

THE 9TH ANNUAL NOT FOR PROFITS & CHARITIES LEGAL AND REGULATORY

OUR REGULAR TWO DAY CONFERENCE
DELIVERED **ONLINE** IN FOUR PARTS
OVER FOUR HALF DAYS

Part 1: Protecting Your Reputation in a Competitive Market

Thursday 20 May 2021 [10am to 12.45pm]

Part 2: Managing Compliance Risks

Friday 21 May 2021 [10am to 12.45pm]

Part 3: Issues in the Charities & NFP Workplace

Thursday 27 May 2021 [10am to 12.45pm]

Part 4: Funding & Accounting Issues

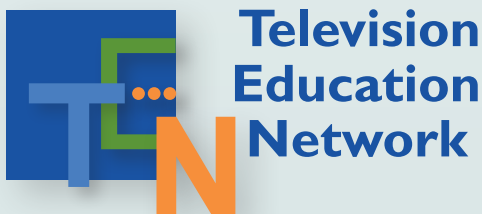
Friday 28 May 2021 [10am to 12.45pm]

FEEDBACK FROM LAST YEAR'S CONFERENCE:

"The information provided by the speakers was not familiar to me so it provided an opportunity for great learning. I found that there was so much information to take in as a new CEO."

"Great diversity of topics, well presented."

"This is one of the only conferences available that content is relevant to my area within my organisation."



Leaders in online CPD for lawyers

PART 1: THURSDAY 20 MAY 2021

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

**THEME: PROTECTING YOUR REPUTATION IN A
COMPETITIVE MARKET**

10.00 - 10.05am

Introduction and welcome

10.05 - 10.45am

**Session 1: Safeguarding the Keys to the Kingdom:
Protecting Reputation and Brand on Social Media**

The viability and value of charities and NFPs lies very much in their public standing and good reputation, and in the face of increasing competition for both government and private support, organisations need to effectively manage the promotion and protection of their standing in the community. Moving to an on-line presence has added significant risk to brand management, and this session will explore the steps your organisation should be taking to manage the common risks of social media presence, including:

- The decision to use social media - what the Board and senior management need to know and plan for
- Controlling your social media presence - delegating authority and management within the organisation
- Signing up - what to look for in contracts and arrangements with social media providers:
 - Control over your page
 - Ability to monitor and block unwanted activity and comments
 - Prohibited conduct and other restrictive terms and conditions
- What should be in your social media policy?
 - Managing "fake news" or customer posts and other reputational harms - what actions are available?
- Protecting intellectual property - trademarks and copyright basics explained
- Managing privacy and confidentiality online

Speaker: Veronica Scott, Director, KPMG Law, Melbourne

10.45 - 10.55am Questions and Discussion

10.55 - 11.35am

**Session 2: Avoiding Fights to the Death: Best Practice
Dispute Management for Charities and NFPs**

NFPs and charities operate in a sector with complex regulatory obligations, voluntary boards, diverse membership, vulnerable clients and other challenging circumstances. It is inevitable that disagreements will arise at all levels, and whilst a "one size fits all strategy" for dispute management is not practical, there are effective steps that can contribute to the timely and beneficial resolution of disputes. This session provides a guide to achieving such an outcome, including:

- Red flags: identifying potential conflicts and disputes at an early stage and considerations of proactive resolution
- Delegating dispute management - whose responsibility?
- Key aspects of an effective dispute resolution process
- Investigation essentials
- When is it time to call in the lawyers, media managers or crisis managers?
- Weighing up the merits, cost, reputation and other effects before acting
- Settlement agreements - when to have one and what needs to be in them?
- The benefit of having dispute resolution processes in constituent documents, policies and contracts

Speaker: Carlie Alcock, Associate, Mills Oakley, Sydney

11.35 - 11.45am Questions and Discussion

11.45 - 11.55am Short Break

11.55am - 12.35pm

**Session 3: Reporting and Regulatory Compliance
Update from the ACNC**

In this session, hear directly from the regulator on the key regulatory and reporting reforms that have arisen in the last twelve months affecting the sector. It includes:

- What can be expected in the next Annual Information Statement
- Progress report on red tape reduction
- Patterns in new registered charities
- Transition of not-for-profits into the ACNC
- Recent prosecution activity from the ACNC and lessons from them

