

DAY 1: THURSDAY 16 MAY 2024

**CHAIR DAY 1: LIBBY KLEIN,
DIRECTOR, SOCIAL IMPACT LEGAL,
MELBOURNE**

MORNING THEME: GOVERNANCE ESSENTIALS

9.00 - 9.15am

Introduction and welcome

9.15 - 10.00am

Session 1: Structuring NFP and Charity Boards: Maximising Their Value

In today's busy and ever complicated world, it is increasingly difficult to find and retain board members with the right intention, skills and attitude. The correct board structure is an essential requirement of good governance. What does this mean in practice? This session looks at the key requirements on board structure for charities and NFPs, including:

- Is the board comprised of the right people to make the right decisions?
- Board duties and responsibilities under the microscope
- Assessing board performance - a toolkit
- Does the board need a makeover and what might that look like?
- Good governance principles - board size and rotation of board members
- Monitoring and accountability of board members
- In what circumstances is an NFP permitted to pay a board member? When or where is it prohibited by law or by constitution?
- Factors to consider when deciding whether to pay a board member, including impact on personal liability, employment law consequences, funding requirements

Speaker: Sonya Beyers, Director, Governance By Design, Brisbane

10.00 - 10.10am Panel Comments and Questions

10.10 - 10.55am

Session 2: Taking a Risk Management Approach to Mental Health in the Workplace

Mental health issues not only impact the individual, but also their workplace, particularly where there is a claim that the mental health is a workplace injury. With a tripling of mental health compensation claims in the last 20 years, the challenge is for organisations to take a proactive and risk-based approach to minimising psycho-social hazards. It can be difficult to know where to start - particularly for smaller organisations working at the coalface in an under-funded sector. This session will examine the key issues, including:

- An analysis of the duty of care of employers and Codes of Practice
- The regulator's guidelines on mental health management in the workplace
- The treatment of mental health at the recruitment stage - what can employer's ask?
- Establishing and implementing policies, procedure and training
- Disability discrimination and the treatment of employees with a mental health condition
- How are "reasonable adjustments" assessed in the mental health space?
- Strategies for identifying and managing some of the perceived mental health triggers such as working hours, bullying, changed work conditions and rosters, public abuse, financial and personal stress

Speaker: Gemma Sharp, Special Counsel, Cooper Grace Ward, Brisbane

10.55 - 11.05am Panel Comments and Questions

11.05 - 11.30am Networking Break and Morning Tea

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11.30am - 12.15pm

Session 3: Manage Related Party Transactions Today, Avoid Conflict of Interest Issues Tomorrow

It goes without saying that organisations who fail to adequately manage the risks caused by related party transactions are in for a world of hurt. Understanding related party transaction obligations and how they should be managed are key to avoiding conflicts of interest and the regulatory consequences that may follow. This session examines the following:

- The ACNC's Governance Standards, the guidelines that apply to different types of charities and the steps they are now expected to take to comply
- The trends underpinning non-compliance by charities when it comes to related party transactions and conflicts of interest
- Red flags and warning signs to look out for and tips for preventing issues from arising
- The advantages and disadvantages of different approaches to identifying and managing conflicts of interest and characteristics of a 'significant and enhanced' approach
- Tips for creating effective policies and procedures and managing reporting requirements

Speaker: Elizabeth Shalders, Special Counsel, Mills Oakley, Melbourne

12.15 - 12.25pm Panel Comments and Questions

12.25 - 1.25pm Luncheon

AFTERNOON THEME: FINANCIAL MANAGEMENT

1.25 - 2.10pm

Session 4: Government Funding: The Answer To Everything Or Too Good To Be True?

