

PRODUCTIVITY COMMISSION

SUBMISSION

5 MAY 2023

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About FIA

Fundraising Institute Australia (FIA) is Australia's national peak body for the \$12.7 billion charitable fundraising sector. We are an industry body with over 7000 members who are charities, not for profits, suppliers of fundraising services, and individual fundraising professionals. FIA, among its other professional fundraising activities, champions and facilitates best practice fundraising with a self-regulatory Code of conduct for the sector, the FIA Code. The FIA Code raises the standard of conduct across the fundraising sector, going beyond the requirements of Government regulation. FIA also plays an important role in engaging regulators on behalf of its members by representing their interests to Governmental authorities and bodies. It is in representing the interests of FIA Members that we provide this response to the Productivity Commission.

FIA welcomes the opportunity to respond to the Productivity Commission's inquiry which aims to understand the trends in charitable and philanthropic giving as well as identify the opportunities and obstacles to increasing giving in Australia. We have consulted with our members and the issues presented in this document fall more within the category of those barriers to increasing charitable giving in Australia and the opportunities that can enhance effectiveness and efficiency in raising and using donations. We welcome further discussions with the Government on the issues that have been outlined in this document.

This Submission

This submission is separated into two parts. Part 1 addresses general fundraising issues and Part 2 focuses specifically on issues around the special nature of gifts in Wills philanthropy. We believe that gifts in Wills as a fundraising channel deserves distinct consideration given the huge intergenerational transfer of wealth on the horizon. Part 2 has been prepared by FIA's Include a Charity Campaign.

PART 1 – Broad Charitable Fundraising Recommendations

The following priority issues are addressed in Part 1 of this submission:

1. Harmonisation of State-based Fundraising Regulations
2. Increased Tax Incentives for Donations
3. Strengthening the Capacity of Charities
4. DGR Reform
5. Recommending FIA Membership to Sustain Trust in Fundraising

1. Harmonisation of State-based Fundraising Regulations

It is widely acknowledged that harmonising charitable fundraising regulations would result in a considerable decrease in compliance expenses, enabling charities to channel more resources towards achieving their causes and investing in more fundraising strategies. FIA acknowledges that the current government is dedicated to harmonising the charitable fundraising regulatory environment and that the Commonwealth, state and territory Treasurers have agreed to a set of nationally consistent fundraising principles.

However, while it is encouraging that efforts are underway to reduce red tape and make fundraising more efficient and cost-effective, there are uncertainties surrounding how the states would implement the proposed nationally consistent principles and to what extent.

Charitable fundraising channels are multifaceted and are governed by a complex range of regulations across different states in Australia. These regulations go beyond entrenching registration and reporting requirements to specific requirements around conducting charitable auctions, engaging children or young persons in fundraising, and conducting raffles to name a few.

For example, the conduct of raffles is a major fundraising strategy for many charities across Australia, but its regulation is handled differently across the states. In most states, the conduct of raffles is regulated under their gaming and liquor regulations with varied requirements and thresholds for conducting raffles in any particular state. The absence of harmonisation in this area creates compliance challenges for charities that conduct raffles across state borders. Additionally, there is the issue of cost and the fees in each state charged for raffle licenses or permits, as well as unreasonable caps imposed by regulators dictating the amount charities must spend in facilitating the conduct of raffles as exemplified in Appendix 1.

Therefore, it is important that the Government carefully considers all the barriers to a fully harmonised charitable fundraising regulatory environment as these disparities between the states could still deter and eliminate opportunities that facilitate philanthropic giving.

