

**FIA RESPONSE TO PRODUCTIVITY COMMISSION DRAFT REPORT**  
**8 February 2024**

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## About Fundraising Institute Australia

*Fundraising Institute Australia (FIA) is Australia's national peak body for the \$13.8 billion charitable fundraising sector. Among our other professional fundraising activities, we champion and monitor best practice fundraising through a self-regulatory Code of conduct for the sector, the FIA Code, and we engage in policy advocacy on behalf of our members.*

We appreciate the opportunity to respond to the Productivity Commission's draft report and we welcome further discussions around the positions outlined in this response.

We welcome the proposals by the Productivity Commission in the draft report regarding the following issues:

- Proposal for charities to report bequest income separately in their annual information statement and publicly report the aggregate data.
- Proposal for a wider range of charities to gain DGR status, such as charities focused on animal welfare, advocacy and prevention, and charities run solely by volunteers.

Nonetheless, we believe that the draft report as it is, does not adequately address the right levers for doubling philanthropy and motivating giving in Australia. We advise that the Productivity Commission (PC) carefully review the concerns in our response as addressed in the following pages and reconsider its position on other matters. We also support the positions of Newington College, Educate Plus, CASE, GoFundMe, and other FIA members in their respective responses to the PC draft report.

### **In this Response:**

**Part one** covers general charitable fundraising matters as relevant to the draft report:

1. Motivations for Giving – The Fundamental Role of Fundraisers.
2. Regulatory Arrangements for Confidence in the Sector: Self-Regulation & Government's Harmonisation Commitment.
3. The Deductible Gift Recipient System: To Reconsider the School Building Funds Proposal.

**Part two** focuses on gifts in wills philanthropy as relevant to the draft report. Part 2 has been prepared by FIA's Include a Charity Campaign. Part two covers:

1. Making bequests through superannuation easier.
2. Probate reform.
3. Accessing professional advice on philanthropy – specifically wills and estate.

The following documents are appended at the end of this submission: i) An executive summary of Evolve Research and Include a charity on the willingness to leave a bequest to a charity in wills, and ii) a Bequest Assist and Include a Charity report on superannuation in charitable gifts in wills.

## Part One – General Fundraising Matters

### 1 Motivations for Giving – The Fundamental Role of Fundraisers

With most donations being facilitated through professional fundraising channels and as a result of fundraisers making the ‘ask’, the future of philanthropy in Australia is predicated on the fact that fundraisers are the drivers behind all other motivations for giving.

According to 2022 data from the Benchmarking Project across 45 Australian charities with large fundraising programs, it was found *that 90% of gifts from individual donors* (excluding donations from corporate, trusts or government funds) *were as a result of a fundraising ask*.<sup>1</sup> Data from the UK Institute of Fundraising also shows that *eight out of ten people donate after being asked, and not because of an unprompted decision* to give.<sup>2</sup>

Despite the multifaceted reasons for giving outlined in the PC draft report, the role of fundraisers in promoting the cause, in facilitating the giving mechanisms, and in stimulating the varied reasons for giving outlined in the draft report remains overlooked. This disregards the valuable skills, resources, systems, multi-channel marketing, and the ethical fundraising conduct of fundraisers that spur giving.

To entrench the future of philanthropy more sustainably in Australia, it is imperative to accord recognition to the role of fundraisers.

**First**, official recognition of fundraising as a professional occupation by ANZSCO is vital for the advancement of philanthropy in Australia. Presently, ANZSCO's classification of occupations lacks a specific category for fundraising professionals. Yet, fundraisers are indispensable to the activities of charities, non-profits, public higher education, healthcare institutions, and other philanthropic activities.

**Secondly**, supporting professional fundraisers requires investing in:

- i) Their skill development and training.
- ii) Their technology integration.
- iii) Their implementation of ethical best practice fundraising.

