotic purpose.



## When is a collection for a charitable purpose?

A collection will be for a charitable purpose if:

- you solicit (ask for) or receive money or a benefit (property or other gain or reward, including food, clothing), and
- before or during the process of soliciting or receiving the benefit you represent (say or otherwise suggest) that the money or benefit will be used is for a charitable purpose

In general, if you or your organisation is asking for or receiving money or other benefits to use for benevolent, philanthropic or patriotic purposes, you will be conducting a collection.

The money or benefit may be solicited or received in person, by post, email, fax or other means, or as a donation.

Where your organisation receives money or a benefit and:

- it is not solicited, or
- it is not received by the organisation because of a collection conducted by the organisation,

the money or benefit will not be considered to be part of a charitable collection

## What activities are considered to be 'collections'?

The ACT's fundraising law provides some examples of the kinds of activities that may be collections (if they meet the requirements outlined above):

- donations
- participation in a lottery, art union or competition
- placing clothing in a clothing bin
- giving goods to an op-shop, and
- sponsorship for a walkathon, telethon or other event

Other activities not specifically listed under ACT's fundraising law that could be considered collections (if they meet the requirements outlined above) include:

- doorknock appeals
- traffic intersection and highway collections
- golf days, movie nights and trivia nights
- dinner dances and balls
- public auctions, and
- appeals run by commercial fundraisers

## What activities are not considered 'collections'?

The ACT's fundraising law identifies some activities that will **not** be considered collections (even if they are solicited and the funds are used for a charitable purpose). These include soliciting or receiving money or a benefit from:

- an approved lottery under the *Lotteries Act 1964* (ACT)
- an exempt lottery under the *Lotteries Act 1964* (ACT) which is not conducted for a charitable purpose
- a bequest under a will
- payment of a membership fee to become a member of an organisation
- payment of school fees (or voluntary contribution for education purposes from a person whose child is enrolled at the school)



- people in a workplace where the money will be used for a purpose directly connected to the person in the workplace raising the money, or a relative or partner of that person (for example, colleagues raising money to pay for a medical treatment for a person, their partner or children)
- receiving money or a benefit from an Australian government or public entity representing the Australian government, and
- solicitation or receipt of sponsorship from a corporation

## Total collections in a financial year less than \$15,000

Where a person or organisation collects less than \$15,000 **from ACT residents** in a 12 month period, this will not be considered a collection under the of ACT's fundraising law. Therefore, a charitable collection licence will not be required.



### Caution

You will need to monitor the situation if your organisation falls in this category. If your organisation is exempt because money received from collections doesn't exceed \$15,000 (gross) in a financial year, you should continue to assess whether your organisation fits into this category throughout the year.

When you receive more than \$15,000 (gross) in collections, you must then hold a licence to conduct collections at that point as you will no longer be able to rely on this exemption.

## Commercial fundraisers

A 'commercial fundraiser' is a person or an organisation that is paid by an organisation conducting a collection.

A commercial fundraiser does not usually have a charitable purpose of its own and is licensed to collect under another organisation's licence. The ACT charitable collections law states that an organisation that hires people or another organisation to conduct a collection has the responsibility to ensure that fundraising laws are complied with in relation to the collection.



### Related resource

For further detail about when a collection will not be a charitable collection, see Access Canberra's [Guide to Charitable Collections in the ACT](#).



# **Applying for a charitable collection licence**

# Applying for a charitable collection licence

## This section covers:

- ▶ does our organisation need to apply for a charitable collection licence?
- ▶ how can our organisation apply for a charitable collection licence?
- ▶ what if my organisation breaches the ACT's fundraising law or undertakes charitable collections without a charitable collection licence?
- ▶ what are some other relevant permissions and laws to consider when conducting a charitable collection?
- ▶ what are our obligations after receiving a charitable collection licence?

**It's important to understand the fundraising licencing process well in advance of your fundraising activities, as there can be lead times involved.**

Getting registrations right from the start can prevent issues further down the track.

## Does our organisation need to apply for a charitable collection licence?

Generally, an organisation (or person) who conducts charitable collections in the ACT will need to either:

- apply for a charitable collection licence, or
- obtain authority to fundraise on behalf of the holder of an existing licence,

unless ACT law says the activity is not a charitable collection, or is otherwise exempt (discussed above).



### Note

In July 2017, the ACT government introduced Red Tape Reduction legislation which changed the *Charitable Collections Act 2003* (ACT) (**Charitable Collections Act**).

