

**FUNDRAISING INSTITUTE AUSTRALIA**

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**SENATE SELECT COMMITTEE ON FUNDRAISING IN THE 21<sup>ST</sup> CENTURY**

**12 JULY 2018**

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## **INTRODUCTION**

On behalf of its more than 1500 members, Fundraising Institute Australia welcomes the opportunity to make a submission to the Committee. FIA is the largest representative body for the \$12.5 billion<sup>1</sup> charitable and not-for-profit fundraising sector, supported by some 14.9 million Australians. For over 30 years, FIA has administered a Code and system of self-regulation for the sector, promoting an ethical framework for professional fundraising.

## **SUMMARY OF RECOMMENDATIONS**

1. Recommend that all Australian governments commit to harmonise fundraising regulation within an agreed time limit of two years.
2. Re-establish the COAG NFP Working Group to elevate fundraising regulation reform.
3. Restore fundraising reform and charity/NFP issues to the COAG agenda.
4. Recommend a greater role for the ACNC Charity Portal to facilitate alignment and harmonisation of fundraising regulation.
5. Recommend overall responsibility for fundraising issues at Commonwealth level be centralised under one senior minister.
6. Recognise the key role of FIA's and other sectoral codes and complaint handling mechanisms as an integral part of the regulatory framework.

## **RESPONSES TO COMMITTEE TERMS OF REFERENCE**

### **The current framework of fundraising regulation for charities and options for reform (ToR a. b. c.)**

#### **The need for harmonisation:**

While there has been some progress recently in reducing duplicative reporting, by far the greatest source of red tape for charities relates to permits to fundraise which must be sourced state by state, campaign by campaign. In the past five years, there has been little progress towards eliminating duplication or reducing these administrative costs.

A February 2016 Report by Deloitte Access Economics concluded:  
“Overwhelmingly, fundraising is the source of the greatest amount of

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<sup>1</sup> Source: Giving Australia 2016

regulatory burden for charitable organisations. Fundraising legislation differs significantly between jurisdictions which very quickly escalates the administrative costs a charity incurs.”<sup>2</sup>

Even at the level of individual states, the paper burden can be excessive for fundraisers. In the recent Report<sup>3</sup> of the New South Wales Inquiry under the *Charitable Fundraising Act 1991* into the Returned and Services League of Australia (RSL NSW Branch), Justice Bergin concluded:

“Each charitable fundraiser is governed by many different and overlapping provisions in the Act, the Regulations and the standard and particular conditions of their fundraising authority. There is the real prospect, as happened with each of the entities in this Inquiry, that fundraisers may lack familiarity or clear understanding of the detail of the statutory regime. It is therefore recommended that consideration be given to some simplification of the regime by removing the duplication and overlapping provisions and consolidating them into one place, preferably the conditions of the fundraising authorities that are granted, with the Act providing the key provisions.”

### **Harmonisation efforts have failed to date**

One of the objects of the charities regulator, when it was established over five years ago, was to “promote the reduction of unnecessary regulatory obligations on the sector”. In its own submission to the recent Australian Charities and Not for profit Commission Review, the ACNC conceded that its progress in this area has been limited.

The promise of harmonisation has not been delivered; in fact, the opposite is happening as different jurisdictions respond to perceived regulatory gaps in different ways and at different times.

The ACT is the only jurisdiction to actually reduce fundraising-specific red tape while NSW has gone in the opposite direction, legislating for new inquiry powers and to impose serious penalties under its charities law<sup>4</sup>. This is significant for the many FIA members who treat NSW and the ACT as a single entity for purposes of fundraising campaigns. This reversal comes less than two years after the same NSW government proposed to repeal its charities legislation.

Like NSW, Queensland considered repealing its fundraising-specific legislation but has ended up increasing not decreasing fundraising red tape by tightening licensing requirements around face to face donor appeals and requiring the sector to undertake new disclosure and other transparency measures.

