

Appendix 1:

FIA's Principles and Standards of Fundraising Practice Project Overview

Introduction

FIA's Principles and Standards of Fundraising Practice are the fundraiser's guide to ethical, accountable and transparent fundraising. The Principles and Standards are critical to how the fundraising profession is viewed by donors, government and the community, and indeed by fundraisers themselves.

In 2007, FIA adopted new Principles of Fundraising Practice developed in consultation with individual members, charities, government and industry stakeholders. The draft Standards are being released as they are developed.

Why the overhaul?

Modern fundraising has changed dramatically due to new technologies and techniques. The Principles and Standards define best practices when applying these techniques to their campaigns.

Today's donor is more socially aware and expects information about how their donation has made a difference. Fundraisers need to communicate regularly with donors and present an open and honest account of how donations are used.

Self regulation is being encouraged by Australian governments and industry developed codes ensure informed involvement by practitioners. They complement legislation and ensure its relevancy to best practice.

The Timeframe

This project commenced mid-2005 and is expected to be completed by the end of 2008.

What do the Principles and Standards consist of?

The Principles of Fundraising Practice build on the previous Code, aiming to make it more comprehensive. They include:

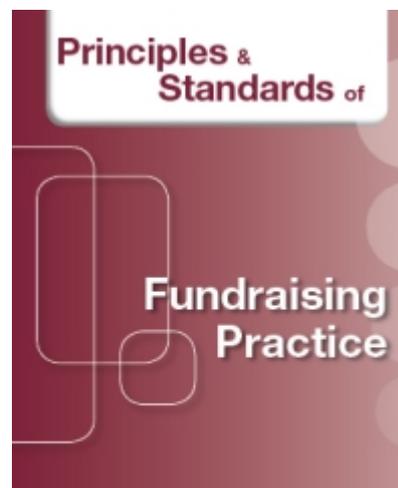
- The International Statement of Ethical Principles
- The Code of Ethics and Professional Conduct
- Acceptance and Refusal of Donations
- Fundraisers Promise to Donors
- FIA Complaints Process

The Principles are the overarching codes that apply to all fundraisers.

The Standards focus on specific disciplines of fundraising practice. The Standard of Bequest, Events and Face to Face Fundraising have been ratified by the Board. Standards are currently being developed for e-fundraising, charitable telemarketing, workplace giving and grants and trust making. Other Standards will follow.

Role of the Ethics Committee

FIA Ethics Committee works independently from the Board of FIA and comprises FIA members and independent persons with expertise in ethics, philanthropy, legal skills and



experience in the nonprofit sector. An independent Chairman is being recruited (August 2008). The Ethics Committee oversees the complaints process and enforces compliance. All complaints are treated in confidence.

Current membership of FIA's Ethics Committee

Chair: Nigel Harris CFRE FFIA FIA director, chair to February 2009, thereafter independent chair to be appointed

Susanne Williamson (Chapter 1) to March 2009

Vera Visevic (Makinson & d'Apice Lawyers) to March 2009

Rosemary Sainty (St James Ethics Centre) to March 2010

Naomi Steer (Australia for UNHCR) to March 2011

Laurence Joseph (Chapter 1) to March 2010

Roewen Wishart (Chapter 2) to March 2011

The Principles and Standards of Fundraising Practice and Professional Development

The Principles and Standards have an educative role, existing to guide fundraising professionals apply best practice. To create a greater awareness of the Principles and Standards, FIA's Professional Development programs apply case studies to encourage rigorous debate and assessment of the viability of the Principles and Standards in practice. A national curriculum is being developed to facilitate training on fundraising ethics and best practice.

Principles of Fundraising Practice:

- Code of Ethics and Professional Conduct
- Fundraiser's Promise to Donors
- Code of Acceptance and Refusal of Donations
- FIA Complaints Process

Standards of Fundraising Practice:

- Standard of Face to Face Fundraising
- Standard of Charitable Telemarketing
- Standard of Bequest Fundraising
- Standard of Charitable Gaming
- Standard of Workplace Giving
- Standard of Events
- Standard of Grants Fundraising
- Standard of Fundraising in Schools
- Standard of Direct Mail
- Standard of e-Fundraising
- Standard of Diaspora Fundraising

Contacts

For more information relating to the Codes Project please contact Stephanie Wong - [Email](#) or Ph: (02) 9410 5911.

This project has been supported by:



This project is supported by Helen MacPherson Smith Trust, Charities Aid Foundation and Dr John B Reid AO.

Appendix 2: FIA's forums on the Senate inquiry into disclosure regimes for charities and nonprofit organisations - Attendee List

In late July, FIA conducted consultations with members and stakeholders in Sydney, Melbourne and online, on the upcoming Senate inquiry into disclosure regimes for charities and nonprofit organisations. The consultations enabled FIA to engage with their members, stakeholders and government representatives to discuss how the nonprofit sector could be reformed. A total of 77 participants attended.

| Name | Title | Organisation |
|-----------------------------|------------------------------------------------------|---------------------------------------------------------|
| David Armstrong | Fundraising Manager | Amnesty International |
| Gabriel Lacoba MFIA | Fundraising Manager, Strategic Support | Anglicare NSW |
| John Godfrey MFIA | Consultant | Artful Fundraising Pty Ltd |
| John Peacock | General Manager | Associations Forum |
| Sharon Hillman FFIA | A/ Director of Fundraising | Austin Health |
| Myles McGregor-Lowndes MFIA | Director | Australian Centre of Philanthropy and Nonprofit Studies |
| Greg Molyeux | Code of Conduct Manager | Australian Council for International Development |
| Paul O'Callaghan | Executive Director | Australian Council for International Development |
| Kelly Bruce | Business Manager | Australian Council for International Development |
| Sharon Torney MFIA | Development and Operations Manager | Australian Council of Social Service |
| Caroline Sheehan | National Coordinator - Tenders / Funding Submissions | Australian Red Cross |
| Wendy Matthews | Fundraising Coordinator WA | Australian Red Cross |
| Peter Burnett MFIA | Director of Development | Ballarat Grammar Foundation |
| John O'Donnell | Managing Director | Blackbaud Pacific Pty Ltd |
| Inal Duman | Executive Manager, Finance | Cancer Council Queensland |
| Paul Freeman MFIA | Fundraising Director | Careflight |
| Joan Young MFIA | Executive Officer | Catholic Charities |
| Gabrielle Rose | Policy & Research, Chair Ethics Committee | Cerebral Palsy Queensland |
| Megan Williams-Jones | | Community First Step |
| Deborah Cummings | Accountant | Community First Step |
| Ellie Hurst | General Manager | Community First Step |
| Chris Franks | Director | Credit Union Australia |

| | | |
|-----------------------|------------------------------------------------------|------------------------------------------------|
| Jane Reid AMFIA | Community Liaison Officer | Echuca Regional Health |
| Jeremy Maxwell FFIA | Development Manager | Epilepsy Foundation of Victoria Inc. |
| Nathan Betteridge | Chief Executive Officer | Everyday Hero |
| Lesley Ray MFIA | Chairman | Fundraising Institute Australia |
| Stephanie Wong AMFIA | Policy Officer | Fundraising Institute Australia |
| Sue-Anne Wallace MFIA | Chief Executive Officer | Fundraising Institute Australia |
| Jennifer Piper MFIA | Director, Client Services | Fundraising Management Consultants Pty Lt |
| Amy Dyer | Executive Consultant | Fundraising Management Consultants Pty Lt |
| Laurence Joseph FFIA | Executive Director | Gandel Charitable Trust |
| Bronwyn Street FFIA | Senior Consultant | Global Philanthropic |
| Sue Parkes MFIA | Development Manager | Good Shepherd Youth & Family Services Victoria |
| Cheryl Flanagan | Executive Assistant to CEO | Leukemia Foundation |
| Anna Williamson | General Manager, Research, Advocacy and Patient Care | Leukemia Foundation |
| Adam Williams | A/Policy and Planning Officer | LotteryWest |
| Andrea Taman | Manager Policy, Planning and Promotions | LotteryWest |
| Nigel Harris FFIA | Executive Director | Mater Foundation |
| Gavan Woinarski MFIA | Executive Director | McAuley Foundation, Mercy Health & Aged Care |
| Nicci Dent MFIA | Director Fundraising | Medecins Sans Frontieres Australia |
| Anita Gowers MFIA | Manager Marketing & Development | Multiple Sclerosis Limited Tasmania |
| Paul Creedon | Chief Executive Officer | Muscular Dystrophy Association Inc |
| Christine Edwards | | Myer Foundation |
| Kirsty Allen | | Myer Foundation |
| Sue Murray | Chief Executive Officer | National Breast Cancer Foundation |
| Keith Roberts | Consultant | NFP Analysts Pty Ltd |
| Derek Minett MFIA | Chief Executive Officer | North Shore Heart Research Foundation |
| Daniel Zuccarini | A/ Assistant Director | NSW Office of Charities |
| Simon Hughes | A/ Project officer | NSW Office of Charities |
| Louise Godwin | Adviser | Office of Senator the Hon. Ursula Stephens |
| Gina Anderson | Chief Executive Officer | Philanthropy Australia |
| Gary Penny MFIA | State Co-ordinator Promotions & Marketing | Police-Citizens Youth Clubs Queensland |
| Alana Kenny MFIA | Development Manager | Prince Charles Hospital Foundation |
| Anne Graham MFIA | PR & Marketing Manager | Prince of Wales Medical Research Institute |

Lesley Hopper
Joe Calleja MFIA
Leo Orland FFIA
Judy Sproats MFIA
Lesley Peters
James Garland MFIA
Mark Lyons
Ted Flack FFIA
Joy Barrett MFIA
Steven Sheppard
David Fogarty
Deb Stringer
Sue Madden
Nicola Stewart MFIA
Steve Floyd MFIA
Susan Williams MFIA
Maurice Henderson FFIA
Lyn Moorfoot MFIA
Michelle Trevorrow MFIA
Greg Patterson
Emma Paul
Lee Conway AMFIA
TOTAL ATTENDEES