If the objective is to double and encourage giving in Australia, it is imperative to bolster the capacity of fundraisers and the fundraising profession as a whole.

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<sup>1</sup> Note that this figure is weighted by large numbers of regular givers, who generally give each month over several years, and it may change in years where there are severe emergencies, which will result in a higher level of unsolicited gifts.

<sup>2</sup> Institute of Fundraising and YouGov Report – ‘Insights on Charity Fundraising: Why People Give and their Experience of Donating’ as cited by the European Fundraising Association.

## **2 Regulatory Arrangements for Confidence in the Sector: Self-Regulation & Government’s Harmonisation Commitment**

Consideration of the importance of establishing a robust regulatory framework and formalised regulatory architecture in the draft report is rightly regarded as crucial for fostering trust and confidence in the charity sector.

It is also essential to consider that the conduct of fundraisers plays a fundamental role in cultivating trust and confidence in philanthropy, particularly in their interactions with donors. Most public concerns and complaints regarding philanthropy, which jeopardise levels of trust and confidence, usually stem from a person’s personal experience of poor fundraising practices.

Sector self-regulation offers a swift, adaptable, and effective response mechanism to issues of fundraising conduct and practices. For instance, the [FIA Code](#) establishes standards for fundraising conduct aligned with ethical best practices. It surpasses government regulations by establishing ethical best practice standards for member conduct towards donors and beneficiaries. By guiding fundraising behavior and practices, the FIA Code’s primary objective is to hold fundraisers accountable for their conduct. A government recommendation to the sector for FIA Membership or membership of a peak industry body would be instrumental to efforts to maintain trust and confidence in the sector.

Further, greater confidence in the sector also extends to the sector being assured in the government’s actions towards harmonisation efforts. Overcoming the complexity of the Australian federation and improving the current legal structures necessitates increased proactivity, responsiveness, and greater dedication from the government at the commonwealth and state levels.

An accountable commitment from the government, especially at the state level, to seek sector perspectives, consult with and respond to the feedback provided by sector stakeholders expeditiously, will boost the sectors confidence in the government’s commitment to harmonisation.

## **3 The Deductible Gift Recipient System: To Reconsider the School Building Funds Proposal**

The objective of this Productivity Commission inquiry is to understand the motivations for philanthropic giving in Australia and identify opportunities to grow it further. A recommendation for school building funds to be stripped of their DGR status is counterintuitive to this objective.

We urge the Productivity Commission to ***reassess the proposal that would render school building funds ineligible for DGR status***. We strongly align with and support the position of Newington College, Educate Plus, CASE, and other FIA Members in their submission to the PC on this matter.

We would also like to highlight a few points here regarding the PC's private benefit consideration.

An analysis conducted by Newington College from 2019 – 2023 shows that fewer than 7% of families made tax deductible donations to their DGR-approved building fund, and by implication, over 93% of families benefited from the generosity of others. To further challenge the private benefit argument of the PC regarding this issue, donations to their building fund were received from non-current student families, that is donations from organisations and other individuals who receive no other private benefit besides the tax benefit for their donations.

We further urge the Productivity Commission to consider that these funds are central to the construction and maintenance of facilities that are publicly accessed and used by the community. The funds are indispensable to the repair and maintenance of existing school buildings, including heritage-listed structures which are of significant community value.


We recommend that all efforts regarding the DGR system should be towards expanding the scope of eligibility, particularly to all causes that are funded by professional fundraising in view of the role of DGR status in motivating people to give. Proper impact analysis should be conducted and presented before any recommendation to restrict DGR eligibility is proposed.