Victoria, South Australia and Tasmania have taken small steps towards aligning their annual reporting requirements with those of the ACNC but these

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<sup>2</sup> <http://www.acnc.gov.au/ACNC/ACNC/Publications/Reports/CuttingRedTape.aspx>

<sup>3</sup> <https://www.finance.nsw.gov.au/inquiry-under-charitable-fundraising-act-1991> (Report paragraph 13.2.28).

<sup>4</sup> <https://legislation.nsw.gov.au/#/view/act/2017/36>

measures have little or no impact on fundraising, which is still subject to campaign by campaign, jurisdiction by jurisdiction application forms, licensing and other paperwork.

Meanwhile, at the federal regulatory level, fundraising specifically is now being targeted by:

- The Australian Competition and Consumer Commission (ACCC) in two new areas; commissions for new donor acquisition, and new “Guidance” under the Australian Consumer Law.
- The Australian Communications and Media Authority (ACMA) has identified charitable fundraising as a 'priority' area for investigation, and is considering possible changes to administration of the Do Not Call Register and similar regulated functions while under pressure from consumer advocates to remove the charity exemption to the DNC.
- The Fair Work Ombudsman has ongoing industrial relations investigations in regard to face to face fundraising which has been accompanied by related trade union activity and court actions.
- The Treasury Department investigated whether DGR administration should be rolled into the ACNC's remit<sup>5</sup> with new regulations coming into effect on 1 July 2018 requiring non-charity DGR entities to register with the ACNC.
- The ACNC has been expanding its involvement with fundraising, issuing Guidance documents in areas such as privacy law<sup>6</sup>, vulnerable people, crowdfunding<sup>7</sup> and “raising money”<sup>8</sup>.
- The Electoral Amendment (Banning Foreign Political Donations) Bill 2017<sup>9</sup> and the Commonwealth Electoral Amendment (Donation Reform and Transparency) Bill 2017<sup>10</sup> continue to be a concern for some fundraisers despite considerable amendment to the original Bills presented to Parliament.

The end result of these developments is that there has been a significant increase both in the absolute quantum of regulation and the actual number of regulators with whom fundraisers have to deal. Ironically, the promised harmony has produced disharmony and the level of inconsistency is

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<sup>5</sup> <https://treasury.gov.au/consultation/tax-deductible-gift-recipient-reform-opportunities/>

<sup>6</sup> [http://www.acnc.gov.au/ACNC/FTS/Managing\\_peoples\\_information\\_and\\_data.aspx](http://www.acnc.gov.au/ACNC/FTS/Managing_peoples_information_and_data.aspx)

<sup>7</sup> <http://www.acnc.gov.au/ACNC/Edu/Crowdfunding.aspx>

<sup>8</sup> [http://www.acnc.gov.au/ACNC/Publications/Charity\\_money/Managing-charity-money\\_-\\_Raising\\_money.aspx](http://www.acnc.gov.au/ACNC/Publications/Charity_money/Managing-charity-money_-_Raising_money.aspx)

<sup>9</sup> [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?tbid=r5937](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?tbid=r5937)

<sup>10</sup> [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?tbid=r5808](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?tbid=r5808)

increasing. At the Commonwealth level alone, five different ministers across four departments have a stake in the sector.

FIA recommends that overall responsibility for fundraising issues at Commonwealth level to be centralised under one senior minister.

### **The contemporary fundraising environment (ToR e.) - New fundraising platforms and disruption**

With the advent of new fundraising platforms such as crowd funding the landscape for fundraising is changing rapidly. The fact that much of this activity is happening in a relatively unregulated environment is considered disruptive, akin to the way Uber has impacted the taxi industry.

Charities are finding they are competing against individuals who have a crowd sourced funding page. Such platforms are not subject to the same level of regulation that charities face, if any at all. There is a greater risk of donors being duped or misled concerning the charitable purpose of the appeal, further eroding trust in the sector. Money being raised in this way might otherwise have been available to registered charities.