2. Increased Tax Incentives for Donations

FIA proposes an increase in tax deductions for donors as a strategy to further address the decline in philanthropic giving which has been evident including according to the most recent QUT report. The QUT report notes that the proportion of the Australian population giving is at

a 40-year low when measured as a percentage of taxpayers claiming a donation, at 26.7%, down 5% on the previous year.¹ Naturally, it is a given that people are more likely to donate if they are offered more tax incentives for doing so. It is also worth noting that other countries have more favourable tax structures for donors, which makes charitable giving more appealing for their donors. For instance, Gift Aid in the UK is a tax incentive scheme that enables claims of 25p for every £1 donated if the individual has paid the UK income and/or Capital Gains Tax in that year. The Australian Government can adopt such a scheme or similar alternatives to further encourage more philanthropic giving. The tax deduction strategies for donations as implemented in other countries could also be studied to enhance existing tax incentives for Australian donors.

3 Strengthening the Capacity of Charities

Many charities, usually the smaller charities, face challenges in expanding their philanthropic initiatives due to insufficient capacity. In the following sections, we outline three areas in which the Government can help strengthen charities' capacity to enhance their effectiveness and efficiency in raising and using donations.

3.1 Donor Management Technologies

Digital fundraising channels and technologies such as advanced donor management systems or applications have become essential for charities to acquire and retain donors. Donors now expect to have multiple channels and platforms to connect with charities and donate at their convenience. The availability of these digital platforms has also led to an increase in competition among charities.

However, smaller charities face obstacles in adapting such technologies due to limited financial resources and competing priorities. Investing in technology management systems requires significant funds, which may conflict with a charity's priority of allocating donated funds to beneficiaries. Thus, providing investment assistance to smaller charities is critical in helping them keep pace with managing the experience of donors. Investment assistance can include providing access to grants or other forms of financial aid to help with the implementation of these technologies. Providing assistance to educate and train charities' staff and volunteers in building their technical capacity would also lighten the burden associated with integrating digital technology. These measures would enable these charities to stay efficient, connect with more donors and supporters, and ultimately grow their impact in the community.

3.2 Digital Payment Options

Data from the Benchmarking Project shows that regular giving via online donations grew 114% between 2012-2021.² But some charities require assistance in facilitating digital payments for donors and educating them on how to use these options easily. This is especially important when

¹ [An Examination of Tax-Deductible Donations Made By Individual Australian Taxpayers in 2018-19 : ACPNS Working Paper No. 74 | QUT ePrints](#)

² This is based on data from 37 charities. See, The Benchmarking Project <
<https://www.benchmarkingproject.org/>>.

it comes to assisting elderly donors transition to giving via technology enabled means. As of 2021, the average age of single giving donors was about 70 years.³

With some banks phasing out cheques as early as June 2023, charities that rely on donations via cheques could experience a decline in philanthropic giving. In a recent FIA survey,⁴ we found that several charities still rely heavily on cheques as a method of receiving donations, and the impending bank cheque withdrawal policy will severely hamper this. 12% of the respondents indicated that they receive over 50% of their annual donations via cheques, while 17% receive between 30%-50% of annual donations via cheques. Some charities receive as high as 80% of their annual donations via cheques. One organisation noted receiving 959 cheques in 2022, and another noted receiving \$1 million annually through cheques. The survey also reinforced that elderly donors are the demographic that still largely donate using cheques mostly due to their lack of digital literacy or lack of trust in online payment methods.

Therefore, support can be provided to charities that assist them in integrating easy-to-use payment options, as well as enabling them to educate their elderly donors about the workings and safety of online payment systems. Banks could also be nudged to develop educational campaigns for elder donors that focuses on the safe and effective use of online payment methods, working collaboratively with charities to achieve this.

3.3 Tax Benefits and Support to Bridge the Skills Shortage Gap

A crucial factor in maximising philanthropic fundraising efforts is having sufficient and skilled workforce. Having a skilled workforce is essential for optimising fundraising efforts and the impact of charities in the community. Having a workforce of skilled professionals can contribute to more effective communication, better relationship building with donors and beneficiaries, enhanced strategic thinking, and improved creativity around the fundraising strategies of a charity. However, numerous charities are facing workforce shortages, which is a challenge not uncommon in other industries. But attracting and retaining highly skilled professionals is an even more significant obstacle for many charities. Charities often struggle to retain and acquire top talent due to the challenge of competing with higher-paying corporate roles, limited budgets for salaries, or the tax benefits incentives available in certain organisations. Thus, there is the need to support charities in increasing their human capital and attracting the best talents in the job market.