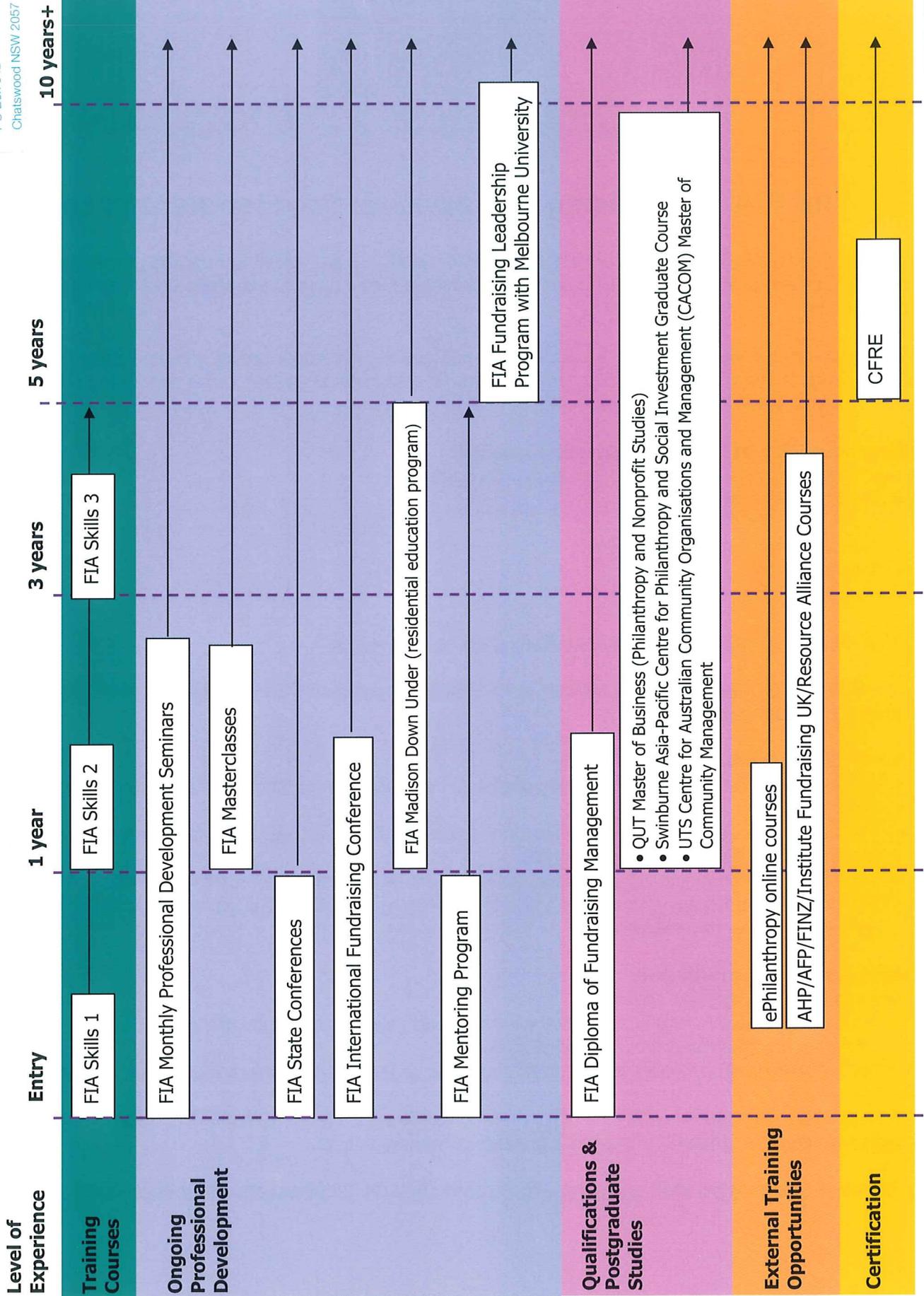
Fundraising Manager
Chief Executive Officer
Account Director
Manager - Fundraising & Development
Finance & Administration Manager

Professor of Social Economy
State Director of Communications and Fundraising
Chief Executive Officer
Business Manager
Business Manager
Director, Community Relations & Fundraising
Manager, Financial Services
Marketing and Donor Care Manager
Chief Financial Controller
Chief Executive Officer
Executive Director
Marketing and Communications Manager
Head, Communications, Fundraising & External Relations
Financial Manager
Personal Assistant Fundraising
Project Manager - Fundraising

Princess Margaret Hospital Foundation
Richmond Fellowship of WA
Robejohn
Royal Children's Hospital Foundation
Rural Health Education Foundation
Save the Children Australia
School of Management, University of Technology, Sydney
St Vincent de Paul Queensland
Technical Aid to the Disabled - NSW
The Cairnmillar Institute
The Cancer Council Victoria
The Cancer Council Victoria
The Cancer Council Victoria
The Fred Hollows Foundation
The Masonic Youth Welfare Fund of NSW and ACT
The Masonic Youth Welfare Fund of NSW and ACT
The Queen Elizabeth Hospital Research
The Royal Victorian Eye and Ear Hospital
The Walter and Eliza Hall Institute of Medical Research
Vision Australia
Wesley Mission
YMCA Victoria
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The FIA Fundraising Professional Development Pathway©





*Leading and empowering fundraisers to best serve their
organisations and communities through integrity and professionalism*

The FIA Fundraising Professional Development Pathway©

The FIA Fundraising Professional Development Pathway© is a guide for all fundraising practitioners in planning their fundraising professional development, maintaining a high calibre of knowledge and expertise throughout their career.

The Pathway identifies the range of educational and development opportunities offered within and around fundraising, by FIA and other partner organisations. It also looks at the relevance and timing of these opportunities based on what stage you are at in your career.

Demonstration of fundraising professionalism

A demonstration of fundraising as a profession requires:

- Continuing Education
- Certification for practitioners
- Research studying the profession
- Code of Ethics
- Recognised body of knowledge.

All of these elements exist within fundraising practice in Australia.

The challenge for fundraising practitioners is to embrace and pursue these, to make a clear statement about being a fundraising professional.

Specifically, this would include:

- The adoption and adherence to a code of ethics – an obligation of membership of Fundraising Institute – Australia.
- The attainment and updating of certification – available through CFRE as the only internationally recognised certification for fundraising professionals.
- The pursuit of continuing education and development as a fundraising professional – the FIA Professional Development Pathway© serves as a guide to fundraising practitioners at all levels in planning and pursuing their professional development.

Fundraising as a profession

Fundraising as a profession requires:

- Acknowledgement by significant stakeholders of fundraising as a specific discipline
- Integration with other organisational disciplines
- For fundraising practitioners to take their place in a larger organisational and community framework.

Through this recognition the practice of fundraising and the encouragement of philanthropy will be increasingly respected, credible, effective and have a greater community impact.

For more information visit www.fia.org.au and click on "Professional Development"

Appendix 4:

FIA's Submission to the Treasurer of Victoria.

FUNDRAISING INSTITUTE AUSTRALIA

SUBMISSION TO

THE TREASURER OF VICTORIA

REDUCING THE REGULATORY BURDEN:

THE VICTORIAN GOVERNMENT'S PLAN TO CUT RED TAPE



We exist to make the world a better place by advancing professional fundraising through:

- *advocacy of standards*
- *professional development pathway*
- *measurable credentials*

So that our members achieve best practice

PO Box 642, Chatswood NSW 2057

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Web: www.fia.org.au



12 September 2006

The Hon. Mr John Brumby
Treasurer of Victoria
1 Treasury Place
MELBOURNE VICTORIA 3002

Via email to Ms Jenny Melican, Director, Better Regulation Unit

Jenny.melican@dtf.vic.gov.au

Dear Mr Brumby

Fundraising Institute Australia (FIA) plays a key role as the national peak body for fundraising and focuses its attention on these issues in its work with fundraisers, government, businesses and the public. FIA acknowledges that governments, including the Victorian Government, are working with the fundraising industry to enable the nonprofit sector to enhance and strengthen its performance. Much more remains to be done.

Fundraising is a key activity of the nonprofit sector. In the recently released Australian Government report Giving Australia it is estimated that charitable fundraising raises \$11 billion per annum. This research highlighted the continuing generosity of Australians in supporting charitable causes. It is estimated that people in Victoria contributed approximately \$3 - \$4 billion per annum.

FIA has been working closely with the Victorian Government on a number of fronts:

Department of Victorian Communities

- 2005 - member of the DVC Experts Panel on Improving Not-For-Profit Law and Regulation (report developed by the Allen Consulting Group)

Consumer Affairs Victoria

- 2004 - reviewed Fundraising Appeals Act (FIA undertook independent research to identify the major issues for the sector)





- 2005 - proposed to Standing Committee of Consumer Affairs to work collaboratively on the development of industry codes for fundraisers; CAV has taken the initiative on this proposal and invited FIA to attend a meeting of regulators responsible for fundraising regulation
- 2006 - reviewed Proposals for Reform Fundraising Appeals Act
- 2006 - proposed to CAV to work with the department on their Proposal 17, to develop a voluntary code of practice within a 12 – 18 month time frame

I attach two proposals for your consideration in reducing the regulatory burden. We commend your initiative in addressing the urgent and important need to reduce the regulatory burden on the nonprofit sector and thank you for providing us with this opportunity to make comment.

We encourage the Victorian Government to consider these initiatives in working with the nonprofit sector and to enhance its consultation with the industry sector in order to better manage the sector and encourage it in its work.

Yours sincerely



Dr Sue-Anne Wallace BPHARM BA HONS MFIA
CHIEF EXECUTIVE OFFICER





FUNDRAISING INSTITUTE AUSTRALIA (FIA)

PROPOSALS TO REDUCE THE REGULATORY BURDEN: THE VICTORIAN GOVERNMENT'S PLAN TO CUT RED TAPE

The Victorian Government has already identified 17 priority areas for reform in its 2006 "Review of the Fundraising Appeals Act 1998 Proposals for Reform", published late 2005. As fundraising is a key activity of the nonprofit sector, addressing these priorities will go some way towards reducing the regulatory burden on nonprofit organisations.

There is an absolute priority to implement the Victorian Government's proposals for reform of the Fundraising Appeals Act 1998. The proposals published late 2005, based on a review commenced July 2004, include a number of avenues that would reduce the regulatory burden in fundraising regulation.

We urge the Victorian Government to implement the reform of the Fundraising Appeals Act 1998.

We outline further specific priorities below in the context of your plan to 'cut red tape'.

1 PRIORITY AREAS FOR REVIEW

Development of a voluntary code or codes of practice within a 12 – 18 month timeframe to promote best practice in the fundraising industry.

2 AREAS IN WHICH THE ADMINISTRATIVE BURDEN OF STATE REGULATION CAN BE REDUCED

In addition to the implementation of the reforms of the Fundraising Appeals Act 1998, FIA notes a number of areas in which the administrative burden of regulation of fundraising can be reduced.

- i) Review the impact of fundraising regulation on Small and Medium Enterprises SMEs to reduce compliance and administrative burden





- ii) Enhance coordination between Consumer Affairs Victoria and the Victorian Commission for Gambling Regulation to reduce compliance and administrative burden
- iii) Review exemptions from the Fundraising Appeals Act 1998 to reduce inequities in compliance and administrative burden and to enhance public trust and confidence in fundraising
- iv) Determine meaningful tools to monitor compliance - costs of fundraising are not a measure of compliance or efficiency





1 PRIORITY AREAS FOR REVIEW

The Victorian Government identified 17 priority areas for reform in its 2006 “Review of the Fundraising Appeals Act 1998 Proposals for Reform”, published late 2005. A key priority identified through consultation with the sector is described in proposal 17:

Proposal 17

The Fundraising Institute of Australia should be encouraged to develop a voluntary code or codes of practice within a 12- to 18-month timeframe to promote best practice in the fundraising industry. CAV could provide assistance with the development of a code or codes, however CAV should not be responsible for their successful operation.

Legislation and regulation of fundraising is important in the context of providing assurance to the public, including donors, that there is accountability and transparency in the use of their donations. To this end, the encouragement of best practice in fundraising should sit as a key principle guiding the regulatory environment, alongside prevention of fraud and misconduct.

Victorians are generous in their giving primarily because they believe in the cause and the work undertaken through the charitable sector. It is therefore in both government and public interest that regulation is seen to value the promotion of best practice.

FIA fully supports the Victorian Government’s efforts to ensure that regulation encourages best practice rather than being overly prescriptive. Ethical practice has been a topic for public discussion and corporate interest with regard to fundraising and in particular over the past few years in emergency fundraising appeals. The code of practice will enhance community confidence in fundraising and provide an avenue for co-regulation of industry practice through regulation and industry codes.

