

**Australia needs a national and fit-for-purpose
fundraising regulatory regime.
#fixfundraising**

mycause.com.au is Australia's first online fundraising and crowdfunding platform.

mycause launched in 2007 with charity fundraising only.

Over time mycause added personal cause fundraising to our offer for the Australian public.

mycause is a NATIONAL platform located in Victoria.

Tania Burstin is the founder and Managing Director of mycause.

mycause.com.au is the trading name of The Giving Network Pty ABN 98189532748

mycause has raised over \$70 million and has over 2500 Australian charity partners

| DEFINITIONS | |
|------------------|--|
| PLATFORM | mycause.com.au |
| CHARITY | A registered Australian charity with the ACNC |
| CAMPAIGN CREATOR | The person or people that create the fundraising campaign. |
| FUNDRAISER | The entity licensed by the State This may be the charity, the person or the platform |
| CAMPAIGN | An online fundraising page also known as a crowdfunding campaign |

NOTE

Mycause does not recognise overseas charities as a "charity"

Our office has a compliance regime for four licences and three entities

The Giving Network Pty (mycause commercial trader) ABN 98189532748

The Giving Network Pty (mycause fundraiser personal cause) ABN 98189532748

The My Cause Gift Fund – a Public Ancillary Fund (PAF) ABN 43106238101

Helping a Friend in Need (HAFIN) – a Public Benevolent Institution (PBI) ABN 86611164197

Time spent on compliance is in excess of 8 hours per month.

COMMERCIAL ENTITY CHARITY FUNDRAISING

HOW IT WORKS

Who are you fundraising for ?



Personal cause

- For yourself, your friend, work mate, family member or community
- Funds sent to your bank
- No goal requirements

start now

or



Charity

- For any Australian charity
- All donations receipted and funds sent direct to the charity
- Request donations from friends, family and your network

start now

Vanishes into Fin Hair

Fundraiser Finley Howland

Funds go to TIA, Epilepsy Action Australia

\$3,726 raised

93%

GOAL \$4,000

74 donations

since Jul 2018

donate now

163
shares

Help this campaign succeed - SHARE NOW!



*** Update ***

Because of the generosity that people have shown I have now reached my target of \$2000! Now I am going to raise my goal to \$2000 for EACH charity. This will enable the following:

- With \$2,000 Tia will be able to fund 60 staff working in children's homes to be trained to prepare their teenagers for leaving care.

- With \$2000 Epilepsy Action Australia could train 5 schools about epilepsy and seizure first aid, or 50 individual teachers.

