

Include a Charity/Fundraising Institute Australia response to the Australian Superannuation Funds of Australia (ASFA) and Super Members Council (SMC) submissions to PC's draft report

On reading these two reports, below are counterpoints from Include a Charity/Fundraising Institute Australia which need to be considered in the submission on allowing charities to be nominated in superannuation.

People are passing away with more than 90% of their super intact which goes against AFSA's position on the purpose. These people aren't spending their super during their lifetime.

AFSA stated that where a member directs their superannuation death benefit to their estate and makes provision for a charity in their will, the estate will benefit from a tax deduction for the charitable donation in its final tax return. This is NOT what we see in the way that super is administered in estates. We see 15% tax (or more) applied to super that flows into the estate, even when all the beneficiaries are charities (applied to non-voluntary super contributions the person made).

IAC/FIA also question in the AFSA report why someone would be less likely to have mental capacity if they are giving their death benefit to a charity? Surely those risks and costs exist for fund trustees already. We are strongly suggesting that this be an option (testamentary right) for people who do not have a dependent for their super to flow to charities. We are yet to notice an estate where this tax hasn't applied

There is no deduction available to estates for charitable gifts made in wills, and no way to reduce the death benefits tax where the death benefit is paid to non-dependants (including charities). Approximately 377 death benefit complaints are made to AFCA each year. It is unsubstantiated to say disputes would increase if charities were nominated as this would only happen where BDBNs are made, which effectively can't be disputed. The mechanisms for challenging a BDBN to a charity would be no different to the current process of challenging BDBNs in favour of non-charities. As noted below most wills are not challenged.

Research cited by SMC by University of Queensland research indicates that approximately 50% of wills are disputed. This is grossly inaccurate. Research commissioned by Include a Charity in 2023 assessing 3,000 wills with bequests reported only 4-5% of realised bequests are contested/affected by a Family Provision Claim.

Include a Charity/FIA also refutes the argument about a burden for charities to be correctly identified by super trustees. It could easily be linked to the Australian Charities & NFP Commission for charity nominations. Also, if there are anti-money laundering obligations already in place, how would distributing to charities increase administrative complexity? It would simply be a case of substituting a charity for an individual.

Include a Charity/FIA also cites The Law Council of Australia submission on superannuation changes to the Treasurer as support of a broad sector-wide call for reform of superannuation. [Submissions - Law Council of Australia](#) One of the 6 recommendations is to remove limitations on who can benefit from death benefits pursuant to a binding death benefit nomination. The LCA is advocating for the position that people work hard to earn their superannuation and they should be entitled to choose ANY beneficiary and not be subjected to the stringent limitations of the SIS rules.