Apart from the resources that could help mitigate this problem, offering tax concessions to all employees in the charity sector could enhance its attractiveness to both current and future workers. The tax benefits available to employees of public benevolent institutions, health promotion charities, and public hospitals could be extended to all charities. The provision of tax benefits for employees of public benevolent institutions, health promotion charities, and public hospitals is in itself a good policy. However, extending these benefits to all charities would assist

³ The average of single giving donors in 2021 was 69.92 years. This is based on data from 37 charities. See, The Benchmarking Project < <https://www.benchmarkingproject.org/>>.

⁴ 122 FIA member charities responded to the survey on the impact of cheques withdrawal.

in attracting and retaining skilled individuals who are essential for maximising fundraising efforts nationwide.

4 DGR Reform

Deductible Gift Recipient (DGR) status holds significant importance to the sector as it permits qualified charities and non-profit organisations to accept tax-deductible donations. FIA's position on how the DGR can be enhanced for greater productivity is threefold as outlined below.

4.1 Designating the ACNC as the DGR Authority

The current process of obtaining DGR status can be time-consuming and costly for charities given the paperwork involved. FIA recommends that the Government should consider designating the Australian Charities and Not-for-profits Commission (ACNC) as the primary authority for administering the DGR process. Having now been in operation for an extended period and being the Commonwealth's regulatory body for charities, the ACNC is well established to fulfill this responsibility and can be further equipped if need be. This would streamline the DGR process and alleviate charities' concerns about paperwork burdens and costs associated with DGR applications.

4.2 DGR Status for all Fundraising Charities

FIA also recommends that the scope of eligibility for DGR status be extended to more charities particularly those charities involved in fundraising. This recommendation is grounded in the fact that having DGR status is a significant factor in attracting public support for a charity and its cause. This would increase philanthropic giving and enhance the capacity of more charities in executing their causes. Moreover, this recommendation takes into account the fact that not all charities engage in fundraising, alleviating some concerns about the financial implications for the Government. Overall, expanding the eligibility criteria for DGR status to all fundraising charities would be beneficial for charities, donors, and the broader community.

4.3 Broaden the Eligibility Criteria for Animal Welfare Charities

FIA aligns its position on this issue with its members, namely those charities involved in Animal Welfare that have also submitted their views to the Productivity Commission.

Animal welfare has consistently been cited as one of the top causes that Australians support.⁵ It is reported that Generations Z, Y and X have animal welfare and wildlife support among the top two causes they support.⁶ Yet, several of the major animal welfare charity organisations in Australia which work towards improving the lives of animals and providing critical support to animals are unable to achieve DGR status due to the restrictive eligibility criteria in this category.

⁵ More Strategic, 'Australias Most Popular Causes' <https://morestrategic.com.au/australias-most-popular-causes/>.

⁶ Mccrindle, 'Charitable Giving in Australia' < <https://mccrindle.com.au/article/blog/charitable-giving-in-australia/>>.

According to the ATO, an animal welfare charity is a registered charity whose principal activity is one or both of the following:

- providing short-term direct care to animals (but not only native wildlife) that have been lost or mistreated or are without owners
- rehabilitating orphaned, sick or injured animals (but not only native wildlife) that have been lost or mistreated or are without owners.

This criteria around what qualifies as an animal welfare charity fails to recognise the broader welfare work and other critical services that are provided towards the wellbeing of animals. The above criteria is only interpreted and applied where there is the provision of direct care towards specific animals, which is overly and unnecessarily restrictive.