Speaker: Hon. Dr Gary Johns, Commissioner, Australian Charities & Not-For-Profit Commission, Melbourne

12.35 - 12.45pm Questions and Discussion

12.45pm Part One Close

PART 2: FRIDAY 21 MAY 2021

**CHAIR PART 2: MURRAY BAIRD,
PRINCIPAL, MURRAY BAIRD
ADVISORY, MELBOURNE**

THEME: MANAGING COMPLIANCE RISKS

10.00 - 10.05am

Introduction and welcome

10.05 - 10.45am

Session 4: Ready for the Knock on the Door? Guidance for Responding to Regulator Investigations

The ACNC has received significant funding from the Government to undertake increased field-based compliance and enforcement activity. This session will explore the expected focus of the ACNC and what NFPs and Charities can do to prepare for a knock on the door from the regulator:

- ACNC focus and target areas of compliance
- What powers does the ACNC have to request information or investigate?
- Advice for responding to a regulator's enquiries:
 - Board involvement
 - Timelines and deadlines
 - Who should manage the response?
- Key steps in preparing for an examination or investigation
- What information and documentation should be provided to the regulator?
- When to call in the lawyers
- Possible outcomes of the investigation
- Implications of entering into a compliance agreement
- Next steps if facing de-registration
- Negotiating with the regulator
- Anticipating a call: focussing on governance and record keeping

Speaker: Dr Matthew Turnour, Chairman, Neumann & Turnour Lawyers, Brisbane

10.45 - 10.55am Questions and Discussion

10.55 - 11.35am

Session 5: Icebergs Ahead: The Focus for NFP and Charity Boards in Challenging Times

During times of change and pressure, organisations look to their Board for guidance and leadership. This session will examine what a prudent Board should be doing to steer its organisation through stormy waters resulting from the pandemic, royal commission findings, increasing regulation and the economic downturn, including:

- Is the Board comprised of the right people to make the right decisions?
- Board duties and responsibilities under the microscope: Australian Security Investment Commission v Mitchell [No 2] [2020] FCA 1098
- Purpose as the guiding light: ensuring alignment between organisational objectives and operations
- Does the board know what it needs to know? Financial and other reporting obligations
- Conducting self-assessment and reviews of structure, activities and performance
- Bringing in the experts
- Putting risk management on the front footing, including new industrial manslaughter laws
- Essential items for every Board meeting agenda

Speaker: Alistair Macpherson, Managing Director, Corney & Lind Lawyers, Brisbane

11.35 - 11.45am Questions and Discussion

11.45 - 11.55am Short break

PART 2: FRIDAY 21 MAY 2021

11.55am - 12.35pm

Session 6: How Secure is Your Safety Net? Risk and Insurance in a NFP and Charity Environment

NFPs and charities are increasingly operating in non-traditional and commercial environments with associated exposure to new types of risk. Whether running sporting events, fundraising events, caf  s, education and training or camps, the process for assessing risks and developing associated strategies is similar. This session provides a practical guide to effective risk management planning and implementation, including:

- The role of Board and management in embedding a risk aware culture
- Steps for risk framework development - assessment, risk register and risk policies
- How to determine roles and responsibility for risk management within the organisation
- Incorporating risk as a key performance indicator in position descriptions
- Identifying vulnerability and implementing effective controls for risk minimisation
- Make your broker your best friend: determining insurance needs, cost evaluation and regular reviews
- Disaster management and business recovery plans: are you prepared?
- Practical case studies

Speaker: Amanda Ryding, Partner, Colin Biggers & Paisley, Sydney

12.35 - 12.45pm Questions and Discussion

12.45pm Part Two Close

PART 3: THURSDAY 27 MAY 2021

**CHAIR PART 3: MARK FOWLER,
DIRECTOR FOWLER CHARITY LAW,
SYDNEY**

**THEME: ISSUES IN THE CHARITIES & NFP
WORKPLACE**

10.00 - 10.05am

Introduction and welcome

10.05 - 10.45am

Session 7: The Relationship Between the Board and the CEO in NFPs and Charities

Good governance requires the Board and CEO maintaining a successful and productive relationship to achieve the best decisions and outcomes. A breakdown in this relationship can significantly impact the organisation, stakeholders and the wider community. This session will explore some of the key elements of the Board/CEO relationship and highlight strategies for successfully team work and managing tensions, including:

- Key elements of successful Board and CEO relationships
- Recruitment due diligence - know what you are looking for
- Crafting a guiding position description
- Key contract terms for effective relationship management - performance indicators and reviews, dispute resolution and termination provisions
- Setting appropriate limits on delegations and authorisations
- Should the CEO have a seat at the Board table? Setting the limits between governance and management
- Communications protocols between the Board and the CEO
- Planning for performance reviews for CEOs
- When is it time for the CEO to go? Strategies for:
 - Performance management
 - Relationship breakdowns
 - Dispute resolution
 - Termination

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

10.45 - 10.55am Questions and Discussion

10.55 - 11.35am

Session 8: Developments in Employment Law for NFPs and Charities

Organisations have an ongoing challenge in staying abreast of employment law and regulatory changes that impact their workforce. This session will examine recent developments and provide a guide to ensuring compliance, including:

- An update on the status of casual employees and their entitlements
- Can staff be terminated for speaking out critically against their employer? *James Cook University v Ridd [2020] FCAFC 123*
- Obligations on employers when a fixed term contract comes to an end
- An update on wage theft law reform and the Fair Work Ombudsman investigations
- Developments on portability of long service leave
- New industrial manslaughter laws
- Calculation of personal and carers' leave after the High Court's decision in *Mondelez*
- Developments in labour-hire arrangements and what that means for the NFP sector

Speaker: Adam Foster, Senior Associate, Macpherson Kelley, Melbourne

11.35 - 11.45am Questions and Discussion

11.45 - 11.55am Short Break

11.55am - 12.35pm

Session 9: Treading a Careful Path: Termination of Employment in NFPs and Charities

The need to terminate the employment of staff may arise in a variety of situations, and care needs to be taken to ensure this is done legally and sensitively with the impact on the workplace community fully considered. This session provides a guide to the processes for employee separation, including:

- In what circumstances can an employee's employment be terminated? Understanding relevant awards and contractual provisions
- Whose decision? When should the Board be involved?
- Processes where alleged misconduct is involved - investigations and communications
- Treatment of older employees - avoiding age-based discrimination and unconscious bias
- Management of under-performers - conducting performance reviews and ongoing management
- When is redundancy appropriate?
- Record keeping essentials
- Managing disputes and complaints
- Dealing with the fall-out in the workplace

Speaker: Magda Marciniak, Partner, Justitia, Melbourne

12.35 - 12.45pm Questions and Discussion

12.45pm Part Three Close

PART 4: FRIDAY 28 MAY 2021

CHAIR PART 4: RUSSELL POSTLE, CONSULTANT, BDO, BRISBANE

THEME: FUNDING & ACCOUNTING ISSUES

10.00 - 10.05am

Introduction and welcome

10.05 - 10.45am

Session 10: Getting a Fair Share: Issues in Gift Giving to NFPs and Charities

An important source of funding for NFPs and charities is through donations in various ways, often by way of tax-deductible gift giving or through a bequest in a will. Recipient organisations need to be aware of developments in these areas to safeguard these important sources of funding. This session will provide and update on legal issues affecting both types of gift, including:

- Gifts inter vivos (during life time):
 - What types of gift are tax deductible?
 - Can the gift giver receive a benefit from the donee?
 - How will proposed reforms to DGR status impact NFPs?
 - What will a NFP need to do to continue to attract tax deductibility for its donors?
- Bequests to NFPs and charities under a will:
 - What can go wrong: case examples including Re Graham (deceased) [2020] QSC 27; Re estate of the late Stasha Berger [2020] NSWSC 750; Banwell V Attorney-General (Qld) [2020] QSC 239
 - Advice to give potential donors about bequests:
 - Avoiding conflicts of interest and undue influence
 - Contesting and defending gifts in wills: ethical, costs and reputational considerations

Speaker: Paul Paxton-Hall, Director, Paxton-Hall Lawyers, Brisbane

10.45 - 10.55am Questions and Discussion

10.55 - 11.35am

Session 11: Financial Management Update for NFPs and Charities

This session will provide a guide and update on changes to the legislative and regulatory regime which impact on financial obligations of NFPs and charities, including:

- Details of the AA SB framework for simplified disclosure commencing 2021
- AA SB 15: applying revenue recognition to contracts
- How AA SB 16 should be implemented: practical application of the leasing standards
- Proposed reforms for moving to Special Purpose Financial Statements for NFPs

Speaker: Aletta Boshoff, Partner, BDO, Melbourne

11.35 - 11.45am Questions and Discussion

11.45 - 11.55am Short Break

11.55am - 12.35pm

Session 12: Keeping Afloat in Challenging Economic Circumstances: A Financial Guide for NFPs and Charities

Even before the pandemic, the economy was going through a difficult period. Not for Profits and charities relying on government funding, grants and donations face a challenging period to maintain and manage their financial position. This session will examine a number of financial issues that organisations need to keep in mind during difficult economic times, including:

- ACNC governance standards for financial management - are you compliant?
- How to protect and maintain financial sustainability through:
 - Financial record keeping and reporting
 - Regular financial position reviews
 - Financial delegations
 - Fraud controls
- Board leadership and involvement including:
 - Regular reporting and financial scrutiny
 - Financial sub-committee
 - Financial literacy training and skills
- Options for improving financial position while maintaining charitable status
- What does insolvency look like? Immediate first steps to take
- Making the decision to bring the organisation to end:
 - Winding up options
 - Asset management
 - Member engagement

Speaker: Russell Postle, Consultant, BDO, Brisbane

12.35 - 12.45pm Questions and Discussion

12.45pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the online conference, online access to the conference materials and recordings of each of the sessions provided after the conference.

Conference Materials

Access to the conference materials will be available online to all delegates. Access will commence in the lead-up to the conference as the materials become available.

Lawyers - CPD Units

Lawyers (except WA): 7 substantive law CPD units

CPD Certificate

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

Online Conference Delivery

The conference will be delivered online. Delegates will receive a link to login and attend each of the 4 parts of this online conference.

This online conference will be delivered in a style similar to a live conference. There are Chairs for each part to introduce speakers and facilitate question time and the online portal allows delegates to pose questions to the speakers via the chat facility.

Cancellation Policy

Cancellations must be received in writing at least 10 days prior to the Conference for a 85% refund. Substitute delegates accepted at any time.

If a registration was purchased as part of a group discount the cancellation of that registration may affect the discount level for other members of the group. The amount of the refund will be adjusted to recoup any adjustment required to the overall registration fees for that group.

Conference Terms

Program subject to change without notice. The information and views presented in the conference are not necessarily those of TEN and participants rely on these at their own risk. TEN is not responsible for any financial or other losses incurred by delegates or for injury or damage to persons or property. TEN's maximum liability for conference cancellation or any other loss or liability is the refund of the registration fee paid.

TEN is not responsible for financial loss incurred by you as a result of the cancellation or postponement of the conference as a result of strikes, public health emergencies, natural disasters, and other Acts of God.

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REGISTRATION FORM TAX INVOICE*

Registration is simple; complete the form below and fax or post your registration to us or register online.

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Register online: <http://www.tved.net.au> – go to CONFERENCES

Please register me for the **9th Annual Not for Profits & Charities Legal & Regulatory Conference** – a 2-day online conference to be delivered over 4 half day mornings on 20, 21, 27 & 28 May 2021

[conf code: MNFMAY21]

Discount Registration – for registrations made on or before 30 April 2021 – **\$1650** (\$1500 + \$150 GST)

Full Price Registration – **\$1815** (\$1650 + \$165 GST)

Subscriber First Discount Registration – I am a Subscriber First member and entitled to a **10% discount** off the full registration fee – **\$1633.50** (\$1485 + \$148.50 GST)

The papers from this conference will be available in electronic form approximately 1 week after the conference has been held. You can pre-order the papers now online via our website at www.tved.net.au. The papers are **\$198** (\$180 + \$18 GST) [Code: PMNFMAY21].

Multiple registration discount? Discounts are available for multiple registrations: The more you send, the greater the discount. You can access the discount by registering using the “multiple registrations” option online, or contact our Conference Manager, Jenna Pickrell, to organise your registrations. jenna@tved.net.au or phone (03) 8601 7729.

- 3 registrations – **5% discount** for each delegate
- If you register 4 people at the same time you are entitled to a **10% discount** for each delegate
- If you register 5 people or more people at the same time you are entitled to a **15% discount** for each delegate.

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