Fundraising for
TIA

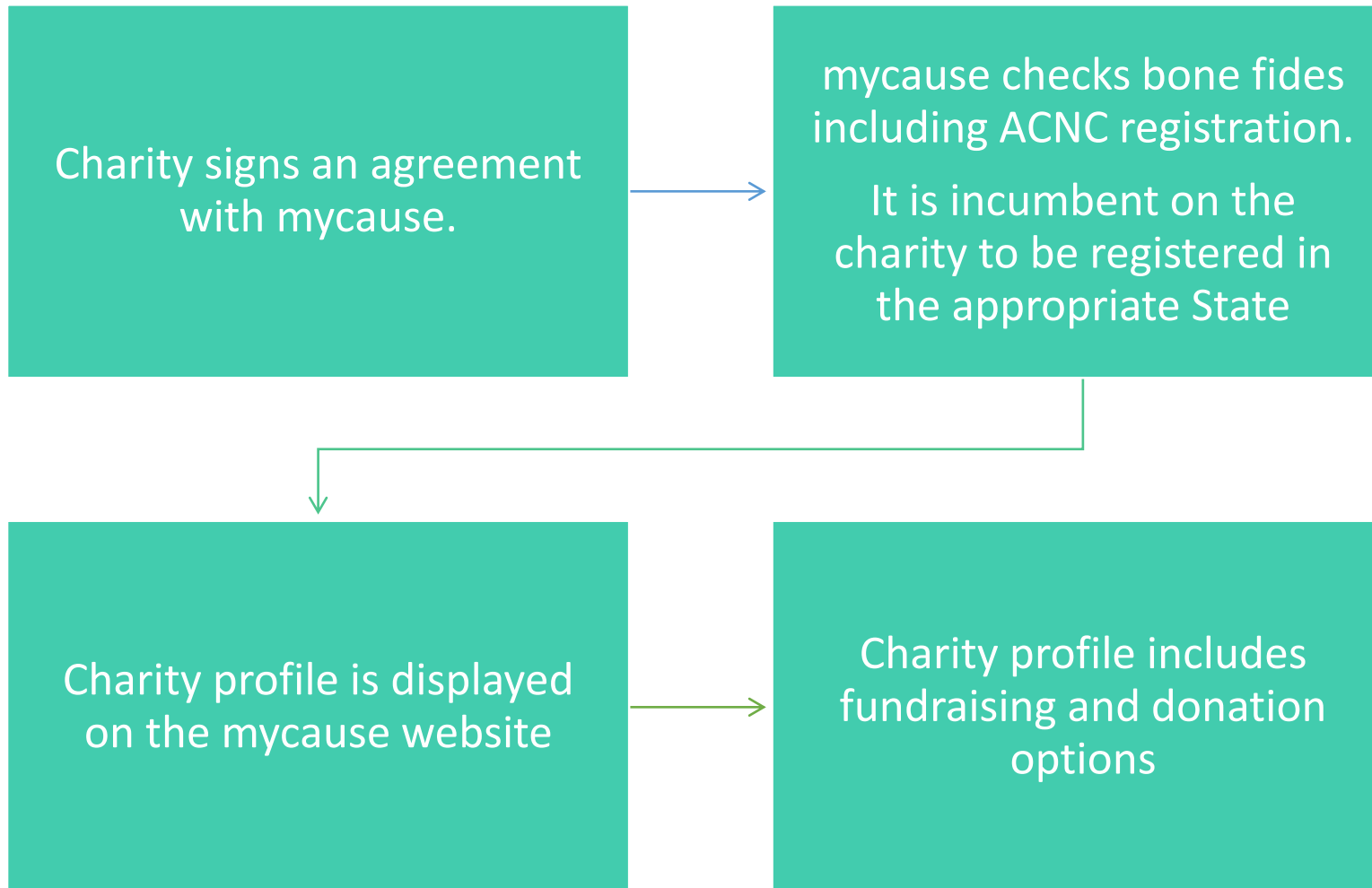


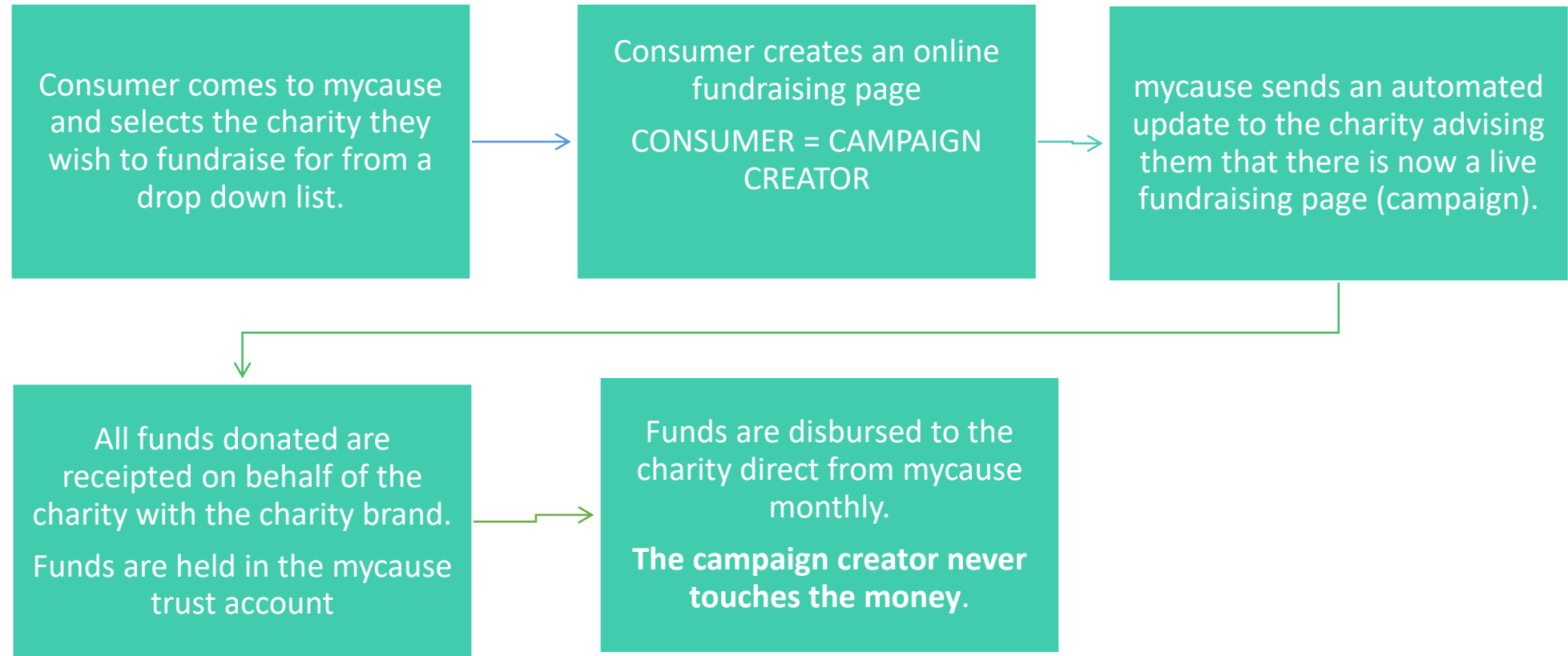
TIA is an Australian based grass roots, non-profit organisation that works in Bolivia, South America. We work with young people through their transition from state care, empowering them to become thriving members of society by providing necessary training, support, and opportunities.

Epilepsy Action Australia



Epilepsy is a seizure disorder that can affect anyone at any time. It is estimated that over





COMMERCIAL ENTITY CHARITY FUNDRAISING COMPLIANCE | FRAUD

| STATE | REQUIREMENT – COMMERCIAL ENTITY |
|---------------------------|---|
| NSW | Considered a “Trader” – no need to apply as we do not have charitable purpose |
| VIC License # 10108.15 | Commercial fundraiser. Renew every 3 years Requirements include criminal record check/ company trust deed/ copy of agreement between mycause and our charity partners. |
| QLD | Not required |
| WA | Not required |
| ACT | Not required |
| SA CA-40 | “Collection Agent” No longer required. |
| TAS FIA-241 | Ongoing license |
| NT | Not required |

ISSUE – WHICH STATE?

It is not clear which State the charity should register with

CASE STUDY

Urban Lifesaver is very small “start up” charity based in Victoria.

John really wants to support this charity because a well located AED saved his life.

John lives in Sydney NSW.

John created a campaign (fundraising page) for the charity and asked his friends to donate in lieu of gifts for his birthday.

John’s friends and family live all over Australia and also overseas

They all donated and were immediately receipted by mycause on behalf of Urban Lifesavers.

The funds were sent to the charity by mycause.com.au.

SHOULD THE CHARITY BE LICENSED IN VIC OR NSW OR BOTH? OR IN EACH STATE?



Charity Fundraising in the 21st Century
Submission 11

FRAUD – how likely is it?

TRUST FRAUD (where the money does not go to the charity)

Fraud in this scenario is almost impossible because the platform handles all the funds.