FIA agrees that there is a priority over the next 12 – 18 months to develop comprehensive standards of fundraising practice¹ and compliance procedures in order to:

¹ ELEMENTS OF THE CODES OF FUNDRAISING PRACTICE

Principles:

- Code of Ethics
- Code of Professional Conduct
- Code of Acceptance and Refusal of Donations
- The Donor’s Bill of Rights
- The Enforcement Process





- provide the Australian community with assurance of accountability for their gifts
- support the rights of donors who make gifts
- establish a code of conduct for fundraisers
- guide fundraisers in ethical and professional practice
- enhance self-regulation of the fundraising industry

With start-up funding (through the Helen Macpherson Smith Trust) FIA has commenced this project by employing an Executive Officer in our Melbourne office two days per week to the end of 2006.

Further funding is required to see this project continue.

In view of your need to progress these issues quickly, we provide a preliminary outline of the financial requirements for this project to proceed.

| Direct costs | Amount | Overhead costs | Amount |
|----------------------------------------------------|--------|---------------------------------------------------|--------|
| 2007 | | 9% superannuation | |
| Executive Officer | 60,000 | 15% oncosts | 14,400 |
| Meeting expenses, industry consultation, workshops | 4,000 | Fittings and fixtures (computer, phone, IT, desk) | 5,000 |
| Printed materials | 4,000 | | |

Standards:

- Code of Events
- Code of Personal Solicitation of Public Places (F2F)
- Code of Telephone Fundraising and Telemarketing
- Code of Payroll Giving and Matched Giving Schemes
- Code of Bequests
- Code of Raffles, Lotteries and Games of Chance
- Code of Workplace Giving Partnerships
- Code of Charity Challenge Events
- Code of Fundraising from Grant Making Trusts and Foundations
- Code of Fundraising in Schools
- Code of e-Fundraising
- Code of Reciprocal Mailings
- Code of Direct Mail
- Code of Direct Marketing





| | | | |
|-------------------|--------|-------------------|--------|
| 2008 | | 9% superannuation | |
| Executive Officer | 60,000 | 15% oncosts | 14,400 |
| Meeting expenses | 4,000 | | |

| | |
|-----------------------|-----------------------------------------------|
| Total direct costs: | 132,000 |
| Total overhead costs: | 33,800 |
| Total: | 165,800 |
| Funds expended 2006 | 25,000 in 2006 (Helen Macpherson Smith Trust) |





2 AREAS IN WHICH THE ADMINISTRATIVE BURDEN OF STATE REGULATION CAN BE REDUCED

We submit that minimising regulatory burden is an important contribution that the Victorian Government could make to enhance the efficiency of the fundraising sector.

Priorities in fundraising regulation

The review of the Fundraising Appeals Act 1998 commenced in July 2004. A discussion paper released in late 2005 – Proposals for Reform – picked up on a number of matters raised by constituents and has general sector support.

It is important that the Victorian Government, having consulted extensively with the fundraising sector, now implements the reform proposals that will immediately reduce some of the regulatory burden carried by some fundraising organisations.

Compliance in Victoria currently significantly adds to administrative costs and is not, in our view, proportional to the risk of fraud or malpractice, evidence of which appears to be scant. FIA notes that regulation should be flexible and should also be (as it is internationally) proportionate so that over-regulation is avoided. The argument of the 'lowest common denominator' approach does not hold if regulation is created with a view to being proportional to the risk.

It is important that industry consultation informs the Victorian Government's work. In this regard we suggest that a community group/ consultative committee should be established, including representatives of Fundraising Institute Australia and the National Roundtable of Nonprofit Organisations, to continue consultation with the sector in order to produce continuing benefits in the reduction of red tape.

Further initiatives that FIA puts forward for your immediate consideration are:

i) Review the impact of fundraising regulation on Small and Medium Enterprises (SMEs) to reduce compliance and administrative burden

There are two issues of importance here:

- a) compliance burden impacts unevenly across the sector
- b) administrative burden of annual registration





Compliance burden impacts unevenly across the sector

The fundraising regulatory burden falls unevenly on the sector as there are a number of exemptions which favour those (exempted) organisations and assist them to reduce compliance costs. This is unsatisfactory when the public has an interest in the costs of fundraising and the regulator an even greater interest. [We address the question of exemptions below under (iii).]

Corporate law allows for some differences between how small and medium businesses and large businesses must address corporate law. We put that this precedent should be considered in the nonprofit sector, making allowances for smaller and newer organisations. Both are likely to have higher costs of fundraising² than those organisations that are well established and thoroughly familiar to the public. While one has a job in front of it to make its cause known, let alone to fundraise for the cause, the other is likely to receive spontaneous donations, as well as solicited donations, and to benefit from economies of scale.

Administrative burden of annual registration

FIA has surveyed its members on aspects of registration for fundraising. Among their concerns are the timing for registration which coincides with the end of the financial year, usually a time for major appeals, causing some problems in finalising figures. Secondly, FIA members question the need for annual registration, suggesting that registration could be for multi-year for organisations of standing (ie. after the first year of registration).

ii) Enhance coordination between Consumer Affairs Victoria and the Victorian Commission for Gambling Regulation to reduce compliance and administrative burden

Regulation of 'charitable fundraising' and 'charitable gambling' is currently separate thereby causes duplication of administrative effort and an increase in the costs of fundraising.³

² Independent research has shown that there are a number of factors that impact on costs of fundraising including size of organisation, popularity of cause, method of fundraising, in addition to other issues such as determining what an objective or 'acceptable' cost of fundraising might be. For these reasons, it is not accurate to suggest that costs of fundraising are a measure of efficiency.

³ According to the recently-released survey *Giving Australia* approximately 25% of individual giving by Australians is raised through charitable gambling.





iii) Review exemptions from the Fundraising Appeals Act 1998 to reduce inequities in compliance and administrative burden and to enhance public trust and confidence in fundraising

Around 80% of fundraising in Victorian may not fall under the requirements of the Act. Excluding 80% of fundraising activity from the Act, militates against the intention of the Act and discriminates unfairly against the remaining 20% of organisations, which largely comprise organisations in the disability, art and culture and overseas aid areas.

Exemptions have the potential to compromise public trust and impact on the transparency and accountability of the industry.

Furthermore, those organisations that comply with the legislation work in a more complex regulatory environment thereby, adding to their expenses in fundraising.

iv) Determine meaningful tools to monitor compliance - costs of fundraising are not a measure of compliance or efficiency

Effectiveness – and efficiency - in compliance and enforcement are critical elements in ensuring that the burden of compliance does not place an unreasonable organisational (resource) demand, adding to the overall costs of fundraising.

FIA accepts that costs of fundraising are one of several indicators that nonprofit organisations may wish to utilize for reasons relating to managing their internal systems and costs or for sector specific benchmarking exercises that may be conducted occasionally by fundraising practitioners. It is opposed however to any specific percentage or cost of fundraising ratio being used for purposes of regulation. As noted above (i) costs of fundraising are likely to vary according to organisational size, profile, cause and method of fundraising. [See note 2.]

FIA agrees with the proposal, welcomes the attempt to reduce the administrative burden of registration and adds that further issues need to be taken into consideration apart from the arguments pertaining to a lack of national accounting standards which are rehearsed above, namely:

- Investment in fundraising is a legitimate expense that may not yield funds in the first instance
- Lifetime value of donors should be considered so that the investment in attracting the donor is amortised over the whole of life value of the donor





The role of boards, rather than governments, in the governance of nonprofit organisations should not be underestimated in the compliance, sustainability, viability and productivity of this sector.

v) Do not introduce a fee on nonprofit organisations register to undertake fundraising

FIA does not agree that fees should be raised for the regulation of fundraising. A balance needs to be found between benefit for public good and regulation for the Victorian Government to meet its responsibilities so that the regulation is not onerous for the Government, nor for the fundraiser and that it is proportional to (proven) risks.





*Leading and empowering fundraisers to best serve their organisations and communities
through integrity and professionalism*

APPENDIX 1

BACKGROUND INFORMATION

Fundraising Institute – Australia Ltd

Fundraising Institute Australia Ltd (FIA), established in 1968, is the **national peak industry body for fundraising** in Australia. FIA is a company limited by guarantee. As a nonprofit body, FIA is recognised as a charitable fund.

Australia's nonprofit sector consists of a wide spectrum of organisations addressing societal needs. Nonprofit organisations are the major providers of community services, sport and the representation of collective interests. They are significant providers of education and health services, arts and culture and hospitality services. They are the exclusive providers of religious services. This is a representation much broader than the traditional charitable organisations.

There are as many as **700,000 nonprofit organisations**, approximately half of which are incorporated as separate legal entities. About 35,000 organisations employ over 600,000 paid staff and involve over 4 million volunteers. Some nonprofit organisations self-employ and train staff to work on fundraising; others use specialised suppliers to train and employ staff, usually working for a number of organisations engaging in various aspects of fundraising, such as events management, face to face fundraising, telemarketing, direct mail etc.

Nonprofit organisations contribute about 4.7% to GDP including the value of volunteer labour and account for **6.8% of total employment**. Taken together, the financial and voluntary labour contributions of Australians to the sector – approximately 65 per cent of





Australians belong to at least one nonprofit organisation and about 40 per cent describe themselves as active members – provide clear indications that the nonprofit sector impacts on Australians in every walk of life.

A number of issues pertaining to the nonprofit sector were highlighted in the recently-released report *Giving Australia*.⁴

In the context of Consumer Affairs Victoria's Proposals for Reform of the regulatory environment, Fundraising Institute Australia (FIA) highlights the key findings as important to take into consideration so that the regulatory environment **enhances** the work of the sector and **strengthens** the capacity of nonprofit organisations to undertake fundraising.

ISSUES TO STRENGTHEN AND/OR SUSTAIN GIVING IN AUSTRALIA

Strengthening nonprofit organisations

- Ensuring credibility and accountability of nonprofit organisations
- Examining further consumers reactions to different fundraising approaches
- Supporting small and medium nonprofit organisations (enterprises) (SMEs)
- Supporting training of fundraisers
- Supporting nonprofit organisations to engage in partnerships with business
- Valuing and fostering volunteering

Raising business awareness of the importance of supporting giving

- Encouraging corporate social responsibility
- Supporting planned giving (such as workplace giving)

Fostering and supporting strategic intermediaries for giving

- Targeting financial advisors to promote giving
- Supporting planned giving (bequests, new and established foundations and trusts)

Public policies

⁴ *Giving Australia*, led by The Australian Council of Social Services, with QUT's Centre of Philanthropy and Non-profit Studies, University of Technology, Sydney's Centre for Australian Community Organisations and Management, Fundraising Institute Australia Ltd, Roy Morgan Research PL and McNair Ingenuity Research PL, is conducting research on philanthropy in Australia.





- Creating legal and compliance frameworks to enable sector
- Increasing public awareness of benefits of giving and supporting nonprofit organisations

Long term, applied giving research agenda

- Collecting sustained, comparable quantitative data over time so industry benchmarks can be appropriately established
- Building an evidence based culture among nonprofits.

Membership

FIA engages with over three thousand fundraisers, representing more than two thousand nonprofit organisations, who subscribe to FIA's information services or attend FIA's professional development programs. Full membership of FIA at August 2006 comprises over one thousand five hundred fundraisers.

Professional Development

FIA has developed a comprehensive professional development pathway, from the Diploma of Fundraising Management (DFM) to the internationally-recognised Certified Fundraising Executive (CFRE), based in Washington, US. FIA has broad reach in its professional development programs, delivering approximately 10,000 hours to members and other professional fundraisers in 2005.