Securing donations and philanthropic grants from the private sector to continue or expand services seems to be a never-ending quest. While for many, government funding may seem like an attractive option, it comes with many additional requirements, obligations and restrictions. Before applying for government funding, organisations need to properly consider and weigh up the benefits against the cost of setting up to receive such funding. To help organisations undertake this task and consider whether going down the government path is right for them, this session will examine:

- Navigating potential sources of funding from government and the pros and cons of each
- What an organisation needs and should do before applying for government grants or funding
- The regulatory and reporting aspects of receiving public funds
- Spotlight on NDIS funding and compliance

Speaker: Jessica Lipsett, Director, Corney & Lind, Brisbane

2.10 - 2.20pm Panel Comments and Questions

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2.20 - 3.05pm

Session 5: The Legalities of Fundraising: 2024 and Beyond

In 2023, Australian governments agreed to a set of nationally consistent fundraising principles to support ethical fundraising practice across national and state-based organisations. But what happens next? And how will the upcoming changes impact the day-to-day planning and operation of fundraising activities? To help organisations get across the changes and plan for the future, this session examines:

- The national fundraising principles and the practicalities of adhering to the principles for individual organisations in the sector
- An update on proposed reforms around Australia to give effect to the principles through regulatory changes and legislation
- Proposed changes to the regulatory guidance in development and how the principles have been practically put into action since their release

Speaker: Catherine Brooks, CEO, Wendy Brooks & Partners, Melbourne

3.05 - 3.15pm Panel Comments and Questions

3.15 - 3.35pm Networking Break and Afternoon Tea

3.35 - 4.20pm

Session 6: The Workplace Reforms are Here: What the Landscape Holds for Charities and NFPs

As expected, the Federal Government is pursuing its workplace reform agenda, seeking to provide greater certainty and security for employees and tightening obligations on employers. This session will provide a guide to some of the most significant changes that will impact the charities and NFP sector and will highlight what organisations should be doing now, including:

- Limitations on fixed term contracts – what these reforms mean for the sector
- Unpacking changes to the rights of casual staff
- Flexible working arrangements and the ability to request them
- Paid parental leave and domestic violence leave entitlements
- The right to disconnect – what will this mean in practice?
- Compliance checklists – what should organisations be doing now to prepare?

Speaker: Adam Foster, Partner, Colin Biggers & Paisley, Melbourne

4.20 - 4.30pm Panel Comments and Questions

DAY 2: FRIDAY 17 MAY 2024

**CHAIR DAY 2: MARK FOWLER,
PRINCIPAL, FOWLER CHARITY LAW,
SYDNEY**

MORNING THEME: STRUCTURING FOR SUCCESS

9.00 - 9.05am

Introduction and welcome

9.05 - 9.50am

Session 7: Charting the Course of Change: Navigating Mergers, Acquisitions and Conversions

A charity merger is distinct from a for-profit merger in that the alignment of vision purpose and values is paramount. While there are many valid and attractive reasons for entering into a merger, there are also legal and regulatory requirements and consequences which need to be properly considered by the parties involved. This session provides a 'how-to' guide to not-for-profits contemplating a merger and will cover the following:

- Reasons for considering a merger
- The relevance of legal structure in what is possible for a not-for-profit merger
- The common types of not-for-profit mergers
- The stages of a merger including tips for reviewing the constitution when contemplating a merger
- Some practical "due diligence" essentials including purpose, property, employees, privacy and historical liabilities, overseas operations and the relevance of the external conduct standards

*Speaker: Rebecca Lambert-Smith, Practice Leader,
Moores, Melbourne*

9.50 - 10.00am Panel Comments and Questions

10.00 - 10.45am

Session 8: Going Beyond Partnerships: Navigating Different Models for Collaborations and Alliancing

To unlock greater impact potential, charities and NFP organisations are increasingly wanting to collaborate and work with other organisations. While corporate partnerships seem to be the preferred (or at least the default go to) option, there are many alternative models for collaboration and alliancing. To help organisations consider the alternatives, this session explores:

- The key options available to structure a collaboration or alliance
- The pros and cons of different models and the factors to consider when selecting a model
- The practical steps and tips for organisations when planning their joint endeavour
- Spotlight on auspicing arrangements:
 - What constitutes an auspicing arrangement and examples of common, and not-as-common arrangements employed in the sector
 - When should an auspice arrangement be used, what are the benefits and the risks to both parties?
 - Issues to consider before negotiating an auspicing arrangement and coming to an agreement
- Case studies and examples