As the funds are held in trust by mycause and disbursed to the charity the campaign creator does not have any opportunity to divert the funds

CREDIT CARD FRAUD

There are some instances of card testing on charity profiles. That is a stolen card may be used to make a donation to test if the card is 'good'.

In this case the merchant (mycause) is charged by the bank for the transaction "charge back"

COMMERCIAL FRAUD or INSOLVENCY

Where funds are not disbursed to a charity by the commercial operator this is subject to commercial and business laws.

PERSONAL CAUSE FUNDRAISING HOW IT WORKS

Olga Our Hearts Are With You

Campaign creator **Bikram Yoga Northwest Sydney**
Fundraising for **Olga Edwards**

120
shares

Help this campaign succeed - SHARE NOW!



Olga has suffered an immeasurable and tragic loss.

As a community, we hope that our support will remove the burden of financial pressure whilst she is most in need.

\$9,135 raised

18%

GOAL **\$50,000**

70 donations

since Jul 2018

donate now

Fundraising for

Olga Edwards

Olga Edwards suddenly lost her two children, who were shot dead by their father in their own home. Originally from Russia, Olga has no family in Australia. Funds raised aim to help remove Olga's financial stress during this very difficult time.

Funds banked to

Olga Edwards

Campaign creator



francesca lahey
West Pennant Hills NSW



Share this campaign



SHARE ON FACEBOOK

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start now

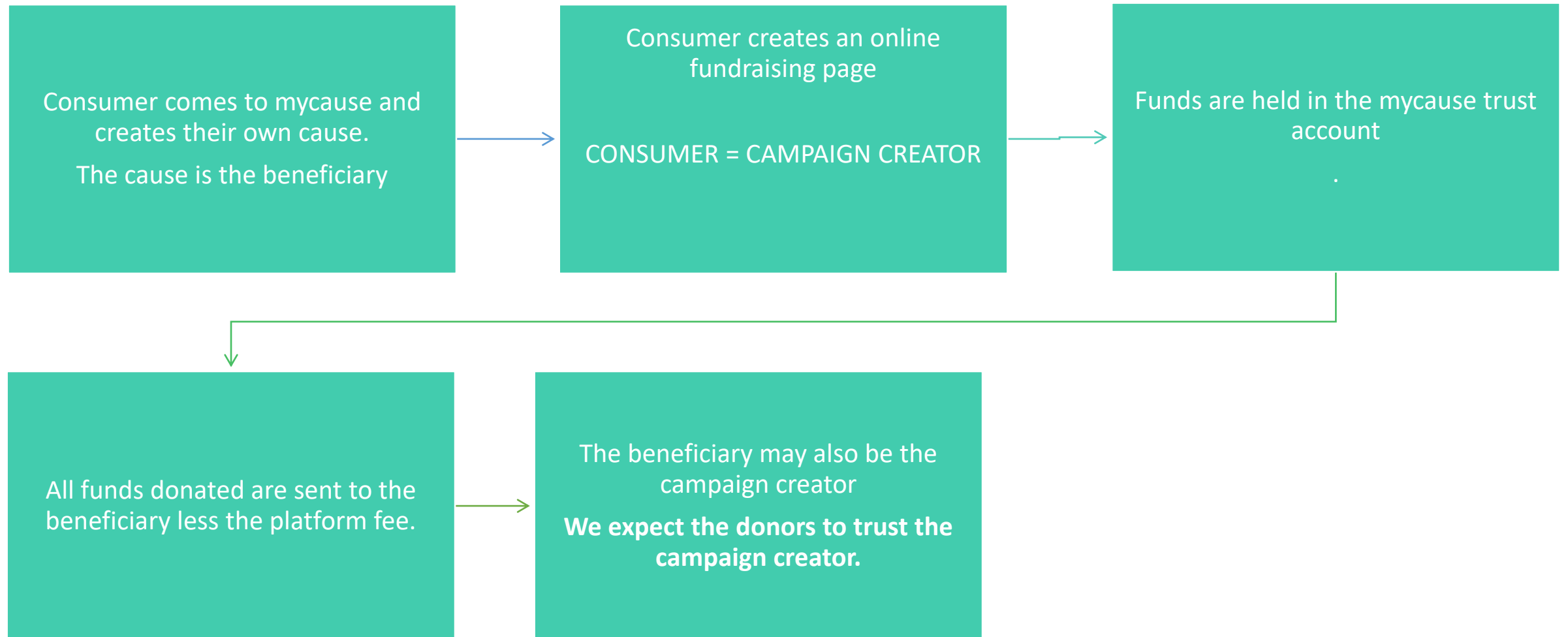
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Charity