While ASIC has established a legislative framework<sup>11</sup> for crowd funding in the context of financial services and markets, this has limited application to the NFP sector. The ACNC has also produced its own limited guidance, but without any regulatory backing.

Almost all crowd fundraising is conducted in the borderless, online environment, bringing the full array of state regulations into frame. FIA believes it is unlikely that all crowd fundraisers are meeting all their obligations in every state from which they are receiving support. This is yet another argument for a one-stop solution for licensing/permits.

### **Towards a nationally-consistent, contemporary and fit-for-purpose fundraising regime. Challenges in meeting the requirements of the seven different fundraising regimes (ToR d. f.)**

The current framework of fundraising regulation has created an environment in which a multitude of federal and state regulators have converged on the sector. This is because no single regulator has overall responsibility for fundraising. In the past two years alone, fundraisers have experienced a significant increase in the requirement to participate in federal and state reviews and inquiries, including:

- 1) An investigation by the ACCC into Commission-based fundraising by Australian Charities

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<sup>11</sup> <http://asic.gov.au/regulatory-resources/financial-services/crowd-sourced-funding/>

- 2) A Review of the Australian Consumer Law resulting in new 'Guidance' for the fundraising sector on the application of the ACL to fundraising
- 3) A Fair Work Ombudsman investigation of charities' supply chains (ongoing)
- 4) A review of the Telemarketing Industry Standard (including fundraising calls) by the Australian Communications and Media Authority
- 5) A Minister of Communications<sup>12</sup> enquiry regarding treatment of vulnerable donors, and subsequent ACNC Guidance for Charities Dealing with Vulnerable People
- 6) A Queensland Fair Trading investigation of supplier contracts in face-to-face fundraising
- 7) An ACMA Review of the Do Not Call Register
- 8) ACNC-issued Privacy Guidance for the sector
- 9) An ATO/Treasury enquiry into Tax Deductible Gift Recipient Reform Opportunities
- 10) CAANZ Guidance on the application of the Australian Consumer Law to the activities of not-for-profits, charities and fundraisers
- 11) Consumer Affairs Victoria review of annual statements within the fundraising industry
- 12) A NSW Public Inquiry under the Charitable Fundraising Act (1991) in respect to the Returned and Services League
- 13) The current Select Committee on Charity Fundraising in the 21st Century

Compared to the 'for-profit' business sector, fundraisers have experienced a degree of public and regulatory scrutiny that is both disproportionate and a distraction from their mission. Negative media coverage accompanying this level of attention has shaken donor confidence which nevertheless, remarkably, remains strong.

### **How Federal, State and Territory Governments could work together to provide charities with a nationally-consistent, contemporary and fit-for-purpose fundraising regime (ToR f.)**

Experience to date has shown that any new legislation, without a comprehensive agreement between all jurisdictions, tends to produce more regulation, more time-consuming paperwork and more complexity.

The ministerial council and its supporting committee of officials – Consumer Affairs Forum and Consumer Affairs Australia and New Zealand – charged with progressing harmonisation have achieved very little in this area over the past five years.

FIA submits that harmonisation of fundraising regulation should be put back onto the Council of Australian Governments (COAG) agenda with the

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<sup>12</sup> Prime Minister Malcolm Turnbull was Minister of Communications at the time this enquiry was made.

objective of secure agreement to consolidate the individual fundraising licensing and reporting requirements identified by the Deloitte report.

In addition COAG should establish a NFP Working Group tasked with addressing duplication of regulation. This Working Group should have appropriate sector representation, which is notably lacking at present. The Group should replace the role of CAANZ.

### **Donor-focused expectations and role of sector self-regulation (ToR g.)**

Given the level of regulatory scrutiny the sector is facing, FIA has recently conducted a wide-ranging review of sustainability of donor support for charitable giving. One outcome of the review has been a revised FIA Code. New measures adopted include special provisions relating to Australians in vulnerable circumstances<sup>13</sup>. FIA members and their suppliers must respect the wishes and preferences of such donors and have been provided Guidelines and training in how to identify and deal appropriately with them.