National Agenda

In 2006 FIA has continued its professional advocacy through briefings to state and federal governments on issues relating to fundraising regulation which is hampered by legislative inconsistencies that challenge efforts to fundraise nationally. FIA is pushing for greater clarity and consistency in regulation across Australia and seeking to encourage national harmonization of fundraising regulation. Governments and the sector are acutely aware of the importance of ensuring public confidence in fundraising.

Nationally, FIA worked in collaboration with the Australian Council of Social Service (ACOSS), the lead agency in a project *Giving Australia*⁵ released in October 2005, funded by the Prime Minister's Community Business Partnership on behalf of the Australian Government Department of Family and Community Services. This project researched philanthropy, fundraising and the development capacity of the nonprofit sector.

⁵ *Giving Australia, Research on Philanthropy in Australia*, Australian Government Department of Family and Community Services, Canberra, October 2005. This project was led by The Australian Council of Social Services, with QUT's Centre of Philanthropy and Non-profit Studies, University of Technology, Sydney's Centre for Australian Community Organisations and Management, Fundraising Institute Australia Ltd, Roy Morgan Research PL and McNair Ingenuity Research PL.





Through the Chief Executive Officer, FIA is a member of the Code of Conduct Committee of the federally-funded Australian Council for International Development (ACFID), a member of the Experts Panel advising the Victorian Government of the regulatory environment for the nonprofit sector, and the lead agency for a governance/management tool kit for the fundraising sector in Queensland.

International Agenda

Internationally, FIA has Memoranda of Understanding with the two principal US fundraising organisations, Association of Fundraising Professionals (AFP) and Association for Healthcare Philanthropy (AHP), and has adopted a code of practice with the Washington-based ePhilanthropy Foundation, with whom FIA is working towards a Memorandum of Understanding. The Chief Executive Officer is an invited member and the international delegate on AFP's Ethics Committee. FIA is working with the Institute of Fundraising (UK) and Resource Alliance (UK) to formalize memoranda of understanding to promote further international cooperation between fundraising organisations. FIA is working with Resource Alliance to develop a capacity building program in the Asia Pacific region.

FIA is a member of the international consortium of twenty-four professional associations for fundraisers. The summit is working towards developing an International Code of Ethics for Fundraisers. FIA's work with the summit has been of significant value to the development of the project for FIA's codes of fundraising practice.



Appendix 5:

FIA's Submission to Consumer Affairs Victoria

FUNDRAISING INSTITUTE AUSTRALIA

SUBMISSION TO

CONSUMER AFFAIRS VICTORIA

REVIEW OF THE FUNDRAISING APPEALS ACT 1998



We exist to make the world a better place by advancing professional fundraising through:

- *advocacy of standards*
- *professional development pathway*
- *measurable credentials*

So that our members achieve best practice

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1 INTRODUCTION

Fundraising Institute-Australia Ltd

Fundraising Institute Australia Ltd (FIA), established in 1968, is the peak national body for Australian fundraisers engaging directly with 3,178 fundraisers representing 1,848 organisations in the not-for-profit sector across a wide spectrum of societal needs in community service, health and medical research, education and related services, religion, arts and cultural development, overseas aid, indigenous affairs and sport and recreation.

Current membership (September 2004) comprises 1,189 full members who represent 726 organisations and a further 1,989 individual fundraisers, representing 1,122 organisations, who subscribe to FIA's information services or attend FIA's professional development programs. In Victoria alone in 2004 FIA will provide 3,000 hours of professional development seminars and training for fundraisers.

Nationally, FIA is working in collaboration with the Australian Council of Social Service (ACOSS), the lead agency in a project *Giving Australia: Researching Philanthropy*, that includes the Centre for Australian Community Organisation and Management, at the University of Technology, Sydney, the Centre of Philanthropy and Nonprofit Studies at the Queensland University of Technology, Roy Morgan Research and McNair Ingenuity Research. The project is funded by the Prime Minister's Community Business Partnership.

Internationally, FIA has Memoranda of Understanding with the two principal US fundraising organisations, Association of Fundraising Professionals (AFP) and Association of Healthcare Professionals (AHP) and with the Washington-based ePhilanthropy Foundation. AHP Faculty head the teaching personnel in FIA's annual intensive professional development program Madison Down Under. FIA manages the examination for accreditation of senior fundraisers through an international program, Certified Fundraising Executive (CFRE) based in Washington, US. FIA is also a member of the consortium of twenty-one international fundraising institutions from nineteen different countries and contributes to policy development and strategy in this global forum at its annual summit meeting. Currently the Summit is working towards developing a *Common Code of International Ethics for Fundraisers*.

The not-for-profit sector

Robert Fitzgerald, Chair of the National Roundtable of Nonprofit Organisations, has suggested that the nonprofit sector has an optimistic future (2003). Speaking last year at the Centre of Philanthropy and Nonprofit Studies at Queensland University of Technology (QUT) he evoked the words of Peter Drucker to reinforce the point:





The 21st Century will be the century of the social sector organisation. The more economy, money and information become global, the more community will matter. And only the social sector nonprofit organisation performs in the community, exploits its opportunities, mobilises its local resources, solves its problems. The leadership, competence, and management of the social sector nonprofit organisation will thus largely determine the values, vision, the cohesion and performance of 21st Century Society.

In terms of the importance of the sector to Australian society and wellbeing, the Fundraising Appeals Act needs to recognise the challenges of the sector, which result in part from what Fitzgerald calls a blurring between:

- Government and non-government roles and responsibilities
- For profit and not-for-profit endeavour
- Paid and voluntary effort
- Commercial and mission activity.

Fitzgerald posits that 'these blurrings have led to uncertainty in the public mind about the sector' (Fitzgerald 2003). This is not to say that there are not other significant challenges in the sector, including issues of governance, accountability, provision of responsive services, innovation and enterprise and advocacy, as Fitzgerald has suggested (2003).

The sector's contribution to Australian economy is already recognised. The Woodward and Marshall report (2004) estimates the economic value of the not-for-profit sector to contribute 4.7% of GDP and to account for 6.8% of total employment, adding more to GDP than the mining industry.

Australians give more than \$2.8 billion annually to not-for-profit organisations, including an estimate by Consumer Affairs Victoria of \$1.2 billion raised annually in Victoria. The Department's Discussion Paper notes that not all of the fundraising in Victoria would fall within the jurisdiction of the Act.

This review, therefore, provides a timely opportunity to consider the regulatory framework within which the sector operates, and a chance for the Victorian Government to lead reform in regulation of the not-for-profit sector.





2 FIA SUBMISSION TO THE REVIEW OF THE FUNDRAISING APPEALS ACT 1998

2.1 Methodology

The Discussion Paper highlights a number of issues to be addressed in the review and, in order to provide responses to these issues as discussed in interview with Mr Luke Donnellan MP and Ms Anne Plympton from Consumer Affairs Victoria, FIA has undertaken independent research of some key aspects of the regulation of fundraising and the changing world in which it operates. This research informs FIA's responses to the Discussion Paper.

Three directors of FIA's National Board – Mr Jeremy Maxwell, Mr Lindsay May and Mr Andrew Markwell and members of the Executive Committee of Chapter 2 - met weekly over a period of one-and-a-half months, together with the Chief Executive Officer of the Company, Dr Sue-Anne Wallace, to respond to the issues identified by the review. Mr Maxwell joined the discussion by email and participated in one face-to-face meeting. This panel was supported by other members of FIA and legal opinion. Through its database, FIA informed and consulted with members and sought their opinion on matters concerning mutual recognition and harmonisation. Dr Susan Woodward, co-author of the recent report *A Better Framework reforming not-for-profit regulation*, spoke to Victorian fundraisers on her key findings, an FIA event attended by wide cross-section of members and non-members interested in the reform agenda. In Sydney, members attending a professional development session were canvassed for their opinions on issues raised in the review. Comment from these meetings has been incorporated in the findings. Independent research was undertaken by Dr Gianni Zappalà, Director of Orfeus Research, a Sydney-based consultancy working with the not-for-profit sector and governments, particularly in a broad range of social policy and Third Sector issues.

FIA's final submission has been endorsed by the National Board of Fundraising Institute Australia Ltd (Chairman Ms Margaret Scott) and the Executive Committee of Chapter 1 (Victoria/Tasmania) (President Mr Jeremy Maxwell). See [appendix 1](#) for a list of the Board of Fundraising Institute Australia Ltd and the Executive Committee of Chapter 1.





2.2 Principal research findings

The research undertaken by FIA provides significant findings that will assist the Victorian government in its deliberations on the regulation of fundraising. The principal research findings focus on five main areas as follows:

- 2.2.1 Defining fundraising
- 2.2.2 Community confidence in fundraising
- 2.2.3 Model for fundraising regulation
- 2.2.4 Cost of fundraising
- 2.2.5 Mutual recognition and national harmonisation

FIA's research demonstrates the changing environment in which fundraising occurs in contemporary society. Conclusions drawn from this research are summarised in FIA's responses to each of the issues.

2.2.1 Defining fundraising

One of the issues raised in the Review of the Fundraising Appeals Act 1998 is clarifying the term 'fundraising' or 'fundraising appeal'. FIA agrees that greater definitional clarity is appropriate however this raises the question of deciding upon an appropriate definition of fundraising.

A feature that distinguishes not-for-profit organisations from for-profit and government organisations is that they obtain their revenue from a wide range of sources (Lyons 2001). Such sources of revenue include income from the people who consume and pay for the services of a particular organisation, membership fees from those who may choose to join a particular organisation, fundraising, government funds and grants, and any interest or rents received from investments and other business activities.

Fundraising by not-for-profit organisations can be defined as 'making any "appeal for support" which contains a representation to the public purporting that the proceeds of an activity are intended to be used for a public or community purpose rather than private gain' (Flack 2004c). In this way activities that generate donations will be captured as fundraising, as will trading activities and 'gambling' activities, including lotteries and Bingo.

Fundraising revenue comes from a vast variety of fundraising techniques and activities including:





- donations of money or goods in kind from individuals or companies
- running special events
- organizing sponsorships
- bequests
- grants from foundations, trusts and governments
- workplace payroll giving programs
- lotteries and raffles
- memorial gifts
- membership fees
- direct marketing
- capital campaigns
- cause related marketing
- telemarketing
- face-to-face appeals
- road side collections
- door knock appeals
- online donations
- mail campaigns
- proceeds from the sale of goods

To what extent any one or combination of these fundraising techniques and activities (and the above list is not exhaustive) are present or relied upon by any particular not-for-profit organisation will vary according to a range of organisational (e.g. size, age, resources, staff experience) and environmental (e.g. donor profiles, time of year, regulatory frameworks etc.) factors.

While fundraising techniques and activities are varied, there is general consensus that fundraising is a philanthropic or altruistic activity, carried out for the benefit of a particular cause or issue rather than for commercial profit or benefit. As Consumer Affairs Victoria (CAV) Discussion Paper states when referring to the definition of fundraising in the Victorian Act:

...a fundraising appeal occurs when a person seeks or receives a benefit (monetary or otherwise) by making a representation that the benefit is not being sought just for profit or commercial benefit. This captures the idea that there is an element of giving involved (CAV 2004:4).