Some of the critical services animal welfare charities provide that are excluded from qualifying for DGR status include but are not limited to: i) advocacy and community education of animal welfare issues, ii) disaster relief for animals in emergency crises, iii) global rescue missions of animals kept under inhumane conditions, iv) investigations that expose and show evidence of non-compliance to current animal welfare regulation, v) humane stray animal care initiatives such as feeding, vaccinations and trap, neuter, release programs, vi) stakeholder engagement with governmental, non-governmental and organisational bodies on animal welfare best practices.

Thus, many charities that fundraise and promote animal welfare are excluded from qualifying for DGR status. FIA is recommending that the Government broadens the scope of animal welfare activities that qualify for DGR status. This would not only bring Australia in line with the approach in other jurisdictions, it would also stimulate greater support for animal welfare causes.

5 Recommending FIA Membership to Sustain Trust in Fundraising

FIA plays a very important role across Australia in self-regulating charitable fundraising conduct and in advancing professionalism. Incentivising, maintaining, and leveraging philanthropic giving opportunities relies heavily on the trust and confidence that donors and the public have in fundraising. Research from More Strategic found that being ethical is one of the key factors that drives trust from donors.⁷ FIA membership requires adhering to a self-regulatory regime, the FIA Code.

The FIA Code is informed by the International Statement of Ethical Principles in Fundraising, and it commits all members to high standards of ethical conduct. The FIA Code goes beyond the requirements of government regulations in outlining ethical and best practice standards for how members are to act with respect for professional fundraising, the cause they represent, donors, beneficiaries, and in fundraising supplier relationships.

⁷ More Strategic <<https://morestrategic.com.au>>.

The Code therefore serves as a powerful tool to guide fundraising behavior and practices, and this is particularly important in view of past incidents in the UK where poor fundraising practices by a few charities undermined donor trust and confidence in their charity sector. Outlined below are several reasons why the FIA Code is crucial in improving and maintaining the trust of donors and the public in the sector, and in advancing the professionalism of fundraising practitioners.

5.1 FIA Code Training

The FIA Code obliges members to ensure that those engaged in fundraising have completed the FIA Code training within six months of their appointment. The Code Training is a practical way for charitable fundraising practitioners to learn the principles of ethical best practice fundraising as outlined in the FIA Code and Practice Notes. The Code Training promotes broad awareness of (and compliance with) the Code among fundraisers across the sector. This applies to individuals at all levels, from board members and executive management of charities to professional staff and volunteers engaged in fundraising activities on behalf of a cause. Just under 6,500 contacts have now completed the Code training as of April 2023.

5.2 FIA Practice Notes

The FIA Code is accompanied by a suite of distinct Practice Notes which have been developed with the input of members and other stakeholders. These Practice Notes assist members to better understand their obligations under the Code and best practice standards relevant to different aspects of fundraising conduct. The Practice Notes provide in depth guidance to members on areas such as dealing with donors in vulnerable circumstances, fundraising during natural disasters (re-developed in collaboration with the Commonwealth Treasury), digital fundraising, gifts and bequests, managing communication preferences, telephone fundraising, and fundraising with younger people, among other areas. The Practice Notes are regularly updated and new ones are introduced to reflect changes in fundraising practices or changes in the relevant regulatory environment.

5.3 Mystery Shopping (Compliance Monitoring)

The primary way compliance with the Code is monitored is by mystery shopping the fundraising activities of members. The mystery shopping program is a continuous and proactive program that checks whether members are adhering to the standards in the Code and applying best practice in their fundraising. Since 2019, about 700 member organisations have been mystery shopped, and we have had over 12,000 monitoring interactions. Members receive feedback based on their mystery shopping results which helps identify areas for improvement. The charitable fundraising member ensures increased compliance based on the feedback from mystery shopping through improvements in people, processes and systems in their fundraising efforts. The mystery shopping program has supported members in maintaining and improving best practices in fundraising, including improving transparency in communication around fundraising costs, donation multiplier campaigns, approaching vulnerable individuals, and

managing communication preferences for donors. The mystery shopping program is essential to ensuring good governance in the charitable fundraising sector and provides significant benefits members.