A new “Stewardship Principle” has been introduced whereby members are admonished to “assist donors to stop receiving solicitations”<sup>14</sup> if asked. The intent of this clause is to encourage fundraisers to go further than minimum requirements in Australian privacy law in acting on a request to opt out of further solicitations.

Other innovations include expanded supply chain responsibilities, standards of conduct towards donors and beneficiaries, board level sign-off on adherence to the Code, compulsory Code training for fundraisers, and detailed Practice Notes to provide further best practice guidance to fundraisers.

Compliance with the new Code is monitored on an ongoing basis via ‘mystery shopping’<sup>15</sup> as directed by the independent Code Authority. The Authority meets quarterly to review the results of the latest round of Code monitoring, to deal with any complaints or evidence of Code breach, and to commission further monitoring activity. It has the power to administer a range of sanctions for non-compliance, including public expulsion from FIA.

A key feature of this approach to Code compliance monitoring is that it does not rely only on complaints from donors to trigger interventions. It proactively and continuously interrogates fundraiser adherence to the Code, enabling the Code Authority to not only intervene in specific instances of non-compliance,

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<sup>13</sup> FIA members are mindful that many of the beneficiaries of charitable fundraising are people in vulnerable circumstances. Thus, these measures can be particularly effective for family members (or carers) of people suffering, for example, from Alzheimer’s or other health issues.

<sup>14</sup> FIA Code clause 4.3b

<sup>15</sup> Mystery shopping is a tool used to measure quality of service, or compliance with regulation, or to gather specific information about products and services. The mystery shopper’s specific identity and purpose are generally not known by the organisation being evaluated.

but alert the sector more broadly to systemic issues and to provide guidance on appropriate conduct.

While adherence to the Code is compulsory for FIA members, non-members are free to follow the Code and may engage with FIA Code training and compliance enforcement on a voluntary basis.

Moreover, members accept responsibility for adherence to the Code by their suppliers and other related third parties, extending sector coverage well beyond the FIA membership.

Under any future regulatory regime for the charitable and not for profit fundraising sector, FIA believes there will continue to be an important role for its Code to establish and promote an ethical framework that balances broader community interests, including those of charity beneficiaries who often lack a voice in policy debates.

FIA suggests that the Committee recommend a greater role for self-regulation to maintain trust and confidence in charities by promoting best practice and ethical conduct in fundraising activity. This was envisaged in the 2010 Productivity Commission report into the *Contribution of the Not-for-Profit Sector*<sup>16</sup>. The Commission recognised the value of both the FIA and ACFID codes in regulating behavior. Since its report, the Public Fundraising Regulatory Association (PFRA) has also introduced a code to govern the conduct of face to face collectors.

### **Applying the Australian consumer law to not-for-profit fundraising activities (ToR h.)**

FIA was broadly satisfied with the outcome of the recent Review of the Australian Consumer Law and resulting Guidance regarding its application to fundraising. FIA notes that the ACCC, in releasing the Guide<sup>17</sup>, made provision for its review within two years to ensure that it was fulfilling its purpose. In these circumstances, FIA would not support a further revisiting of the application of the ACL to fundraising at this time.

### **Mechanisms to regulate third party fundraisers (ToR i.)**

The use of third parties and their relationship with the charities and other not-for-profits has vexed the sector in recent years. In the past, regulatory mechanism for this as well as other areas were hampered by the multiplicity of regulatory regimes. FIA believes the publication late last year of the abovementioned "A guide to the Australian Consumer Law: For fundraising and other activities of charities, not-for-profits and fundraisers", will be a welcome development.