Nevertheless, a complication in defining fundraising arises because different organisations and practitioners have different views as to what activities are legitimately seen as fundraising. Despite considerable advances in fundraising research and professionalism over the last decade (see Lindahl and Conley 2002), the fundraising profession is yet to agree upon a standard definition or comprehensive list of the kinds of activities that comprise fundraising.





Definitions of what activities comprise fundraising not only vary across countries (e.g. in the US fundraising activities such as fetes, fairs, recycling of donated goods, and charitable gambling are more likely to be classed as commercial income rather than fundraising and thus subject to income tax) but within countries (e.g. the different State and Territory based fundraising regulations in Australia vary considerably as to what is included and excluded in their respective definitions and lists of fundraising) (see Flack 2004a for an overview of these State-based differences).

Another complication in defining fundraising is the rapid change, both technological (e.g. Internet based fundraising) and organisational (e.g. the rise of venture philanthropy, cause related marketing and community-business partnerships) that has occurred within the not-for-profit sector over the last decade. As a recent review of fundraising concluded, 'chances are that we will see as much change between now and 2015 as we have since 1985 and possibly even more' (Lindahl and Conley 2002:106). The rapid speed of change has made it difficult for fundraising legislation and regulation to remain relevant and appropriate.

A further complication is the problem that a lack of a standard definition of fundraising creates for relying on or using cost of fundraising ratios in the sector (Issues 20 and 21).

So what should be the role of regulation in defining or setting parameters for fundraising activity?

FIA believes that until further progress is made towards national harmonisation or mutual recognition it may be counterproductive to define fundraising in an overly exclusive or restrictive way. Instead, it sees a more productive approach as developing a set of principles as part of a Code of Practice (Issues 25-27) that would guide regulators and practitioners in taking a more consistent approach to determining what should comprise fundraising activities and costs. These principles would not only provide greater consistency but allow a degree of flexibility for organisations that may have unique fundraising needs or approaches because of the nature of their sector or environment. A similar approach was taken to the complex task of defining or redefining the term 'charity' by the Committee inquiring into the definition of charities and related organisations in Australia (Fitzgerald 2002).

FIA agrees that greater clarity and consistency in what is considered fundraising across Australia is needed. While there is consensus on the core issue that fundraising is inextricably linked to the act of philanthropy, differences remain on what kinds of activities it comprises. FIA believes that an important precursor to defining fundraising via regulation is to first develop an agreed set of principles for fundraising activity between itself and other relevant stakeholders. The development of these principles could be undertaken as part of developing a Code of Practice.





2.2.2 Community confidence in fundraising

A public register for fundraisers has been in operation for two years in Victoria. Part of the rationale for introducing the register was to increase transparency and improve public confidence in fundraising and the organisations it serves. FIA supports measures that may improve or maintain the public's confidence in fundraising and not-for-profit organisations generally, including, as is outlined elsewhere in this submission, the universal registration of all fundraising organisations.

Nevertheless, FIA notes that not-for-profit organisations have and continue to enjoy high levels of public confidence and trust. For instance, in its most recent study of trust the World Economic Forum (WEF) found that ***the most trusted of institutions continue to be non-government organisations (NGOs)***.¹ (emphasis added) This study was based on a global survey of 19,000 people across 20 countries and was conducted between November 2003 and February 2004. The precise question was:

'Please tell me how much you trust each of the following institutions to operate in the best interests of our society. Would you say you have a lot of trust, some trust, not much trust, or no trust at all...?'

This study found that almost two-thirds (65%) of people surveyed across the 20 countries had either a 'lot of trust' or 'some trust' in NGOs. The next most trusted institution was the United Nations (60%). This study also provided country-based findings and Table 1 shows the results for Australia. It suggests that Australians have even higher levels of trust and confidence in NGOs than other institutions compared to the international average, with over three-quarters of Australian respondents stating they had 'a lot of trust' and/or 'some trust' in NGOs.

¹ Several terms such as NGO, not-for-profit, charity, nonprofit are often used interchangeably to describe the range of organisations that comprise the Third Sector. According to Professor Mark Lyons, University of Technology Sydney, 'The Third Sector consists of private organisations that a) are formed and sustained by groups of people (members) acting voluntarily and without seeking personal profit to provide benefits for themselves or for others; b) that are democratically controlled and c) where any material benefit gained by a member is proportionate to their use of the organisation' (Lyons 2001:5). The term 'non-government organisation' (NGO) was coined by the United Nations when developing its Charter in post WWII period and traditionally the term was only used to refer to international agencies in the development and aid field. Since the 1980s NGO is used to describe formal, professionalized, independent, societal organisations whose main aim is to promote common goals at national or international level such as Greenpeace or the WWF (Martens 2002).





Table 1: Australian's trust in institutions to operate in the best interests of our society

| Institutions in rank order | A lot of trust | Some trust | Total trust |
|----------------------------|----------------|------------|-------------|
| NGOs | 20 | 57 | 77 |
| United Nations | 20 | 57 | 77 |
| National Government | 15 | 50 | 64 |
| Trade unions | 11 | 47 | 58 |
| Large companies | 7 | 50 | 57 |
| Press and media | 3 | 42 | 45 |
| Global companies | 3 | 37 | 40 |

Source: World Economic Forum, Global Survey on Trust, Update 2004

Notes: Sample size approximately 1,000 citizens in Australia.

Another survey commissioned by the WEF examined the role of leadership in levels of public trust. This survey of 15,000 people across 15 countries at the end of 2002 and beginning of 2003 asked respondents how much they trust various leaders to 'manage the challenges of the coming year in the best interests of you and your family'. Table 2 shows that leaders from NGOs enjoyed the highest levels of trust among the public (average across all 15 countries surveyed).

Table 2: Degree of trust in leaders

| Type of leaders | Percentage saying 'a lot' and 'some trust' |
|------------------------------------------|--------------------------------------------|
| NGO leaders | 56 |
| Leaders at the UN | 42 |
| Spiritual/religious leaders | 41 |
| Leaders of Western Europe | 36 |
| Managers of global economy | 36 |
| Managers of national economy | 35 |
| Executives of multinational corporations | 33 |
| Leaders of the USA | 27 |

Source: World Economic Forum, Trust in Leaders survey, 2003.

Notes: Sample size approximately 15,000 citizens across 15 countries.





The high levels of trust in NGOs also emerge in global surveys of opinion and thought leaders. The global public relations firm Edelman regularly conducts the Edelman Annual Trust Barometer, a survey of 1,200 opinion leaders in Brazil, China, France, Germany, UK and the US. NGOs generally enjoy the highest levels of trust compared to other institutions in these countries. It also found that independent experts such as NGO representatives are considered among the most credible and trustworthy spokespersons, together with doctors or healthcare specialists and academics (Edelman 2004).

While this study did not include Australia, an earlier Edelman survey that also examined the responses of 200 opinion leaders in Australia found that they exhibited the highest level of trust in NGOs to 'do the right thing' compared to opinion leaders from the US or Europe (Edelman 2001).

Where there have been overt attacks on the credibility of organisations in Australia, such as attacks on The Smith Family, St Vincent de Paul Society, Australian Red Cross, overseas aid agencies, environmental agencies, the churches and nonprofit peak bodies, Fitzgerald has suggested that they have their source overseas, and in this regard he cites the role of the American Enterprise Institute whose website was launched specifically 'to expose the funding, operations and agendas of international NGOs' (Fitzgerald 2003).

FIA recognizes that trust and confidence, like reputation takes many years and decades to build but can be quickly lost. The high levels of trust and public confidence in fundraising organisations suggests that the public assumes that such organisations *do act* with integrity and in the public interest with often little appreciation for the multitude of existing regulatory codes. In the case of fundraising, damage to reputation and trust is more often due to poor communication and management by the fundraising organisations rather than any intended deceptive behaviour or fraud on their part. A recent example was the media criticism of the Australian Red Cross Bali Appeal, where poor communications of the Appeal's objectives and purposes on the part of the Australian Red Cross led to misplaced allegations by the media concerning the organisation's integrity (Department of Gaming and Racing 2003).

It is unlikely that registration requirements alone can prevent the potentially harmful flow-on effects on public confidence and trust of this case and others like it. Instead, ensuring that organisations manage their fundraising appeals professionally in accordance with the provisions of a Code of Conduct (see Issues 25 - 27) will do more to maintain the existing high levels of public trust and confidence.

Nevertheless registration does provide a means of ensuring regulatory compliance, particularly if compliance with a Code of Conduct is also mandatory for registration.





2.2.3 Model for fundraising regulation

The Industry Commission's 1995 Report on Charitable Organisations in Australia acknowledged the contribution of the charitable sector to Australian economy and sought to enhance this capacity. Among its recommendations were those that sought to:

- Improve quality of services for clients
- Improve resourcing of the sector
- Improve national accountability measures
- Support mechanisms such as benchmarking to improve performance
- Develop a notion of co-responsibility between the sector and governments.

It has been widely acknowledged that the IC report 'provided a strong blueprint for improving the national regulatory framework and the accountability of nonprofit organisations', a reform supported by the Inquiry into the Definitions of Charities that further recommended the creation of a separate independent commission, such as the Charities Commission in the UK (Fitzgerald 2003).

These recommendations take a leap forward from the current state of regulation and are beyond the scope of the review of the Victorian Act. Yet the questions must be raised so steps are taken to develop the most appropriate model to regulate fundraising.

FIA believes that the most appropriate model of fundraising regulation is one based on a framework of self regulation. By self regulation we mean a framework where organisations internalize the responsibility for ensuring their fundraising practices comply with a national Code of Conduct and that the systems for monitoring that compliance are open to relevant external stakeholders.

FIA agrees that there is a role for government in the regulation of fundraising. In brief, as the Industry Commission report into charities noted, three key objectives of fundraising legislation are:

- To protect the public against fraud, misappropriation of funds and misleading conduct
- To ensure that donors and the public have access to information
- To ensure that organisations use acceptable fundraising practices (IC 1995:231).

The CAV Discussion Paper also notes the important role of government in protecting consumers from fraudulent practices, supporting the fundraising sector and providing an appropriate framework within which fundraising activity can take place.





Caution is needed however to not 'over regulate' in this area as there exist a range of other state and federal laws covering and protecting consumers in cases of fraud or misleading conduct (e.g. consumer protection laws, Trade Practices legislation, criminal codes) and others that cover account and record keeping and reporting requirements (Associations Incorporation Act 1981 (Victoria), Corporations Act 2001 (Commonwealth)).

A problem with overly prescriptive or 'hard' fundraising regulation is that it runs the risk of placing heavy compliance and administrative costs and burdens on organisations that are not often in a position to meet them without compromising their core social and community missions. As we have noted in other parts of this submission, overly prescriptive regulation (e.g. mandating the disclosure of cost of fundraising ratios) can also work against the public interest by creating flawed and misleading perceptions of fundraising practice and reality.

So how can we achieve a regulatory balance between the legitimate needs of the public and fundraising organisations? A balance that also continues to enhance the public's confidence and trust in the not-for-profit sector.

The benefits of self-regulation, supported by a Code of Practice have been outlined in the recent work of regulatory and compliance expert Dr Christine Parker (2002a) from the University of Melbourne. Parker's framework ensures that self regulation is inclusive of relevant external stakeholders including government, hence her use of the term 'open or 'permeable' self-regulation:

This (open self regulation) does not mean that companies can be left alone to self-regulate responsibility. Indeed corporate responsibility self-regulation systems are only effective when they are open to external stakeholder perspectives and values...and it is the basis for democratic social responsibility for corporations and other organisations (Parker 2002b:2).