## Part Two - Gifts in Wills Response

### About Include a Charity

*Include a Charity (IAC) is a social change campaign of FIA. Our goal is to encourage more people to leave a gift in their will. By supporting more people to leave a legacy to the causes they are passionate about we will expand the positive impact of charities in our society. We are a collaboration of many charitable organisations in Australia and cover a broad range of causes - from health, medical research, education and animal welfare to the environment, community services, the arts and more. We also advocate for change and best practice with government and estate planning professionals to help and support the public and charitable sector.*

### 1 Making Bequests through Superannuation Easier

 **Information request 8.4**  
**Making bequests through superannuation easier**

The Commission is seeking information, including from donors, charities and superannuation funds, on options to allow people to nominate their superannuation death benefit to a charity. The Commission welcomes further information on the:

- potential design of a mechanism to enable people to direct a portion of their superannuation death benefit to nominated charities, including the roles and responsibilities of parties such as trustees and estate executors
- benefits, costs, risks, necessary safeguards, and potential unintended consequences of policy options enabling a person to direct their superannuation death benefit to nominated charities
- factors, such as family or financial circumstances, that would contribute to a person deciding whether to take up the option to direct their superannuation death benefit to nominated charities.

Include a Charity welcomed the PC's consideration of this matter although a reform option to introduce super bequests was not developed, nor any benefits identified and detailed by comparison.

The PC argues that to allow charities to be nominated in superannuation would represent an inconsistent tax treatment. However, if the government acknowledges that DGR status increases giving and a community-wide benefit, then it is not consistent to state that a tax penalty on bequest giving should be imposed to protect community welfare/tax treatment.

Implementing this reform within an alternative tax framework would have a significant financial impact on philanthropic giving and increase benefits to charities, particularly considering the proportion of people who make superannuation nominations but not a Will. Add to this the statistic that "people have been dying with most of their super – typically 90 per cent – intact." We also know that 12% of baby boomer and 16% of Gen X women are child free according to *The Future of Legacy Giving: Boomers and Beyond* research conducted by Legacy Futures for Include a Charity.

In addition, the Impact Economics and Policy report, estimates that the recommended policy reforms to make charitable super giving easier could result in between \$64.6 and \$260.2 billion in additional income for charities over the period to 2060. We believe this reform has the potential to

bring about a significant increase in charitable giving throughout Australia, with or without tax amendments.

*In terms of how super-bequest option can be integrated* in practice by superfunds, consultations with estate planners who partner with IAC suggest a further ‘tick box’ below the Legal Personal Representative section on the Binding Death Nomination form, stating Australian Deductible Gift Recipient, and another line for the charity’s name and ABN number would be easy to include.

Further, in support of the super bequests’ argument, up-to-date research commissioned by Include a Charity (see attached report *Superannuation in Charitable Gifts in Wills, by Bequest Assist*) **indicates the growing inclusion of superannuation in charitable bequests.** The report concludes that directing charitable gifts from super funds through death benefit nomination would streamline processes, prevent accounting errors and stimulate philanthropic giving, to achieve double-giving targets

We therefore recommend the inclusion of charitable organisations in superannuation death benefit nominations. We also recommend that a comprehensive review with superfund bodies, a panel of legal and financial experts, and fundraising peak bodies, be conducted in the implementation of any changes.

## 2 Proposed Reform and Streamlining of Probate Offices

This recommendation in our May submission was not referenced or considered in the PC Draft Report. IAC/FIA would like to place the following back on the table for recommendation by the Productivity Commission:


- I. The creation of a national probate office to collect documents, administer grants of probate and streamline Australian probate operations. This will lift the burden of cost and administration from the states to a national system (less than 100,000 grants of probate per year in all of Australia). To implement this reform the government should mandate that all states grant probate from a national office, either with existing state rules, or encourage coordination between states to pass new state legislation streamlining all rules for probate.
- II. For all states to adopt the South Australian probate office approach making Wills available free and online. In all states (except SA) beneficiaries must first be notified they are in a Will by the executor or representative. They must then ask for a copy of the probate documents. If denied access, the beneficiary must purchase the Will from the state probate office at a cost of \$38 - \$155, depending on the state.
- III. Partnering with a commercial enterprise to provide a “National Charity Notification Service” to notify charities included in the Will (see Smee & Ford model, UK). Recent research suggests the amount of gifts that are not executed through the current estates/probate process may exceed 0.5% of all bequests - as high as \$50-100 million per