5.4 Complaints Handling

FIA administers a complaints process where we receive and manage complaints from donors or members of the public on the fundraising activities of members. Since 2019 FIA have managed over 80 complaints where we seek a resolution from the organisation in question including, for example, educational interventions or updating communication preferences. Ensuring donors and the public have a safe and confidential avenue to raise complaints is necessary to sustain the positive reputation of and trust in charitable fundraising in Australia.

5.5 Education and Professional Development

FIA facilitates forums for the acquisition and exchange of charitable fundraising knowledge which assists fundraising practitioners in their professional development. A variety of programs including courses on managing vulnerability, gifts in wills, fundraising essentials, the certificate in professional fundraising, mentorship, and the diploma in fundraising, among others courses are provided to members. We aim to enhance the skills of charitable fundraisers and provide them with the necessary tools and knowledge to perform their fundraising ethically and effectively, both for those who are already in the profession and those who are new to it. This virtuous process ensures the continued trust and confidence in donors which is critical for ongoing philanthropic support.

5.6 FIA Conference and Sector Recognition

FIA's annual conference, first held in 1974, is the premier event for charitable fundraising professionals in Australia. Every year, we deliver world-leading insights on leadership and fundraising best practice to fundraising practitioners. With multiple interactive tracks and several specialty masterclasses, we bring together a diverse range of speakers across Australia and internationally. The conference culminates with an awards ceremony where we recognise outstanding fundraising performances and the work that has been done by fundraisers and charitable organisations. A significant part of the FIA conference involves networking and collaboration, both major ingredients for the collective aim of impacting our communities.

In conclusion, professional development in fundraising and the monitoring of fundraising conduct would be extended to a larger pool of fundraising practitioners where FIA membership is recommended by the Government. Maintaining trust and confidence is crucial for the continued success of philanthropic giving and its appeal to donors and the public.

PART 2 – Gifts in Wills Fundraising Recommendations

About Include a Charity

Include a Charity (IAC) is a social change campaign of Fundraising Institute Australia (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.

By working together, we can change charitable giving forever so that over time, gifts in wills become the norm and allow more Australians to make their mark.

Include a Charity and Fundraising Institute Australia propose four priorities that relate to the foundations of gifting in a Will that act as a pre-requisite to growing awareness of, and increasing the value and volume of gifts in Wills in Australia:

1. Superannuation reform to allow people to choose to leave a gift to a charity when they die in a more efficient and non-taxed environment.
2. Probate Office reform and Streamlining
3. Work with ACNC to standardise charity reporting on bequests
4. Establish a Notification Service and a National Will Register in Australia

The four measures above will create strong foundations of gifting through Wills by increasing transparency, trust, efficiency and effectiveness of the bequest process.

Charities can be more involved in the process as they will have easier access to Wills in which they are named, and the improved processes will enable more gifts to be fully realised. The improved process will yield immediate benefits and give greater confidence for more Australians to gift through their Will. Additionally, the data and information captured will develop future decision-making and allow for measurement and evaluation.

1. Superannuation reform to allow people to choose to leave a gift to charity when they die through Super arrangements that efficient and not taxed.

We align our position on superannuation reform with that of Philanthropy Australia. If Australians are given the option to allocate a portion of their super to a charity upon their passing and the associated tax penalty were removed, it would unlock billions of dollars in charitable donations in the coming years.

Give Australians the choice to make a bequest through super: Allow Australians to bequest some of their unspent superannuation funds (funds remaining when people pass away) to a nominated charity.

Currently, legislation prohibits people using a 'binding death nomination' to give a proportion of any unspent superannuation to charity. Two possibilities for implementing this reform include:

- a) The government mandating that all super funds must provide this option for their members;
or
- b) Legislation giving superannuation funds the option to offer charity nominations to their members, should they wish to do so.