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<sup>16</sup> [www.pc.gov.au/inquiries/completed/not-for-profit](http://www.pc.gov.au/inquiries/completed/not-for-profit)

<sup>17</sup> A guide to the Australian Consumer Law for fundraising and other activities of charities, nfps and fundraisers [https://www.accc.gov.au/system/files/guide\\_acl\\_fundraising-1.pdf](https://www.accc.gov.au/system/files/guide_acl_fundraising-1.pdf)



The guide, which was produced as a result of the ACL Review, has a particular focus on the third party issue. The introductory section highlights 'Professional fundraisers' including the following:

"If you are a professional fundraiser or if you engage a professional fundraiser to carry out fundraising activities on your behalf, then you need to be confident that the conduct of the fundraising activities does not breach the ACL".

In a subsequent section covering "The Prohibition Against Misleading or Deceptive Conduct", three of the six 'Examples' used are case studies relating to third party suppliers.

FIA believes that the publication of this clarification of the application of the ACL to fundraisers, applied consistently across the sector, will see problems in this area diminish as the contents of this Guide becomes better known to charities and other NFPs and their suppliers.

As the Select Committee will be aware, the ACL guidance continues to be under review, so there is a process in place to make changes should they become necessary.

It is worth noting the FIA Code also imposes stricter conditions on FIA members in relation to their suppliers. A new Section 6<sup>18</sup> requires written contracts with suppliers, provides that suppliers must be aware of their obligations and requires that costs be proportionate to funds raised.

This represents a model for the way in which regulation and self-regulation should operate: whereas the ACL broadly identifies conduct which could be misleading or deceptive, the FIA Code and related Practice Notes go into greater detail from the fundraiser perspective.

The Code admonishes members to accept responsibility for the conduct of any third party supplier operating on the member's behalf. In this manner, a charity member of FIA cannot excuse itself from a breach of the Code by its supplier. Equally, a FIA-member supplier working for a non-member charity cannot claim that their actions on that charity's behalf are not subject to the Code. In this manner, the scope of sector coverage of the FIA Code extends far beyond the more than 1500 members of the Institute.

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<sup>18</sup> **6. Conduct in Supplier relationships**

6.1 Members will have written contracts with all relevant parties in their Supply Chain that specify the responsibilities of all parties and meet the requirements of applicable laws and regulations.

6.2 Members will ensure that all relevant parties in their Supply Chain are aware of the Member's obligations under the Code and do not act in ways that could result in the Member being in breach of the Code.

6.3 Members will ensure that Supplier costs incurred in fundraising are proportionate to the funds raised and represent fair market value for services provided.

Meanwhile, rulings by the ACNC in governance matters before the Commission have made it clear that charity directors are accountable for all activities regardless by whom they are delivered, including third party fundraisers.

**The cost to the charity and not-for-profit sector, and the communities they serve, of postponing fundraising reform (ToR k.)**

Fundraisers have had their hopes raised in the past that the existing regulatory regime would be aligned or harmonised but these efforts have come to nothing.

In the past there have been Productivity Commission recommendations for actions and discussion papers from the former NFP Reform Agenda but they have not been acted upon. More recently momentum for reform has been building with the expectation that the ACL Review might produce such an outcome. Now an increasing number of government as well as non-government organisations are calling for, contemplating or actually enacting reform:

- The Australian Charities and NFP Commission (ACNC) has a specific mandate to achieve red tape reduction.
- State governments including NSW, Victoria and Queensland have initiated fundraising legislative reviews.
- South Australia's amendments to its Collection for Charitable Purposes Act came into effect on 1 December 2017. This amendment reduced red tape for SA charities operating by not requiring annual financial reports from charities already registered with the ACNC demonstrating that State governments are prepared to align their regulation in this area. Similar action was taken by the ACT, Tasmania and Victoria.

Should governments fail to act on fundraising reform via harmonisation, it will halt the momentum because there are not alternative strategies readily available. The ACNC does not have the necessary legislative powers and too many fundraising organisations are outside its ambit.