year (approximately 65% of gifts in wills are unknown windfall gifts, so charities need to know if they are a beneficiary in a will in the first instance to pursue the receipt of the gift). Reading all probated Wills is the only way to establish transparency for charities and engage early with executors. Also, early engagement in estate administration will increase the amount to charities due to the specialised knowledge required for taxation on deceased estates for DGR entities - currently too complex for most solicitors and accountants. As a result, incorrect asset handling frequently diminishes – quite significantly in some cases - the value of gifts to charities.

IAC/FIA urge the Productivity Commission to consider and reflect these recommendations in the final report as they are crucial to releasing more bequest revenue to charities by preventing executor fraud, and significantly speeding up the realisation of charitable gifts.

### 3 Accessing Professional Advice on Philanthropy

 **Information request 10.2**  
**Accessing professional advice on philanthropy**

The inability to access high-quality professional advice on philanthropy could prevent some people from identifying giving opportunities or making decisions that align with their preferences. The Commission is seeking information on professional advice on philanthropy.

- Evidence that people who use professional financial services would value and are willing to pay for professional advice on philanthropy, but are unable to source that advice.
- Information on specific regulatory or other impediments (if any) to people accessing advice on philanthropy and ways to address them.
- Evidence that an inability to access professional advice is materially affecting giving or resulting in harm to donors.

Estate & succession planners and financial advisors being trained and resourced to reference philanthropy or a gift in Will in a client meeting would result in significant growth in philanthropic giving and bequests to charities.

Two research pieces support this position:

#### a) For Estate planners:

*Research commissioned by Include a Charity and conducted by Evolve Research and Consulting(See attached).*

Research by creative agency Behaviour Change Partners shows that, contrary to most solicitors' current beliefs, many clients *wish* to leave a gift in their Will to their favourite charity. Evolve Research was subsequently commissioned to test this hypothesis as part of a national omnibus survey. This confirmed 29% of respondents would like to be able to leave a charitable bequest in their Will to a charity important to them. Critically, the research also confirmed most Australians *do not* mind if solicitors ask them about leaving charitable bequests in the Will-making process. The key findings include:



1. 25% of Australians would like to be able to leave something to a cause or a charity important to them when they go to make or next update their Will.
2. 65% say *it is okay* for solicitors to ask about charitable bequests during the Will-making process, presenting another opportunity for discussion.
3. The research also confirmed one in two Australians currently have a Will and 41% made their Will with a solicitor's assistance. Of those surveyed with a current Will prepared by a solicitor, only 21% confirmed their solicitor asked them about leaving a charitable bequest.

#### **b) For Financial Advisers**

A Study of Professional Advisers in Australia February 2016<sup>3</sup> found that the major constraint identified in providing philanthropic advice was around being unsure of how best to advise in this area, with only 5% of advisers believing they are well informed to assist. The most important constraint for providing philanthropic advice was 'I'm unsure about how best to advise in this area' (38.8% of all advisers listing this as an important constraint).

A lack of resources/training was identified where respondents noted that -"We are not currently resourced to provide this service to the level I feel is needed to put it forward as part of our value proposition – we would need support and training".

Most advisers felt that they do not have the support from their professional association to discuss philanthropy. Information packs or guides were highlighted as the most useful type of resource and most advisers wanted these to focus on options for philanthropic structures.

We recommend that bodies such as IAC/FIA should be provided government support to expand formal training and provide advisory collateral to financial planners and lawyers.

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<sup>3</sup> The Australian Centre for Philanthropy and Nonprofit Studies, QUT Business School Queensland, University of Technology Brisbane, Australia by Marie Crittall, Dr Wendy Scaife & Stephanie Boldeman.