Remove the tax penalty: To leave some of their super to charity, Australians must first arrange to transfer the funds from their super to their estate through the ‘binding death nomination’ process, then complete their will specifying that these funds should go to a nominated charity. This incurs a tax burden on the estate.

Why is it important?

- We have unprecedented wealth. Over the two decades to 2040, \$2.6 trillion will pass to the next generation. If we could pass even just 5-10 per cent to charity, this would release \$130-\$260 billion, to make Australia one of the leading philanthropic nations in the world.
- Helping people in need and addressing our great challenges: our charities big and small help millions of people in need every year across every area of social and environmental endeavour. Great philanthropy transforms societies.
- Giving doesn’t just deliver better outcomes for millions of people. It also leads to a more generous and giving culture, where we focus on serving each other, being active in the community, and working to ensure no one is left behind.
- Many Australians would like to help a cause that they feel passionate about, especially if they have given financial support as an appeal donor or regular giver in the prime working years. At retirement age, people begin to depend on superannuation as their main income, and in tough economic markets many supporters cancel or pause their charitable support to focus on day to day living. Similarly, at retirement age, many people start to volunteer for causes that they support and in turn, might choose to make a gift in their Will from their super/estate to ensure that cause continues to help people. By allowing a nomination in superannuation it enables a supporter to easily provide their own “future legacy” distribution for causes dear to them, underpinning donor support and charitable intentions. Even a small share of superannuation income nominated to a charity, can make a significant impact to the charitable cause (or causes), that the person cared about and supported during their lifetime.

2. Probate Office Reform and Streamlining

Create a national probate office to collect documents, administer grants and streamline the way Australian probate is conducted: Allow Australians to benefit from best practices across all states when it comes to probate legislation. Lift the burden of cost and administration from the states with a national system (less than 100,000 grants of probate per year in all of Australia). To implement this reform:

- a) The government would mandate that all states grant probate from a national office with existing state rules; or

b) Encourage coordination between states to pass new state legislation streamlining the rules for probate.

- **Adopt the South Australian probate office approach to Wills by making them available free online:** In all states (except South Australia) individuals, usually beneficiaries, must first be notified they are in a Will by the executor or their representative. They must then ask for a copy of the probate documents. When denied access the beneficiary must purchase the Will from the state probate office at a cost between \$38 and \$155, depending on the state.
- **Provide needed transparency around Wills for all beneficiaries (members of the public and charities) that allows easy access online as in the probate office of South Australia:** Wills are public documents once probate is granted, yet many members of the public are unaware of beneficiary rights which allow them to obtain a copy of the Will. Online access alerts individuals and charities that they have been included in a Will.
- **Remove the cost of purchasing Wills by partnering with a commercial enterprise to provide Wills at no cost to the enterprise who would read all Wills and provide a “National Charity Notification Service” to notify charities when they are included in the Will:** To date the amount of “missing gifts” (where an executor accidentally or deliberately does not execute the Will as it is written, for example, ignoring specified charitable gifts) is undocumented, however recent research suggests this amount may exceed 0.5% of all bequests. This conservative estimate on \$1-2 billion being transferred per year to charitable institutions through Wills is \$5-10 million however it may be as high as 5% or \$50-100 million per year. If a Charity is not made aware of the gift (this happens in approximately 65% of gifts in wills) they may never access the probate record and enquire as to why they have not been paid their entitlement. Reading all probated Wills is the only way to establish transparency for charities, engage early with executors and allow charities to pursue missing gifts.

Why is it important?

- Early engagement by the charitable beneficiaries in estate administration will increase the amount of the realised Gifts in Wills to charities helping more people and causes in need every year across every area of social and environmental endeavour. This is 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 during the estate administration process diminishes the value of gifts for charities.
- We have unprecedented wealth passing to charities. Helping to maximise these gifts and ensure that fewer “go missing” will improve charity income by 5-10 per cent per gift to charity. This would mean an additional \$50-100 million per year, helping Australian charities achieve more.