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start now



PERSONAL CAUSE FUNDRAISING

COMPLIANCE | FRAUD

COMPLIANCE PERSONAL CAUSE

Most jurisdictions have trouble with the notion of a personal cause and how to regulate personal crowdfunding

The main problem is whether the fundraising and the beneficiary fit the definition of “charitable”.

In some jurisdictions the answer is YES and in some it is NO

Where it is NO there is no regulation

VICTORIA regulates all fundraising over \$10,000*. mycause is located in Victoria.

To this end mycause has spent over \$30,000 in legal fees developing a compliance regime that is satisfactory to the regulator. Mycause has done this entirely of our own accord.

*Over \$10 000 where only volunteers are used to fundraise , i.e. a fundraiser using paid workers (a charity) would not be subject to this \$10 000 exemption from requirement to register

COMPLIANCE PERSONAL CAUSE

Mycause has it's own special customised regime

1. mycause is **registered as a fundraiser** under The Victorian Fundraising Act 1998 (The Act)
2. Campaign creators who create an online page do so under the mycause license #13336
3. mycause complies with The Act Sec 24 and supplies a list of beneficiaries i.e submits every campaign created to Consumer Affairs VIC (CAV) every week (Tuesday morning) by email.

(The Act actually requests each campaign to be submitted each time via a form, but as this is unworkable CAV have agreed to a weekly email)
4. After considerable consultation by mycause's lawyers, NSW and QLD and the other jurisdictions have not required mycause be regulated by those States

FRAUD CASE STUDY



Jane creates a campaign for her sister in law Sally who is suffering from breast cancer.



- ❖ Jane creates a campaign for her sister in law Sally who is very ill. The story is heart felt and she includes family images.
- ❖ Jane adds her own bank details into the system when she created the cause.
- ❖ Donations are made to the campaign page by friends and family of Sally.
- ❖ mycause disburses the funds to Jane's bank account
- ❖ Jane fails to pass the funds to Sally the beneficiary by omission or by design. Or in fact the claims may have been fictitious.

FRAUD CASE STUDY cont..

REMEDY:

There is no remedy in fundraising regulation as the beneficiary is not a charity.

The only remedy for the donors is false and misleading conduct (but no civil or criminal penalty) and criminal (fraud) laws

NOTE: This could prove difficult in the current format. With amendment to the ACL there would be increased provision for action, like making of false and misleading statements.

WHAT MYCAUSE DOES

Mycause displays the name of the campaign creator and their social media profiles. In addition mycause displays the bank account name where funds will be sent.

This allows the donor to make an informed choice as to whether they wish to donate.