Should the interested government and non-government parties start working on the alternative of the states and the ACT voluntarily surrendering their powers, the process would take years and its prospects for success would be dubious at best.

## CONCLUSION

FIA urges the Select Committee to make recommendations calling for greater efforts towards harmonisation of fundraising regulation by all levels of government incorporating and recognising sector self-regulatory mechanisms.

### Reducing the regulatory burden

The *Cutting Red Tape: Options to align state, territory and Commonwealth charity regulation* report from Deloitte confirmed empirically what FIA members experience on a day-to-day basis: that state and territory fundraising provisions are the most onerous area of red tape for charities. As detailed elsewhere in this submission, this is not only a matter for the states and territories. The level of Commonwealth regulation is proliferating with the ACCC, ACMA and other agencies such as the FWO having become directly involved in the past year.

Experience to date has shown that any new legislation, without a comprehensive agreement between all jurisdictions, tends to produce more regulation, more time-consuming paperwork, and more complexity.

The Ministerial Council and its supporting committee of officials – Consumer Affairs Forum and Consumer Affairs Australia and New Zealand – charged with progressing harmonisation have achieved very little over the past five years.

FIA submits that a recommendation of this Committee should be to urge all governments to commit to a harmonisation effort, establishing a timetable for progress and a two-year deadline to achieve alignment, consistency and uniformity of licensing, applications forms and other requirements.

FIA further submits that harmonisation of fundraising licensing and reporting requirements should be put back onto the COAG agenda.

In addition COAG should establish a NFP Working Group tasked with addressing duplication of regulation. This Working Group should have appropriate sector representation which is notably lacking at present. The Group should replace the role of CAANZ which has failed to achieve any meaningful co-ordination or alignment over the last five years.

As an interim measure towards eliminating duplication the Committee should recommend development of the ACNC Charity Portal as a 'one stop' platform to register fundraising campaigns in compliance with all state and territory requirements thus eliminating the current need for multiple applications.

### Recognition of the role of self-regulation

FIA urges the Committee to recommend a greater role for self-regulation to maintain trust and confidence in charities by promoting best practice and ethical conduct in fundraising activity, as envisaged in the 2010 Productivity Commission report.

## ABOUT FIA

With over 1500 members, Fundraising Institute Australia is the largest representative body for the \$12.5 billion<sup>19</sup> charitable and not-for-profit fundraising sector, which is supported by some 14.9 million Australians. FIA members include charities operating domestically and internationally, as well as the organisations and professionals who provide services to them. FIA advocates for the interests of the sector, educates fundraising practitioners, promotes research and innovation, and creates opportunities for the exchange of knowledge.

As part of its system of self-regulation for the sector, FIA administers a [Code](#)<sup>20</sup> which deals with ethics in fundraising. The Code has recently been updated with improved protections for people in vulnerable circumstances, stronger governance requirements, greater supply chain accountability, compulsory Code training for fundraisers, continuous compliance monitoring by an independent Code Monitor, and the establishment of an independent Code Authority to oversee compliance, complaints handling and administration. Adherence to the Code is a requirement of all FIA members, however non-member fundraisers may voluntarily follow it and engage with Code training.

End of Submission

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<sup>19</sup> Source: Giving Australia 2016

<sup>20</sup> Appendix 1 to this submission; also at <https://www.fia.org.au/pages/-fia-code-790.html>

Appendix 1.

# Fundraising Institute Australia

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## Code – 1 June 2018

### About FIA

Fundraising Institute Australia (FIA) is the largest representative body for the \$12.5 billion Fundraising sector. Members include charities and other not-for-profits operating domestically and internationally, as well as Suppliers and professionals who provide services and support to the sector. FIA advocates for the interests of the sector, administers the system of self-regulation including the Code, educates Fundraising practitioners, promotes research and creates forums for the exchange of knowledge.