- With the status quo no one knows how many of the Wills being probated include charitable gifts. Charities do not know how many of these entitlements never get paid by executors. Establishing a baseline from which to measure is critical to improve public trust that Wills are executed as written.

3. Work with the ACNC to standardise charity reporting on bequests

Currently charities report income to the ACNC without a separate line item for bequests or gifts through testamentary giving: Requiring Australian charities to make a small change to the way they report annual income could make a big difference to being able to quantify bequest giving. To implement this reform:

- a) The government would require the ACNC to have charities record bequest income as a separate line item, not combined with other types of income.
- b) Require all charities (regardless of size) receiving bequest income to report through ACNC
- c) Coordinate the reporting of ACNC totals with FIA/Include a Charity to provide an accurate snapshot of bequest income for a given year.

Why is it important?

Currently there is no accurate quantification of bequest income in Australia. If we want to double philanthropic giving by 2030 we need to have a baseline number to work from.

Official accounting through ACNC would allow benchmark data for charities and all decisions being made on increasing gifts in Wills over the next decades.

4. Establish notification and research services and a national Will register in Australia

Setting up of a public office, or commercial entity such as Smee & Ford in UK smeeandford.com where a copy of every grant of probate is purchased or acquired then read the Wills to identify any charity beneficiaries. Charities subscribe to this service and have forewarning of any estates where they are entitled to a gift. This commercial operation encourages people to register wills. Smee & Ford have expressed interest in expanding their service to Australia with the FIA/Include a Charity. Attached is the 2023 Smee & Ford report which shows all the data.

The core benefits:

- protecting against executor fraud and ensuring legacy donor's wishes are carried out (we have noticed a reduction in gifts in wills in Scotland, where the notification service paused as a result of COVID. This suggests that some executors choose not to notify charity beneficiaries even though it is their legal responsibility to do so).

- early notification allows residuary beneficiaries to have an influence on the progress of the estate and can help to maximise asset values. We estimate that proactive estate management from charities increases the overall gift values by between 5-10%
- the service helps to build a picture of the size and shape of the market which is valuable from a fundraising perspective and can help to increase investment and resources in this area. In turn it can help to further grow the market.
- Smee & Ford also perform research and release an annual Legacy Trends report identifying the growth in the number of charitable estates and gifts to charities. Helping the sector to measure, monitor and analyse how we're tracking with gifts in Wills. Add to this systematic recording of bequest / gifts in Wills income by charities via their ACNC information statements will contribute towards measurement to see a doubling of Gifts in Wills income.

Create a Legacy Monitor consortium (like Legacy Foresight UK [Legacy Foresight - Legacy Foresight](#)) to build market knowledge by encouraging better data sharing across charities. This brings together 85 of the largest charities who together represent around half of the gifts in wills sector and share their data on a quarterly basis to give a real-time view of what is happening. The UK government makes this possible by:

- Having a standardised accounting structure for charities (SORP [The Charities Statement of Recommended Practice \(SORP\) - GOV.UK \(www.gov.uk\)](#)), which means every charity has to report on legacy (bequest) income separately within its accounts
- The Charity Commission making this data publicly available,
- ABS provides regularly updated projections on demographics and deaths – like the Office of National Statistics UK.

What is the proposed establishment of a National Will Register in Australia?

We propose the establishment of a government run National Will Register to ensure no Will is left unknown or untraced at the time it is needed. This Will Registration & Will Search service would be used by the legal profession, Will writers, insurers, government agencies, charities and the public. See UK [National Will Register](#)

Why is it important?

- proven to reduce the risk of distributing an estate during probate on an assumed intestacy basis or when a Will or later Will may exist. There are many reasons why a Will may have been forgotten about, maliciously destroyed, or where an unknown later copy exists.
- help to identify if an unknown Will exists and demonstrates that adequate measures have been taken to consider the wishes and intentions contained in any unknown Wills written by the person.
- To assist in a dispute over an estate the National Will Register could offer a service to find a legal contentious probate specialist to help public and professionals.