Speaker: Darren Fittler, Partner, Gilbert + Tobin, Sydney

10.45 - 10.55am Panel Comments and Questions

10.55 - 11.15am Networking Break and Morning Tea

DAY 2: FRIDAY 17 MAY 2024

AFTERNOON THEME: MANAGING CONTEMPORARY CHALLENGES

11.15am - 12.00pm

Session 9: None Of Your Business: The New Privacy Act and Secrecy Provisions

Following a series of high-profile data breaches in recent years, it is hardly surprising that the long-awaited changes to the Privacy Act are finally being pushed through. The reforms are set to dramatically change the privacy law landscape in Australia. To help NFPs and charities get across the changes to the Privacy Act, this session shall:

- Provide an overview of the changes to the Privacy Act, including the Australian Privacy Principles and how these changes intersect with ACNC secrecy provisions
- Update organisations on when to expect the changes to come into effect, the extent of the increased obligations on entities and issues which have been flagged ahead of their implementation
- Discuss what best practice privacy data governance principles and policies look like for a range of different organisation types and sizes within the NFP sector
- Summarise the practical steps organisations should be doing now to prepare, and how to otherwise create an overall compliant culture.

Speaker: Nicole Shenfield, Director, Paxton-Hall Lawyers, Brisbane

12.00 - 12.10pm Panel Comments and Questions

12.10 - 12.55pm

Session 10: Clarity at Last? The Revised Commissioner's Interpretation Statement for Public Benevolent Institutions

After much reworking, the long-awaited and highly anticipated revised Commissioner's Interpretation Statement for Public Benevolent Institutions has finally been released. The new Statement provides certainty for the charity sector, while opening the door to a wider variety of charities with differing activities that now may be eligible for PBI registration. This session will examine:

- How organisations can comply - and prove compliance - with the new test of "organised, conducted or promoted"
- The current position of the ACNC regarding sole purpose of benevolent relief
- Tips for how organisations can demonstrate their benevolent "characteristic and predominant purpose and activity"
- How the statement deals with issues raised by the sector, including when and how organisations can charge for services, the impact of the statement on the ACNC's interpretation of the PBI charity subtype, when (and how) organisations can engage in advocacy and the provision of benevolent relief through indirect means
- The impact of recent cases on the formulation of the final Statement

Speaker: Mark Fowler, Principal, Fowler Charity Law, Sydney

12.55 - 1.05pm Panel Comments and Questions

1.05pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the conference and conference papers. Refreshment breaks on both conference days and lunch on day 1 are included for delegates attending the face to face event.

Conference Papers

TEN will not provide printed copies of the conference papers or Powerpoints. Access to the papers & Powerpoints will be available online to all delegates in the lead-up to the conference (as they become available).

CPD

Lawyers (except WA): 9 CPD units (substantive law).

WA Lawyers: 6 CPD points (substantive law) - being the maximum allowable per event by the LPBWA.

While TEN takes all reasonable care to include accurate and up-to-date information regarding CPD category classifications and compliance obligations, information regarding CPD point allocation are provided as a guide only. Allocation of CPD points is subject to the CPD requirements of your jurisdiction, personal circumstances and professional requirements. You are solely responsible for determining whether a particular product is appropriate for your CPD requirements.

CPD Certificate

All delegates attending the conference will receive a CPD Certificate confirming attendance.

The Conference Venue

Melbourne Marriott Hotel

Corner Lonsdale & Exhibition Streets, Melbourne

Phone: (03) 9662 3900

Web: Luxurious hotel in Melbourne's CBD (marriott.com)

Delegate Accommodation Rate at the Melbourne Marriott

The Marriott are offering conference attendees 10% off their best available rates at the time of booking.

Please call (03) 9660 1128 to book your room and identify yourself as an attendee of this event.

Travelling to the Conference Venue

Delegates are advised to make their own travel arrangements.

Conference Dress

Smart casual attire is suitable (note: the temperature in the conference rooms can vary depending on where you are sitting. Short sleeves/summer tops are generally OK, but it is advisable that you bring a jacket/long sleeved top just in case you need it).

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