As a result, organisations that are registered with the Australian Charities and Not for Profits Commission (**ACNC**) are no longer required to hold a charitable collections licence for the ACT. For more information see the [Access Canberra website](#). You can check to see if your organisation is registered with the ACNC by searching the [ACNC register](#).

Other obligations around how your organisation fundraises will still apply and you will still need to report to the ACNC.

## How does our organisation apply for a charitable collection licence in the ACT?

If your organisation needs to register to conduct charitable collections, you need to apply to Access Canberra for a charitable collection licence. There is no fee to apply for a charitable collection licence.





## Caution

It's important that the applicant carefully expresses the charitable purpose of the collection.

The application for a charitable collection licence identifies broadly the categories of what is considered to be a charitable purpose for the purpose of the ACT's fundraising law.

Information that needs to be provided in the application includes:

- the type of licence sought (different information is required depending on whether the applicant is an individual, incorporated body or unincorporated body)
- details about the applicant and how to contact the them
- the charitable purpose for the collection
- details about the financial institution and account associated with the charitable collection
- the name and details of an auditor (if the collection is expected to raise more than \$50,000)
- specific details of each individual collection (including the type of the collection, the charity who will receive the proceeds, how the proceeds will be spent, the expected income from the collection and the start and end dates for the collection), and
- the term of licence that the organisation is applying for. This may be:
  - three, six or nine months, or
  - one, two, three, four, or five years

If the Director General requires further information and is unable to make a decision on your application, the Director General will contact you to request further information.



## Note

It is important that the organisation correctly identifies the type of charitable collection licence being sought, as different information is required depending on whether the licence is for an individual, an unincorporated body or an incorporated body (including companies and incorporated associations).

There are three categories:

- if the licence is for an **incorporated body** – an authorised person must make the application and be the main contact between Access Canberra and the incorporated body who holds the licence. The person does not hold the licence personally.
- if the licence is for a **person** – the applicant will be both the main contact with Access Canberra and the holder of the licence.
- if the licence is for an **unincorporated body** – the applicant, in accordance with the legislation is known as the 'nominated person'. For the purposes of the fundraising law, the nominated person becomes the holder of the licence for the unincorporated body. This nominated person is also the main contact with Access Canberra.



## Caution

Conducting charitable collections without a licence or authority, where it is required, is a breach of ACT's fundraising law and may result in penalties of up to \$32,000 (for a person) or \$162,000 (for a corporation) for an offence, two years in prison, or both.

## What are some other relevant permissions and laws to consider when conducting charitable collections in the ACT?

Depending on the activity, you may require some other permission to fundraise or conduct charitable collections and you may need to approach other organisations to get these permissions in addition to Access Canberra.

### Extra permissions needed

- **Door knock appeals** – you may need permission from the local council of the area in which the door knock is to be conducted.
- **Street collections** – you may also need permission from the local council of the area in which you are collecting. You may also require a permit from the police.
- **Large events taking place outdoors on public land** – you will need to complete an application form which is available on the [ACT Government Territory and Municipal Services website](#).
- **Running lotteries** – you may need special permissions. The rules regarding the conduct of lotteries, lucky envelopes, raffles, housie, card jackpot raffles and Calcutta sweepstakes are found in the *Lotteries Act 1964* (ACT). ACT's gambling laws are administered and regulated by the ACT Gambling and Racing Commission.

### Other laws

- **Australian Consumer Law (ACL)** – It is also 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 that is misleading or deceptive, and
  - prevents fundraisers from making false or misleading representations in relation to the sale of goods 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 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](http://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 guides and privacy compliance manual](#) on our [privacy webpage](#)).
- **Work, health and safety (WHS) laws**, 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 after receiving a charitable collection licence?

### Obligations after receiving a charitable collection licence

Generally, when fundraising for charitable purposes (even if exempt from the requirement to obtain a charitable collection licence) 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 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 background checks](#)), and whether appropriate safety measures have been taken to protect staff and volunteers involved
- meet specific requirements for involving children in fundraising and ensure appropriate risk management of involvement of children (see 'participation of children in a collection' below)
- ensure all those 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 'collection obligations' 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
- ensure appropriate safeguards are in place for managing cash donations in regards to collection, storage and emptying of collection tins, boxes or envelopes
- meet reporting requirements in relation to funds raised (charities registered with the ACNC need only report to the ACNC)
- apply funds to the intended beneficiaries or purposes for which they were raised
- conduct the charitable collection in accordance with the application approved by Access Canberra
- 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, and
- inform Access Canberra of changes in circumstances within specified timeframes. These changes include:
  - a change to the name, address or contact telephone number, and
  - for an unincorporated organisation, a change to the nominated person