While Parker's work applies primarily to self-regulation and compliance programs in a variety of areas (e.g. environmental, sexual harassment, consumer protection and competition policy, financial services) within corporations, the principles and frameworks are also relevant to regulating fundraising by not-for-profits and commercial agents.

Fundraising organisations would be required to comply with a Code of Practice in order to be issued with a licence to fundraise by the government regulator. Similarly, any serious breaches of the Code could result in a licence being revoked or a registration not being renewed by the government regulator. The Code could be referred to and sanctioned by the Act. The Act can also specify how amendments to the Code can be made, for example through endorsement by FIA.





As part of adopting a self-regulatory approach, FIA also suggests that the Victorian government give consideration to the self regulatory fundraising model being followed in the UK. The Cabinet Office Strategy Unit report into charities found that:

The Government considers that a self-regulatory scheme which the sector itself helps to set up and run has the best chance of success. This new scheme would build on the valuable work, including work on codes of good practice, already undertaken by organisations such as the Institute of Fundraising and the Public Fundraising Regulatory Association (SU 2002:66).

The Strategy Unit recommended the establishment of a new independent body governed by a board comprised of representatives from charities and the not-for-profit sector, fundraisers, government and other experts. This body is to develop a Code of Good Fundraising Practice as well as other specific codes that cover the wide range of fundraising activity. The role of the body is also to:

- Raise awareness and knowledge among the fundraising and broader community of fundraising regulations and practice
- Authorize abiding fundraising organisations to use a logo signifying their commitment to good practice
- Investigate complaints and alleged breaches of the code
- Issue sanctions for non-compliance such as naming and shaming, and expulsion from the scheme.

FIA believes that a similar style body could make for a good system of 'open self-regulation' of fundraising in Victoria, and ultimately nationally, building on the professional work of FIA, including its development of a Code of Professional Conduct and Ethics. Establishing such a body would provide a structured framework for the development of a revised Code of Practice between FIA and the Victorian government as well as other relevant stakeholders. This body could also issue guidelines of the range and type of information that fundraising organisations should make available to donors and the wider public (Issues 15 - 18).

2.2.4 Cost of fundraising

Several of the issues raised in the Review of the Fundraising Appeals Act 1998 make implicit or explicit reference to cost of fundraising ratios (e.g. Issues 20, 21, 23, 24).

A key question is whether the Act should prescribe a percentage or limit to the costs of raising funds?





FIA is against the introduction of any prescribed percentage or limit to the costs of raising funds being enacted in the Victorian or any other legislation. FIA sees a more productive way forward as ensuring that all organisations follow the cost of fundraising guidelines contained in FIA's Code of Professional Conduct and Ethics. Any regulation of the cost of fundraising should be limited to requiring that a range of information that may be useful and relevant to donors and other stakeholders (e.g. mission and goals, governance structures, fundraising activities, programs and program evaluations) be available and provided by not-for-profit organisations upon request.

Unfortunately, regulators in Australia and overseas are increasingly looking to mandate the use of measures such as the Cost of Fundraising ratio (CoFR) by fundraising organisations. The CoFR is the proportion of fundraising expenses to total fundraising revenue. In New South Wales for example, s19 of the *Charitable Fundraising Act 1991* specifies that fundraising costs should not exceed more than 40 per cent of funds raised for any particular appeal.

The reasons that governments have become interested in specifying limits for fundraising costs in regulation include the belief that:

- High costs of fundraising may discourage giving
- It will enhance donor decision making as it facilitates comparisons across organisations
- It will enhance accountability for donor funds
- It will increase and maintain public confidence in charities and the not-for-profit sector
- It will prevent deception of members of the public
- It is a means of benchmarking fundraising efficiency and performance in the sector
- It will assist in the proper and efficient management of fundraising appeals
- It is a simple calculation to administer compared to other performance indicators.

The above reasons assume that the public and donors in particular would make use of CoFR in their decisions to give to a particular charity or not-for-profit organisation. The evidence about the correctness of this assumption is mixed. Some studies suggest that donors are interested in how charities use the funds they raise. A recent survey of 1,000 members of the British public found that three quarters thought it was 'important' or 'very important' for charities to provide information on the amount of money they spend on fundraising (including the cost of fundraising staff) (Charity Commission 2004). In Australia, surveys conducted by a range of organisations have also found that donors are interested in knowing the CoFR of charities (see references cited in Berman and Davidson 2003; Woodward and Marshall 2004).

Studies using US, Canadian and UK data suggest that donors are less inclined to support charities or causes with relatively higher costs of fundraising compared to those with lower costs. In contrast, other studies suggest that people's decision to give is unrelated to the CoFR and in fact that higher expenditure by charities on fundraising and publicity leads to higher levels of fundraising revenue in the future (Flack 2004a). One study using Australian





data suggests that donors are more concerned with the 'donative act' rather than the purpose to which charities ultimately use their funds or fundraising costs (Berman and Davidson 2003:428). While the authors note that their study's findings should be interpreted cautiously they argue that their findings do 'not modify the conclusion that increased regulation and accountability will not necessarily increase charitable donations' (Berman and Davidson 2003:428).

While charities and not-for-profit organisations may use CoFR as an internal management tool or benchmark (see Paton 2003 for example), they are generally not likely to disclose the costs of fundraising. For example, a study of 475 Australian charities by Givewell found that 50 per cent of charities in NSW and 26 per cent in Victoria disclosed their fundraising costs (cited in Woodward and Marshall 2004). A more recent and extensive study based on almost 2,000 not-for-profits across Australia found that almost one-quarter (24%) of organisations favoured disclosing cost of fundraising information to the public (Woodward and Marshall 2004:Ch.8). In other words, three-quarters of those that responded did not think they should disclose the cost of fundraising to the public. There was no difference in response between large and small organisations. Factors associated with organisations being more likely to be in favour of disclosing CoFR included:

- Public serving not-for-profits were more likely to be in favour of disclosure (33%) than member serving not-for-profits (17%);
- Organisations that had Public Benevolent Institution (PBI) status were more likely in favour (34%) than those with non-PBI (20%); and
- Organisations in the fields of environment (54%), education (40%), philanthropy (40%), and health (41%) were more likely to be in favour with interest groups and organisations in sports and recreation least likely to be in favour.

The relatively low interest in disclosing the CoFR on the part of NFPs is not due to their lack of interest in transparency or accountability but because most NFPs know that CoFR ratios in isolation are flawed and may in fact impede rather than enhance donor decision making as they create a misleading picture of fundraising dynamics and objectives.

So while regulators may see using the CoFR as an administratively simple tool the problem is that relying solely on a cost of fundraising ratio is inherently flawed as a means of addressing some of the previously noted reasons why governments have become more interested in using CoFRs (e.g. increasing public confidence in charities).

So what are the key shortcomings of the CoFR? Several well known problems with using CoFR have been noted in the scholarly and practitioner literature on fundraising (see Flack 2004a for an extensive review) but at least four deserve particular attention:





a) Causes of CoFR variability

The issue of the suitability and merit of using CoFR was also examined by the Industry Commission report into charities in the mid 1990s (IC 1995). A key problem with CoFR that the Commission highlighted was that fundraising costs could legitimately vary across organisations due to several factors that had little to do with efficiency or accountability or transparency. These included:

- An organisation's costs associated with developing a reputation and longer-term supporters
- The start-up costs associated with particular fundraising programs
- The fact that some programs or causes are more popular with the giving public than others
- The fact that some fundraising programs also comprise educational and awareness components
- The fact that some fundraising programs also aim at attracting volunteers and/or goods in kind as well as money (IC 1995:236)

After reviewing submissions as well as the research evidence from the US, the Commission concluded that 'legislative controls on the acceptable ratio of costs to fundraising are not desirable' (IC 1995:237). Other research (cited in Flack 2004a) also confirms that fundraising costs vary across organisations due to:

- The age of the organisation – costs of fundraising are less for longer established organisations
- The type of activity or field that the organisation operates in – costs are higher for organisations involved in advocacy, disease and public safety
- The particular fundraising strategy used (e.g. telemarketing, face-to-face, mail etc).

Experience among FIA's members leads us to conclude that some organisations – for example religious organisations - may have different workplace standards regarding remuneration and conditions of service so that any comparison on the basis of CoFR between these and other fundraisers are not valid.

It is not surprising that the recent review of charities and charity law in the UK also argued against the adoption of mandatory cost of fundraising ratios for similar reasons. It is worth quoting at length from the report, *Private Action, Public Benefit*, prepared by the UK Strategy Unit on this issue:

...the fact that fundraising costs vary widely due to factors beyond the charity's control (such as the popularity of the cause, and the proportion of income from legacies and endowments) means that simple ratios without additional explanatory information can be misleading. Moreover, fundraising ratios have the obvious flaw of communicating nothing about the charity's wider performance or outcomes (Strategy Unit 2002:61).





b) Determining an objective or 'acceptable' CoFR

Another problem with the CoFR is the fact that what is considered to be an 'acceptable' cost of fundraising among donors and the general public varies considerably (e.g. from 10% to 60%) (Flack 2004a). This confirms the argument FIA made in its submission to the Productivity Commission that a problem with legislating fundraising cost ratios is that *there are no objective criteria for determining what the percentage limit should be* (IC 1995:237). The difficulty of relying on fundraising ratios to determine 'acceptable' costs is implicitly accepted in the current Victorian legislation as the guidelines state that the matters that the Department will take into account when determining whether administrative costs are reasonable include:

- The type of fundraising appeal conducted
- The fundraiser's long term strategy
- The type of representations made to the public
- The nature of the fundraising body
- The fundraising body's financial management plans.

As a fundraising expert from the Centre of Philanthropy and Nonprofit Studies at QUT stated in a recent review of the literature on regulation and the cost of fundraising ratio in Australia:

In other words, the Director of the Department in Victoria is required to take into account the very considerations (not readily available to the public) that make the arbitrary use of cost of fundraising ratios by the public unsafe as a guide for their giving (Flack 2004a:8).

Similarly, commenting on the cost of fundraising disclosures required by the NSW *Charitable Fundraising Act 1991*, a report examining financial reporting among not-for-profits by the Chartered Accountants of Australia concluded:

Users of a NFP's reports (Annual or Financial) would be better served by measurements that are specific to the NFP's total operation (CA 2003:17).

c) CoFR and efficiency measures

An argument often heard in favour of the CoFR is that it provides a simple means to benchmark fundraising and organisational efficiency and performance across the not-for-profit sector. Recent in-depth empirical studies have in fact shown the opposite to be the case (see Flack 2004a; Paton 2003). Regulating or setting a figure that all organisations need to meet may in fact create inequities and distortions in the not-for-profit sector because it:

- Benefits larger organisations over smaller ones as they can take advantage of economies of scale;



- Favours organisations such as religious charities that may be exempt from fundraising legislation in some States and Territories;
- Benefits organisations that have the resources to employ sufficient accounting and technology to allocate costs in ways that produces more favourable ratios;
- Works against newer organisations whose costs are much higher due to lower recognition with the public, fewer long term donor relations and bequests;
- Disadvantages those causes or charities that are less popular or appealing to the public;
- Favours larger and wealthier charities with the resources to employ their own fundraising staff and volunteers, compared to smaller organisations that often rely on professional fundraising consultants (Flack 2004a:10).

d) CoFR and accounting

Discussion of efficiency also leads to another key flaw with using the CoFR as an across the board measure, namely, that in the absence of uniform accounting standards across the NFP sector, each organisation apportions the costs of fundraising in different ways. Expenses associated with providing information and awareness about a particular program to the public for example may be recognized and recorded as fundraising costs in some organisations but costed against another function (e.g. marketing, research) in other organisations. One study of performance management in the UK not-for-profit sector, for example, found different approaches to allocating costs have significant impacts on final ratios, in one case allocating £274,000 to a particular function led to a fall from 15% to 2% in the cost ratio of one charity (Paton 2003:59). As the UK Strategy Unit report into charities argued:

It would...be desirable if there were greater consistency in the way that charities allocate costs and expenditure, enabling more meaningful financial comparisons to be made (SU 2002:62).