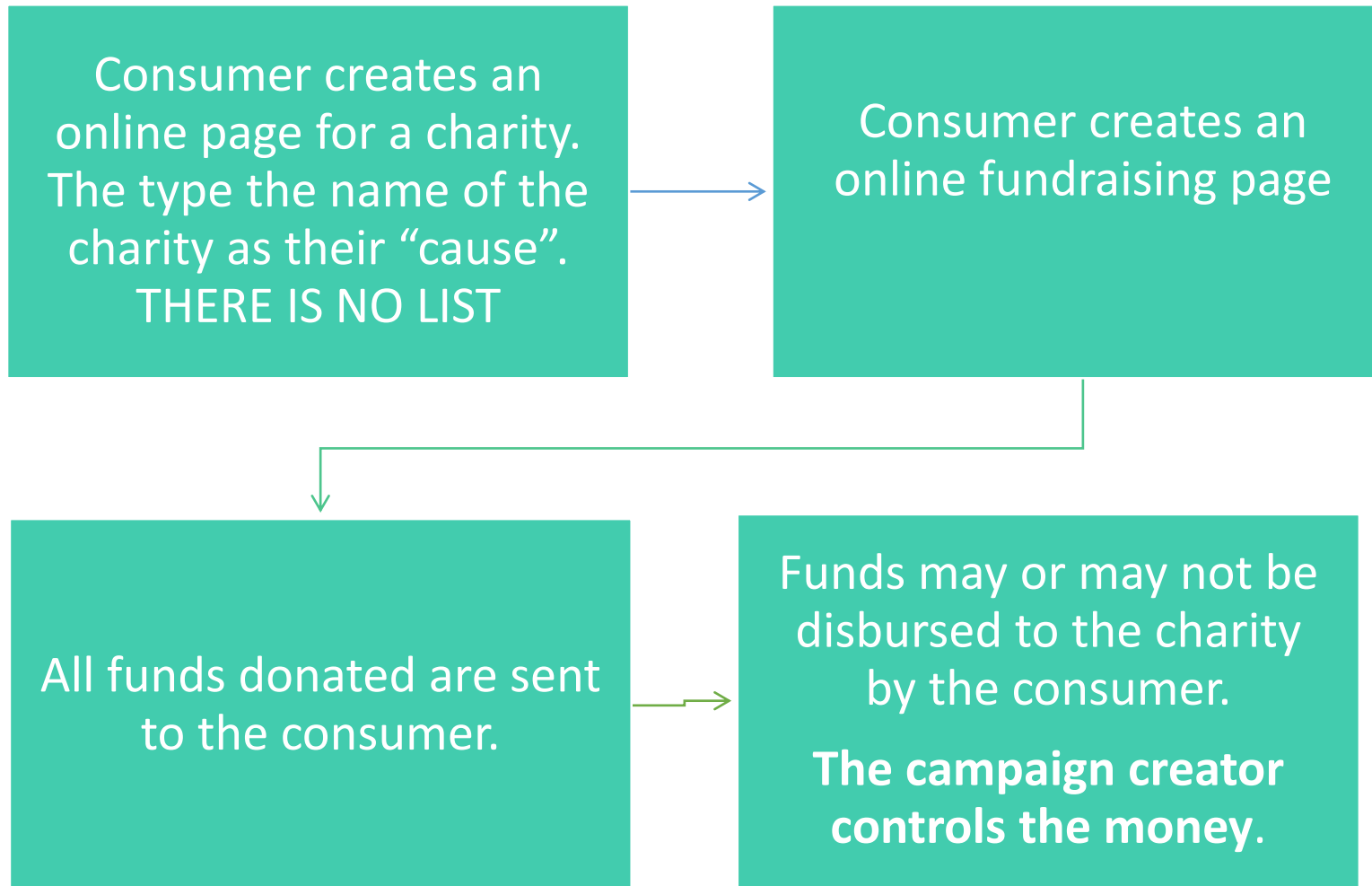
CHARITY ENTITY COMPLIANCE

mycause is in a unique position as we advise our 3000 partners on regulation and we also have two entities that are regulated:

The My Cause Gift ABN 43106238101 and Helping a Friend in Need (HAFIN ABN 86611164197)

| STATE | Our thoughts on the requirements |
|-------|--|
| NSW | <p>AUDIT</p> <p>The audit must comply with the NSW Act as well as the ACNC which adds an extra layer of work for the auditor and additional cost.</p> <p>License every 2 years with an audit. Plus ACNC compliance</p> <p>Address: They require an office address in NSW which we do not have...</p> |
| VIC | Form to fill out every 3 years including data. Plus ACNC compliance |
| QLD | The authority insists that we advertise in the Qld press... We don't bother with this State |
| WA | <p>Your charity must go before a "committee" who decide if the State requires your charity ..</p> <p>If it duplicates or is necessary in their jurisdiction. This seems ridiculous for an entity approved by the ACNC and the ATO</p> <p>Once approved an audit is submitted annually. Plus ACNC compliance</p> |
| ACT | Ceded to the ACNC if registered as a charity with the ACNC |
| SA | Ceded to the ACNC |
| NT | |
| ACNC | Annual Information Statement |

FUNDRAISING ON AN OVERSEAS PLATFORM



Compliance – not a level playing field.



John lives in Victoria. The fundraising regulator is Consumer Affairs Victoria (CAV)

John has created an online fundraising page (campaign) to raise money for himself as he was involved in a motorcycle accident.

He is using the overseas platform GoFundMe.

John also stated in the body text of his campaign that he will donate half the money to the hospital where he was treated.

John has raised over \$10,000 (the threshold for a license required by CAV)

Compliance – not a level playing field.



1. WHO IS THE FUNDRAISER?

The platform is not licensed as a fundraiser (unlike mycause). None of the state regulators require the platform to hold a fundraising licence as they are not located in Australia including CAV in VIC.

Therefore John is the fundraiser. However CAV does not have the inclination to chase him to apply for a license as he is using an overseas platform (we don't understand this..)

Other states do not license or regulate personal fundraising.

2. WHAT HAPPENS IF THE DONATIONS ARE NOT FORWARDED TO THE CHARITY?

The ACL would apply (misleading conduct) but with amendments would have increased courses of action (false and misleading representations) bringing civil and criminal penalties

3. WHAT HAPPENS IF THE DONATIONS ARE MADE UNDER FALSE PRETENCES?

What happens if John did not have a motorcycle accident at all and he is spending the money on entertainment?

The ACL would apply (misleading conduct) but with amendments would have increased courses of action (false and misleading representations) bringing civil and criminal penalties
Criminal law could also apply (fraud and obtaining financial advantage by deception)

OUR RECOMMENDATIONS

Our company is national and our campaign creators are located across Australia

COMMERCIAL FUNDRAISERS OR TRADERS

- One national compliance scheme for commercial fundraisers as online businesses operate across State boundaries.
- Overseas commercial fundraisers (platforms) must not be allowed to host charity appeals at all unless the charity has a signed agreement with the platform and that platform is compliant in Australia.
- Fraud committed by the platform is already subject to commercial and company law and could also be subject to ACL to regulate misconduct.

PERSONAL CAUSE FUNDRAISING (CROWDFUNDING)

- One National compliance regime
- Donors can invoke fraud protection by referring a matter to police or using the ACL which allows for individuals to take action (along with the regulator).
- Level playing field and equal compliance for overseas platforms

CHARITY FUNDRAISING COMPLIANCE

- Transparency through reporting to the ACNC
- Fraud protection subject to ACL

Charity Fundraising in the 21st Century
Submission 11

#FIXFUNDRAISING

- We welcome this inquiry into fundraising. Overwhelming, fundraising is a significant source of regulatory burden for our organisation.
- We agree with the solution put forward by Justice Connect and *#fixfundraising* partners to *#fixfundraising*. This solution will deliver Stronger, Smarter, Simpler laws to support our charity partners, campaign creators and donors
- The fundraising problem – and the need for a national and fit-for-purpose fundraising regulatory regime - has been well documented
- What we need is for all Australian governments to take action to fix the problem. They must make it a priority. They must take action now. They must work together to provide us, other charities and other not-for-profits and the donating public with a national fundraising regulatory regime. The Federal Government can take a lead under the Australian Consumer Law. It is simply not good enough to do nothing. It's time to *#fixfundraising*.

I am available to appear before the committee

Tania Burstin

Founder and Managing Director

1300 885 157