### Applying to amend a charitable collection licence

If your organisation needs to amend its charitable collection licence, the organisation must complete an application form to amend the licence. The form can be used to amend the following items contained in a licence:

- type of licence



- nominated officer details (including name and address)
- name of the organisation holding the licence or upon whose consent the nominated person is acting on behalf of
- details of the auditor responsible for auditing accounts when they exceed \$50,000 within a 12 month period
- name of the financial institution in which the collections are banked
- individual collection details, and
- commercial fundraiser or retail business details

If any proposed amendment seeks to amend the licence where it would no longer be considered a charitable purpose under the charitable collections law, the Director General may refuse to amend the licence.

## What are our obligations while conducting charitable collections?

### Collection obligations

There are requirements to provide particular information depending on how you are conducting your fundraising.

For example:

- face-to-face collections (street collections and door-knocking) collectors must wear an identification tag with:
  - their surname or unique number given to the collector by the authorised fundraiser
  - the fundraiser's name or logo (if the logo is reasonably well known to the general public)
  - the fundraiser's contact number
  - the purpose of the collection and how and where the proceeds will be spent, and
  - that the person is a 'paid collector' if applicable
- when fundraising by telephone, callers must state:
  - the purpose of the collection
  - how and where the proceeds will be spent
  - the authorised fundraiser's name and contact number
  - that the collector is a 'paid collector', if applicable
- for written and website campaigns content needs to set out:
  - the purpose of the collection
  - how and where the proceeds of the collection will be spent
  - the fundraiser's name and contact number, and
  - that the person is a 'paid collector' if applicable
- when using collection bins, they must display:
  - the authorised fundraiser's name and contact number, and
  - the purpose of collection

### Participation of children in a collection

Specific rules apply when involving children in a collection. If you believe that children will be participating in a charitable collection, you should advise Access Canberra when you apply for a licence.

There are extensive requirements set out in the Regulations, including:

- written consent requirements (which differ for children over and under 12 years of age), and
- supervision requirements (which differ for children over and under 6 years of age), and



- limitations on when and for how long children may participate in a charitable collection (ie. not before 6am (sunrise) or after 7pm (sunset) unless with an adult, no more than three hours a day (aged under 12) or no more than seven hours a day (aged at least 12), and with direct supervision (under six years) or adequate supervision (over six years)

You should also be aware of other laws that may apply when involving children, such as requirements that supervisors have working with children checks.

## Financial management

### Receipts

A collector is required to issue a receipt for any donation made personally, where the amount given is more than \$2.00 and the donor requests a receipt. An authorised receipt can be a printed receipt or anything else that acknowledges a donation of a particular amount. Examples of non-printed receipts include badges of different colours or designs that indicate the amount of the donation.

If your organisation is endorsed as a deductible gift recipient, your donors may ask for a receipt in a form that will allow them to claim a tax deduction. For more information visit [our DGR webpage](#).

### Banking

In the ACT, licenced fundraisers need to have a bank account for their fundraising that is used exclusively for money received for the purposes of the collection and operated with the signature of two people. Funds must be deposited in the account within five banking days of receipt. The gross proceeds of a collection must be clearly documented.

If the requirement to operate a separate bank account seems unreasonable (for example, if you are running many separate campaigns at once), we recommend talking to Access Canberra.

Money that is not immediately required to be applied for the charitable purpose, may be invested but only in a way authorised by law for the investment of trust funds.

## Keeping records

An organisation must keep the following records:

- record a true and fair view of income and expenditure
- keep records in a way that allows them to be conveniently and properly audited, and
- keep records for seven years (unless a shorter period is advised in writing from the Director General to the organisation) after receipt of the income or the incurring of the expenditure they relate to.

If the collection is part of a collection that is carried out both inside and outside of the ACT, it's not necessary for the records to identify the amount obtained within the ACT. The whole collection amount can be identified.

Your organisation should apply its general document and record keeping policies to fundraising records as well.



### Caution

Failure to keep records in accordance with the charitable collections law may result in a maximum penalty of \$8,000 (for a person) or \$40,500 (for a corporation).

## Financial reporting obligations

Under ACT's fundraising law, an organisation that is conducting charitable collections must provide the Director General of Access Canberra with a financial report on the collections conducted under its licence. The relevant form to complete is titled 'Financial Reports to the Director-General for a Charitable Collection' and can be found on Access Canberra's [website](#).