QUT researcher Ted Flack has also outlined several other serious accounting related problems associated with the cost of fundraising ratios (Flack 2004a:18). Perhaps even more crucial than the lack of standardization in the apportionment of costs, is the lack of a common and uniform definition of what constitutes fundraising, which varies across jurisdictions within Australia, across organisations, and across countries. Flack argues:

[T]he first task for anyone interested in developing a meaningful fundraising cost ratio is to define fundraising and to decide which costs should be attributed to fundraising (Flack 2004a:15).

In summary, a regulatory focus on CoFR is misplaced and may lead to unintended and deleterious effects on not-for-profit organisations, fundraising practitioners and the donating public. Once again, it is worth quoting at length from Flack's review:



The cost of compliance with mandatory cost of fundraising disclosure requirements will...fall disproportionately on those least able to afford the capacity to produce them, those that are least likely to be advantaged by any comparisons based on cost of fundraising and on those that are most in need of the stability that the long term investment in costly donor acquisition programs would bring to their organisations (Flack 2004a:16).

FIA accepts that the CoFR is one of several indicators that not-for-profit organisations may wish to utilize for reasons relating to managing their internal systems and costs or for sector specific benchmarking exercises that may be conducted occasionally by fundraising practitioners (Paton 2003). It is opposed however to any specific percentage or cost of fundraising ratio being included in legislation that applies across all organisations. Instead, FIA sees a more productive way forward as ensuring that all organisations apply the cost of fundraising guidelines contained in FIA's Code of Professional Conduct and Ethics (Issues 25 – 27). For instance, the FIA Code states:

All fundraising organisations cannot be judged equally but all should aim for levels of cost which are generally acceptable within the profession and by informed members of the community. Due regard must be given to the nature of the cause, the stage of development of the agency and the type of fundraising program used.

In budget fundraising, a line needs to be drawn between activities designed to attract the 'commercial' dollar (high cost, low return) and those seeking the 'charitable' or 'gift' dollar (low cost, high return).

In the case of the 'commercial' dollar, where services or goods representing value for money are concerned, costs (including cost of goods, services offered, etc.) in the region of 80% would not be unusual but in the case of the 'gift' dollar, costs around 25 to 35% would be regarded as acceptable.

At the other end of the scale, in the case of a relatively 'young' agency, or in donor acquisition programs, costs of approximately 100%, and sometimes higher, would not be unusual.

In capital fundraising appeals, as distinct from ongoing budget fundraising activities, costs in the area of 15 to 20% would be regarded as 'borderline', around 10 to 15% as acceptable and 5% would be unusually low. (Section 6, Fundraising Costs, FIA Code of Professional Conduct and Ethics).

Any regulation on the cost of fundraising should be limited to requiring that a range of information that may be useful and relevant to donors and other stakeholders (e.g. mission





and goals, governance structures, fundraising activities, programs and program evaluations) be available and provided by not-for-profit organisations upon request. This model has also received support from the UK Charities Commission inquiry, and expert not-for-profit scholars in Australia (e.g. Woodward and Marshall 2004; Flack 2004a).

2.2.5 Mutual recognition and national harmonisation

The Victorian review has raised a range of issues primarily concerned with national harmonisation and a national approach to the regulation of fundraising and how it can be best progressed (e.g. national Code of Conduct; mutual recognition; the development of national accounting standards for the not-for-profit sector) (Issues 28 – 34).

A key question that arises from these issues is whether national harmonisation of the laws and regulations that govern not-for-profits and fundraising is desirable.

FIA believes that any moves towards national harmonisation and national regulation are positive and should be encouraged. Moreover, FIA believes that the response of the Victorian government to its Review of the Fundraising Appeals Act 1998 can play a significant and leading role in furthering such moves.

Research has shown that the regulatory environment that governs the establishment and operations of not-for-profit organisations plays a critical role in sustaining and encouraging those very organisations (Salamon 1997; Lyons 2003). The regulatory environment and specific laws can either support the development of a healthy and vibrant Third Sector or stunt its growth and vitality. The relationship between the legal environment and the Third Sector was one of the areas examined in The Johns Hopkins Comparative Nonprofit Sector project, one of the most comprehensive comparative not-for-profit data sets developed. Studies based on that data show that the relative favourability of a country's laws and legal framework is positively related to the development and size of the not-for-profit sector in that country (Salamon and Toepler 2000). In other words, countries with good regulatory systems for not-for-profit organisations have healthier and stronger not-for-profit sectors. In an analysis of thirteen countries, four countries scored highly in terms of having highly favourable legal frameworks for not-for-profits:

- Israel
- Netherlands
- USA
- Mexico

These countries also had the relatively largest not-for-profit sectors in terms of share of total employment. Australia and most European countries ranked in the middle (i.e. had medium scores with respect to their legal framework and clustered around the middle in terms of not-for-profit share of employment) with Brazil and Japan scoring poorly in terms of their legal





environment for not-for-profits and share of not-for-profit employment (Salamon and Toepler 2000).

The Australian situation may not seem that negative in a comparative sense but neither is it optimal and there is clearly room to improve the regulatory environment for the Third Sector.

The relative weaknesses of the regulatory environment for the Third Sector in Australia are well known to scholars and practitioners. In a recent review of the legal and regulatory environment for not-for-profit organisations in Australia, Professor Mark Lyons drew particular attention to at least five failings of the law:

- Laws are not informed with a clear knowledge of the Third Sector and its operating logic
- Insufficient attention is paid by legislators to the changing character of Third Sector organisations and changes in the economic and social environment of the sector
- Laws are allowed to grow in a piecemeal fashion, inevitably leading to anachronisms and contradictions
- Laws are not enforced, or are enforced haphazardly, even vindictively, usually because governments fail to budget sufficiently for their proper regulation; and
- Laws are enforced over-rigorously, by a bureaucracy that ignores the intent of a law and effectively ensures that no organisation can benefit (Lyons 2003).

Lyons illustrates these failures with particular reference to the various modes of incorporation available to not-for-profit organisations in Australia and the legislative environment relating to fundraising. It is worth quoting at length from Professor Lyons conclusion on fundraising:

The contrast between the simple legislative environment provided for-profit companies and the confusing muddle confronting those wishing to incorporate and raise funds for third sector organisations is nicely illustrated when we turn to fundraising. When for-profit companies wish to raise funds, by issuing shares or debentures, they seek permission from the same regulator that handled their incorporation. When nonprofits wish to raise funds they must seek a licence from yet another regulator. These are state and territory government agencies, operating under different pieces of legislation that differ in some aspects across jurisdictions. These differences make conducting a national fundraising campaign a nightmare (Lyons 2003)

Lyons' view is supported by the findings from the extensive survey-based study conducted by Woodward and Marshall (2004) of almost 2,000 not-for-profits in Australia that are registered as companies limited by guarantee. Among other things, this study highlighted:

- The myriad possible legal structures that exist for not-for-profits
- The confusing mix that exists between State and Federal regulations and regulators
- The lack of nationally consistent reporting obligations
- The fact that most not-for-profits want a new regulator (other than ASIC at the Federal level) to oversee their organisations.





As the authors note:

The underlying health of the NFP sector is at risk. The regulatory framework that underpins the sector is complex and riddled with inconsistencies. It is time for some preventative medicine. The relevant laws and regulatory bodies need to be fair, consistent and clear in order to promote NFPs that are transparent, accountable and credible. If these fundamentals are right, then growth and innovation are more likely to occur (Woodward and Marshall 2004:1; emphasis added).

A clear barrier to legal reform in a country like Australia is of course its Federal structure. Reform, as illustrated by the Federal regulations that now govern for-profits at a national level, is not impossible, but painstakingly slow. Some of the problems posed by current laws and regulatory systems are recognized in the CAV Discussion Paper under 'National harmonisation' where it states:

...any organisation wishing to fundraise in more than one state is faced with a plethora of statutory requirements affecting national fundraising. This is problematic for large organisations with a national presence, but may also impinge on the activities of local groups that may wish to link with interstate organisations with similar objectives to undertake a national campaign (CAV 2004:12).

The complication remains however that state-based revisions and reforms of fundraising and not-for-profit legislation and regulations are limited as long as they remain confined to that state.

So what is the best way of moving towards and enhancing the prospects of harmonisation of fundraising and not-for-profit regulation?

First, as we have stated elsewhere throughout this submission, FIA believes that developing a new national fundraising Code of Conduct via a model of 'open self-regulation' (see discussion above 2.2.3) is a good way to progress national harmonisation. It offers an approach that will achieve needed reforms more quickly (e.g. via mutual recognition procedures), and be inclusive and responsive to relevant stakeholders. By supporting such a model the Victorian government can provide a lead role in the development and implementation of a national approach to the regulation of fundraising.

Second, FIA believes that the national harmonisation of fundraising regulation will be more successful and effective if it takes place together with wider reform of the regulatory environment of the Third Sector such as the development of national accounting standards for the not-for-profit sector, such as exists in other industries such as the mining industry. Recognising that it will take time to implement a national accounting standard, FIA suggests





the Victorian Government consider an interim accounting standard as a forerunner to a national accounting standard. Calls for such reform are not new and specific recommendations have previously been put forward by:

- The Industry Commission's report on *Charitable Organisations in Australia* in 1995
- The government commissioned *Inquiry into Charitable and Related Organisations* in 2001, and
- A University of Melbourne study and report *A Better Framework – reforming not-for-profit regulation* in 2004 (Woodward and Marshall 2004).

FIA supports the general thrust of these reports' recommendations on national harmonisation. In particular, FIA suggests the government give consideration to the following evidence-based recommendations contained in Woodward and Marshall (2004):

- Establishing a single Commonwealth statutory framework covering all corporate bodies including for-profit, not-for-profit and incorporated associations. The States would need to refer all powers to the Commonwealth (e.g. as occurred for company regulation) for this to occur. This would enable a national approach to the regulation of not-for-profit organisations by a body like ASIC
- Introducing a single specialist not-for-profit legal structure perhaps by combining the best aspects of the corporations law and the incorporated associations laws
- Developing and implementing specific national accounting standards for not-for-profit organisations
- Unifying the reporting and disclosure obligations for not-for-profit organisations across State and Federal jurisdictions
- Developing a simple Standard Information Return similar to those used in the US, UK and proposed for New Zealand as a means for not-for-profit organisations to provide relevant information on their purposes and activities (including aspects of fundraising) to the public.