### Preface

The FIA Code is a voluntary, self-regulatory code of conduct for fundraising in Australia. It aims to raise standards of conduct across the sector by going beyond the requirements of government regulation. Its content is informed by the International Statement of Ethical Principles in Fundraising.

## 1. About the Code

- 1.1. The Code applies to FIA Members.
- 1.2. The Code commits Members to high standards of ethical conduct.
- 1.3. The Code is self-regulatory and does not replace or override any law.
- 1.4. Adherence to the Code is a requirement of FIA membership.

## 2. Compliance

- 2.1 Members will comply with all Federal, State and Municipal laws and regulations applicable to Fundraising.
- 2.2 At least one board member, on behalf of the board of directors, or the chief executive of the Member, will sign off annually on the Member's adherence to the Code.
- 2.3 Members will ensure that those engaged in Fundraising activities have completed FIA Code training within six months of their appointment.
- 2.4 Members agree to accept the decision of the Code Authority in respect of any complaint brought against them under the Code.
- 2.5 Members agree to have their adherence to the Code monitored by FIA.

## 3. Ethical conduct

- 3.1. Members will not engage in activities that bring Fundraising into disrepute.
- 3.2. Members will act openly, honestly and with regard to their responsibility for public trust.
- 3.3. Members will act with respect for professional Fundraising, the Cause they represent, Donors and Beneficiaries.
- 3.4. Members will not exploit relationships with Donors.
- 3.5. Members will conduct themselves in a manner that encourages others to aspire to the same high standards, valuing privacy, confidentiality, trust and integrity.
- 3.6. Members will be open about the work they do, including how funds are raised, managed and disbursed.

## 4. Conduct towards Donors

- 4.1. Members will promptly and courteously comply with a Donor's:
  - a) refusal to make a Donation;
  - b) request to not receive any future solicitations;
  - c) request to be contacted at a more convenient time or by a different method; and
  - d) request to limit the number, type or frequency of solicitations.
- 4.2. Members will, each time they contact a prospective Donor, provide information about how the prospective Donor can opt-out of receiving any further solicitations from the Member.
- 4.3. Members will, if asked:
  - a) provide the contact details of the Cause on whose behalf the Member is fundraising;
  - b) assist donors to stop receiving solicitations;
  - c) provide information about how the Donor's contact details were obtained; and

- d) provide information about how to make a complaint or the name and contact details of the person who is responsible for handling complaints.
- 4.4. Members will make readily available, on request, information about the Cause for which they are Fundraising, including:
  - a) its objects and how it intends to use the Donated funds;
  - b) its capacity to use Donations effectively for their intended purposes;
  - c) its most recent annual report and/or financial statements;
  - d) its governing Board; and
  - e) whether funds are being raised by volunteers, employees or Suppliers.
- 4.5. Members will ensure that appropriate security measures are in place to protect Donor information at all times.
- 4.6. Members will have a clear policy on acceptance or refusal of Donations.
- 4.7. Members will not accept a Donation where:
  - a) they have a reasonable belief that the Donor is in vulnerable circumstances or lacks capacity to make a decision to Donate; or
  - b) to do so would compromise the interests or objects of the Cause on whose behalf the Member is Fundraising.
- 4.8. Members may choose not to accept a Donation where:
  - a) the activities of the Donor are incompatible with the objects of the Cause on whose behalf the Member is Fundraising;
  - b) the cost of accepting the Donation will be greater than the value of the Donation;or
  - c) there is reason to believe that accepting the donation may give rise to litigation.
- 4.9. Members may accept a Donation for a specific activity provided that the activity is:
  - a) directly related to the objects of the Cause for which the Member is Fundraising; and
  - b) practically achievable by the Cause.
- 4.10. Members will:
  - a) not subject Donors to undue influence, harassment, intimidation or coercion;
  - b) maintain an appropriate professional relationship with the Donor in connection with any Donation or Bequest;
  - c) not prevent or discourage a Donor from seeking independent legal advice in relation to a Donation;
  - d) not prevent or discourage a Donor from having a family member or other trusted advisor present when considering a Donation; and
  - e) not, after obtaining a Donation, change the conditions of the Donation without first
  - f) communicating with the Donor any changes and gaining their consent for the change.
- 4.11. Members will ensure their promotional materials:
  - a) are not false, misleading or likely to deceive;