If the license is issued for a period of **1 year or less** – the report must be provided within 120 days of the licence end date. For a licence issued for **a period longer than 1 year** – a report must be provided within 120 days of the end of each 12-month period until the licence ends.



### Caution

The penalty for failure to comply with the notice to provide an audited report is \$8,000 (for a person) or \$40,500 (for a corporation). The maximum penalty for intentional failure to comply with the notice is \$32,000 (for a person) or \$162,000 (for a corporation), imprisonment for two years or both.

Where the amount of the collection from ACT residents is \$50,000 or more, an organisation must provide **audited** statements of the collection along with its financial report.

Audited reports must be prepared by a registered company auditor under the *Corporations Act 2001* (Cth) or an auditor approved in writing by the Director General.

The Director General may request that an organisation provide it with an audit report (relating to the charitable collections account) which must be prepared by a registered company auditor under the *Corporations Act 2001* (Cth) or an auditor approved in writing by the Director General. The Director General can also seek further information or documents from licenced fundraiser at any time with reasonable notice.



### Related resources

There are several situations where community organisations may be required to report to government, in addition to in relation to its fundraising obligations, such as annual reporting and to meet notification requirements (for example, change of directors or officers).

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

- the ACNC (for charity annual reporting)
- the Australian Tax Office (in relation to tax), or
- the Australian Securities and Investments Commission (for organisations that are structured as Companies Limited by Guarantee)

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



### Note

Organisations that are registered with the Australian Charities and Not for Profits Commission (**ACNC**) now only need to report to the ACNC. They will not need to lodge annual return with Access Canberra. For more information see the [Access Canberra website](#).



# 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 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.



### Note

Registration with the ACNC is not compulsory to undertake charitable collections in the ACT. However, the purpose for which the fundraising is undertaken must be charitable.

## 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 GST 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 GST concessions that may be available to your organisation, see our [tax webpage](#). Further information is also available on the ATO website.

We recommend your organisation talks 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 endorsement, 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 cannot 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 fact sheet covers the laws on charitable collections in the ACT only.

Each Australian state and territory has its own rules on charitable collections and fundraising activities, including different registration systems, exemptions and general requirements.

If your fundraising will be conducted in more than one state or territory, or 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 states or territories. This includes applying for a fundraising authority where necessary or ensuring you have a 'presence', (an address, within 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. 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 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	A person or organisation that fundraises in Victoria must register as a fundraiser by submitting an application to CAV, unless exempt. If



State or territory	Body	Definition of 'fundraising'	Requirements for registration
		commercial benefit of that person or any other person.	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).
<b>South Australia</b>	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.
<b>Queensland</b>	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.
<b>Tasmania</b>	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.
<b>Western Australia</b>	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 authority to fundraise on behalf of an existing licence holder.
<b>Australian Capital Territory</b>	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 with the ACNC 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 as to each state or territory's particular laws as early in the planning process as possible, as the rules and approvals required can often be different in each jurisdiction and may affect how you decide to run your fundraising activity.



### Related Not-for-profit Law 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 websites may help your organisation in fundraising from guiding you on setting up a fundraising website 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 are used for fundraising activities and they are overused. For example, it is 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 that apply in this scenario can be quite unclear.



### Caution

Where you fundraise on the internet and receive funds from persons in different states and territories in Australia, you may 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



### 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

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## Not-for-profit Law resources

The [Not-for-profit Law website](#) contains many fact sheets on different topics. The following topics contain further relevant 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 fundraising 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 Collections Act 2003 \(ACT\)](#)

- ▶ [Charitable Collections Regulations 2003 \(ACT\)](#)

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

## Other related resources

### [Access Canberra](#)

- ▶ [Access Canberra, Charitable Collections Licensing](#)

- ▶ [Access Canberra, Incorporated Associations](#)

### [Australian Charities and Not-for-profits Commission \(ACNC\)](#)

- ▶ [Australian Charities and Not-for-profits Commission – Charity Tax Concessions available](#)

- ▶ [Australian Charities and Not-for-profits Commission – Applying for Charity Registration](#)

- ▶ [Australian Charities and Not-for-profits Commission – Ongoing Obligations to the ACNC](#)



These ACNC pages provide an overview of all present, and future obligations of registered charities and not-for-profits.

### **Australian Taxation Office (ATO)**

- ▶ [Australian Taxation Office – Fundraising](#)

### **Fundraising bodies of other States and Territories**

- ▶ [New South Wales Fair Trading – Charitable Fundraising](#)
- ▶ [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](#)
- ▶ [Consumer Affairs Victoria - What is a Fundraiser?](#)

### **Other useful links**

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