- offers a platform for legal Wills and Probate professionals to have access to the full suite of services, be listed as a local legal professional for consumers, and obtain exclusive support and content for their profession.

In conclusion, by embracing these initiatives, Australia will be poised and able to take advantage of the significant transfer of wealth in the next 25 years which will assist in doubling of philanthropy in Australia.

Include a Charity Productivity Commission Task Force Members:

Daphne Oliveros
Philanthropy Australia
Legacy Futures UK
Bequest Assist
Ross Anderson, Lost Dogs Home
Rebecca Stalenberg, MS Plus
Renaë Randle, Guide Dogs QLD
Bethan Hazell, Peter MacCallum Cancer Foundation
Gathered Here (Online Wills)
Safewill (OnlineWills)
Sage Succession Law
Velocity Legal
Helen Beeby, Include a Charity/Fundraising Institute Australia

Further to our correspondence dated 8 August 2022, to which the Gaming and Wagering Commission of Western Australia ("Commission") received and considered a "Letter of Support for FIA Members" from Fundraising Institute Australia through Royal Life Saving WA, the Commission has formed a preliminary view and is inviting a final round of feedback before a final decision is settled.

In response to your specific query, the motivation for the change is a recent review of the Commission's policy in consideration of its statutory obligations and regulatory responsibilities.

The *Gaming and Wagering Commission Act 1987* ("GWC Act") provides as follows.

51. Persons eligible to hold gaming permits, approval of

[...]

(2) The Commission shall not approve a person as eligible to hold a permit unless —

(a) where the applicant comprises a body of persons, corporate or unincorporate, an individual approved by the Commission is appointed by and on behalf of that body to be responsible for the conduct of the gaming as nominee permit holder; and

(b) the Commission is satisfied —

(i) that the applicant is, or is concerned in the administration of and makes the application on behalf of, a club, society, institution, organisation, association or other body of persons being a body which, subject to section 81(2), section 95(2) and section 104, has as the principal object of the proposed gaming the raising of moneys in good faith for the active promotion, support or conduct of any sporting, social, political, literary, artistic, scientific, benevolent, charitable or other like activity detailed in the application; and

(ii) that the gaming is not to be promoted or otherwise conducted for the purposes of private gain or any commercial undertaking; and

(iii) the proceeds of the gaming, after deduction of proper expenses and of prizes, are to be used for the benefit of the activities detailed in the application.

104. Permits for lotteries; duties of holders of permit for standard lottery

(1) A permit authorising the conduct of a lottery may be issued —

(a) where the Commission is satisfied that it is not to be conducted for the purposes of private gain or any commercial undertaking; or

(b) for a trade promotion lottery that does not comply with the conditions referred to in section 102.

[emphasis added]

Standard lotteries (usually 'raffles') allow eligible organisations to raise funds, subject to the grant of a permit granted in accordance with the requirements of the GWC Act.

It is understood that professional fundraisers assist organisations in the conduct of standard lotteries by being involved in all aspects of the lottery, including offering ticket sales by telephone marketing methods, by direct selling or online platforms, preparing budget forecasts, and undertaking marketing and advertising strategies.

The Commission has reached a view that it cannot reasonably satisfy itself in respect of sections 51(b) and 104(1)(a) of the GWC Act, for the grant of a standard lottery permit, if more than 20 per cent of ticket sales are spent on goods or services (not including prizes) from any private or commercial provider.

If extraordinary circumstances exist in relation to a permit application that require the consideration of a professional fundraiser charging the organisation a higher fee, this may be assessed, by exception, on a case-by-case basis.

If you would like to make a submission to the Commission, please note that all responses will be reviewed in consideration of the Commission's statutory obligations and regulatory responsibilities. Please detail any specific issues/concerns you have with the Commission's proposed position and how you suggest the Commission could overcome those issues under the legislative requirements.