- b) do not claim or imply that professional fundraising activities are carried out at no cost;
  - c) are not knowingly sent to a Child without the consent of the Child's parent or guardian;
  - d) do not contain depictions that are demeaning, discriminatory, pornographic or unduly violent towards a person or group.
  - e) do not disparage others; and
  - f) do not infringe on the intellectual property rights of others.
- 4.12 Members will ensure a Donor has given consent prior to any public recognition of their Donation.

## **5. Conduct towards Beneficiaries**

- 5.1 Members will not engage in conduct that threatens the dignity of, or disparages a Beneficiary. Such conduct may include, but is not limited to:
- a) commenting unnecessarily or negatively on the impairment, dependency or disability of a Beneficiary;
  - b) using language which suggests that the Beneficiary is to be pitied or feared;
  - c) using Children in promotional materials to raise funds for adult causes, giving the impression that the Beneficiaries are childlike
  - d) stating or implying a falsehood regarding a Beneficiary; or
  - e) using a Beneficiary's image, name or other personal information without their permission.



## 6. Conduct in Supplier relationships

- 6.1 Members will have written contracts with all relevant parties in their Supply Chain that specify the responsibilities of all parties and meet the requirements of applicable laws and regulations.
- 6.2 Members will ensure that all relevant parties in their Supply Chain are aware of the Member's obligations under the Code and do not act in ways that could result in the Member being in breach of the Code.
- 6.3 Members will ensure that Supplier costs incurred in fundraising are proportionate to the funds raised and represent fair market value for services provided.

## 7. Administration and enforcement

- 7.1 Compliance with the Code will be monitored and enforced by the Code Authority.
- 7.2 Alleged breaches of the Code will be referred to the Code Authority.

## 8. Definitions

<b>Beneficiary</b>	means the recipient of a benefit as a result of fundraising for a Cause.
<b>Bequest</b>	means a gift of any asset or right given in a Donor's will and includes a legacy.
<b>CEO</b>	means the CEO of Fundraising Institute Australia
<b>Cause</b>	means a purpose such as advancing health, education, social or public welfare, religion, culture; promoting reconciliation, mutual respect and tolerance between groups of individuals; promoting or protecting human rights; advancing the security or safety of the public; preventing or relieving the suffering of animals; advancing the natural environment; promoting or opposing a change to any matter established by law, policy or practice in the Commonwealth, a state, a territory or another country, and other not-for-profit purposes 'beneficial to the general public'.
<b>Code Authority</b>	means a committee established by the FIA Board pursuant to the FIA constitution for the purposes of deciding on matters related to the Code.
<b>Code</b>	means the document that commits FIA Members to high standards of ethical conduct.
<b>Children</b>	means people under the age of 18.
<b>Complaint</b>	means a notice in writing sent by any person to FIA, by way of a completed complaint form, concerning an alleged breach by an FIA Member of any part of the Code.
<b>Donation</b>	means a voluntary contribution or Bequest of money, property, goods or services to a Cause for the purpose of furthering its objects.

<b>Donor</b>	means an individual or their legal representative (in the case of a deceased person's Bequest) or other entity that makes a donation to a Cause.
<b>FIA</b>	means Fundraising Institute Australia.
<b>Fundraising</b>	means the act of seeking and obtaining Donations on behalf of a cause.
<b>Member</b>	means and includes both individual and organisational Members of FIA.
<b>Supplier</b>	means a third party supplying goods or services to a Member for payment. A supplier may also be a Member of FIA.
<b>Supply Chain</b>	means the system of organisations, people, activities, information, and resources involved in delivering a product or service from supplier to client.