FIA recognizes that such recommendations go beyond the Victorian review and involve all State and Federal agencies. Yet there is no denying the conclusion of Professor Lyons' review that the Third Sector would benefit enormously:

...if there was a single piece of legislation for incorporating all third sector organisations that sought a legal personality. In that way, the third sector would have a common identity to act as a counterweight to its diversity. Such legislation would clearly have to recognise some variations; placing easier reporting requirements on small organisations, for example. And it ought to allow organisations to pursue different models of governance, provided some basic accountabilities were met. Drafting such legislation would be challenging (Lyons 2003).

FIA believes that an important first step in meeting that challenge is engaging with the Victorian government and other relevant stakeholders to develop and implement a national fundraising Code of Conduct.





SUBMISSION FROM FUNDRAISING INSTITUTE – AUSTRALIA LTD

RESPONSES TO ISSUES

Issue No 1

Is the term “fundraising appeal” the appropriate descriptor? Should we instead talk about fundraising?

FIA believes that until further progress is made towards mutual recognition or national harmonisation it may be counterproductive to define fundraising in an overly exclusive or restrictive way. Instead, it sees a more productive approach as developing a set of principles as part of a Code of Practice (Issues 25-27) that would guide regulators and practitioners in taking a more consistent approach to determining what should comprise fundraising activities and costs. These principles would not only provide greater consistency but allow a degree of flexibility for organisations that may have unique fundraising needs or approaches because of the nature of their sector or environment. A similar approach was taken to the complex task of defining or redefining the term ‘charity’ by the Committee inquiring into the definition of charities and related organisations in Australia (Fitzgerald 2002).

FIA agrees that greater clarity and consistency in what is considered fundraising across Australia is needed. While there is consensus on the core issue that fundraising is inextricably linked to the act of philanthropy, differences remain on what kinds of activities it comprises. FIA believes that an important precursor to defining fundraising via regulation is to first develop an agreed set of principles for fundraising activity between itself and other relevant stakeholders. The development of these principles could be undertaken as part of developing a Code of Practice.

For further discussion see section above on defining fundraising (2.2.1)

Issue No 2

Does registration of fundraisers increase community confidence in fundraising activities?

A public register for fundraisers has been in operation for two years in Victoria. Part of the rationale for introducing the register was to increase transparency and improve public confidence in fundraising and the organisations it serves. FIA supports measures that may improve or maintain the public’s confidence in fundraising and not-for-profit organisations generally, including, as is outlined elsewhere in this submission, the universal registration of all fundraising organisations.





Nevertheless, FIA notes that not-for-profit organisations have and continue to enjoy high levels of public confidence and trust (see section above on community confidence 2.2.2).

FIA recognizes that trust and confidence, like reputation takes many years and decades to build but can be quickly lost. The high levels of trust and public confidence in fundraising organisations suggest that the public assumes that such organisations *do act* with integrity and in the public interest with often little appreciation for the multitude of existing regulatory codes. In the case of fundraising, damage to reputation and trust is more often due to poor communication and management by the fundraising organisations rather than any intended deceptive behaviour or fraud on their part. A recent example was the media criticism of the Australian Red Cross Bali Appeal, where poor communications of the Appeal's objectives and purposes on the part of the Australian Red Cross led to misplaced allegations by the media concerning the organisation's integrity (Department of Gaming and Racing 2003).

It is unlikely that registration requirements can prevent the potentially harmful flow-on effects on public confidence and trust of this case and others like it. Instead, ensuring that organisations manage their fundraising appeals professionally and ethically in accordance with a Code of Conduct that is mandatory for registration (see Issues 25 – 27) will do more to maintain existing high levels of public trust and confidence than registration or other regulations per se.

FIA acknowledges registration does provide a means of ensuring regulatory compliance.

Issue No 3

Is the current scope of registration appropriate?

The Act provides at section 17A that:

Subject to Division 1, a person must not conduct a fundraising appeal unless she or he is registered by the Director as a fundraiser

For the purposes of the Act, a 'person' can also be a 'corporation, incorporated or unincorporated association'. In most cases (CAV 2004:4) registration predominantly captures either incorporated organisations or companies. Estimates provided by FIA Chapter 1 (Victoria/Tasmania) indicate that 80 per cent of current fundraising in Victoria falls outside the Act, a situation that is not conducive to either industry compliance with the Act, notwithstanding the need for all organisations, whether exempt or registered, to comply with some provisions of the Act, or public accessibility of information on fundraisers.





FIA assumes that the purpose of registration is two fold, to ensure compliance with the Act and to provide for transparency for fundraising in Victoria. Given these purposes, FIA argues that the registration process is diluted by the number of exemptions provided in the Act itself or by Ministerial order.

While we have addressed the matter of public confidence in fundraising activities under Issue 2, to address public confidence that the Act protects their interests in the integrity of fundraising, it is our position that all fundraisers should be required to register under the Act, without exemption according to organisational activity or fundraising capacity, so that appropriate information is available that relates to all fundraising.

Issue No 4

Has the registration process reduced the administrative burden placed on fundraising organisations?

FIA notes the registration scheme is a simplification of the previous requirement to notify CAV for each fundraising effort. CAV has noted that about 80 per cent of registrations are either incorporated associations or companies. These organisations, together with the exempt organisations, already comply with other regulatory frameworks, such as Corporations Law and the Associations Incorporation Act. Therefore any additional compliance under this Act is an additional administrative burden to the fundraiser. Notwithstanding the task of annual registration, FIA supports the registration of all fundraisers.

FIA's position is that the review of the Act should address the duplications of effort required in reporting and simplify the Act to ensure that there is no additional administrative burden for organisations that must comply with other reporting frameworks (see Issue 35). Currently, there is considerable administrative burden incurred in calculating the cost of each fundraising activity.

Issue No 5

Does the Act make the need to be registered clear to all potential fundraisers?

FIA believes that the ambiguities in the Act, requiring registration for some fundraisers and exemptions for others, should be removed and that registration should be universal for all fundraisers.

Current requirements lead to some confusion between fundraisers as individuals (employees, agents, commercial fundraisers) and fundraiser organisations. FIA has been informed by





some members of confusion in determining the entity to register. As the majority of current registrations are for organisations that fundraise it would appear that popular interpretation deems the organisation, rather than the individual, should be registered.

FIA supports clarification of the definition of 'fundraiser' in the Act, ensuring that the principal responsibility is for the registration of fundraising organisations, whether incorporated or unincorporated associations, companies limited by guarantee or cooperatives.

Issue No 6

Should commercial fundraisers always be required to be registered, regardless of whether or not they are acting as an agent?

Definitions and interpretations in the Act of 'commercial fundraisers' and 'agents' are subject to a variety of interpretations in the fundraising industry. Use of another term, 'third party' fundraising, adds to the complexity of the environment. Professional fundraising consultants (who could be identified as third parties, agents or commercial fundraisers) also work with fundraisers in their broad business including fundraising campaigns, providing advice and services, functions that are quite separate from the act of fundraising and specifically the receipt of moneys. We do not believe that these consultants require registration.

However, where third party fundraising is undertaken by an individual, group or corporate, in support of a cause or Fundraising Appeal, FIA has pointed out to the Victorian Government in its briefing paper that the current requirement to register duplicates the registration process and 'militates against contemporary trends to "free up" legislation, particularly in an attempt to encourage corporate, and other, philanthropy' (Joseph 2004).

Flack (2004a) has proposed a different system of capturing information about third party fundraising or the work of agents by allowing the fundraising organisation to issue a time-limited 'authority' to agents with similar requirements to adhere to a Code of Conduct which the organisation would be responsible for monitoring. The organisation would be responsible for keeping such documentation, and for making it available if required. See also our response to Issue 12.





Issue No 7

Should fundraisers be required to pay a registration fee and an annual renewal fee to contribute to the costs of administering the Act?

The CAV Discussion Paper notes the important role of government in protecting consumers from fraudulent practices, supporting the fundraising sector and providing an appropriate framework within which fundraising activity can take place.

Caution is needed however not to 'over regulate' in this area as there exist a range of other state and federal laws covering and protecting consumers in cases of fraud or misleading conduct (e.g. consumer protection laws, Trade Practices legislation, criminal codes) and others that cover account and record keeping and reporting requirements (Associations Incorporation Act 1981 (Victoria), Corporations Act 2001 (Commonwealth)).

A problem with overly prescriptive or 'hard' fundraising regulation is that it runs the risk of placing heavy compliance and administrative costs and burdens on organisations that are not often in a position to meet them without compromising their core social and community missions.

FIA does not believe that fees should be raised for the regulation of fundraisers. Ted Flack has pointed out that if the Act regulated most or all of fundraising it would be prohibitive to administer (Flack, 2004d). A balance needs to be found between benefit for public good and regulation for government to meet its responsibilities so that the regulation is not onerous for either the fundraiser or government.

The simplification of the registration process as proposed by FIA, that is streamlining of the reporting required under the Act, should lighten the administrative burden for CAV and not require funds raised for another purpose to be diverted to the department for administration of registration under the Act.





Issue No 8

Is adequate advice available from Consumer Affairs Victoria about who needs to register and how to go about applying?

FIA members commend CAV in the information available through the Department, directly and on the web. However, they would appreciate more detailed information on the Act and its application. It is felt that there would be significant benefit in an outline of processes and procedures (ie. guidelines, a frequently-asked-questions section) being available through the Department and on the web, as there appears to be scope for interpretation of the legislation that is not always apparent in the Act itself. FIA suggests that the guidelines should be referred to in the Act so that their application is not open to individual interpretation.

Issue No 9

If exemptions from registration are permitted, what principles should be applied to determine which organisations should be exempt?

FIA supports the registration of all fundraisers without exemptions on the basis of organisational activity as is currently provided for in the Act (CAV 2004:4) (see also Issue 3) as the current system with exemptions leads to inconsistencies in fundraising. Ted Flack (2004b, 2004c) has communicated to the FIA that:

the current regulation impacts on some activities but not others in a confusing and haphazard way. For instance a fundraiser working for a Royal Victorian Institute for the Blind needs to register before she can fundraise in Victoria, but a person working for the Catholic Arch Diocese of Melbourne does not. Why should the State Fire Authority fundraise without being required to be registered and why should the Austin Hospital (government) compete with the Royal Children's Hospital Foundation (non-profit) but not be subject to the same regulation?

The question that FIA poses concerns the purpose of registration, both to enhance public confidence and transparency in fundraising, facilitating the Department's administration of compliance with legislation, whereby it is important that there are no exemptions to registration. (See also Issue 12.) FIA estimates that approximately 80 per cent of fundraising falls outside the Act because of the organisations exempted from registration.





FIA has put to the Victorian Government that:

The breadth of the exclusions militates against the intention of the Act in attempting to protect the public against unscrupulous or misleading fundraising campaigns. Furthermore it discriminates unfairly against the remaining 20% much of which comprises organisations in the disability, arts and culture and overseas aid areas (Joseph 2004).

Issue No 10

What requirements, if any, should apply to all fundraisers (exempt and non-exempt) in the interests of protecting the donating public, transparency and public confidence in fundraising?

Fundraising organisations should be required to comply with a Code of Practice in order to be issued with a licence to fundraise by the government regulator. Similarly, any serious breaches of the Code could result in a licence being revoked or a registration not being renewed by the government regulator. The Code could be referred to and sanctioned by the Act. The Act could also specify how amendments to the Code could be made, for example through endorsement by FIA.

As part of adopting a self-regulatory approach, FIA also suggests that the Victorian government give consideration to the self regulatory fundraising model being followed in the UK.

For further discussion see above 2.2.3 Model for fundraising regulation.





Issue No 11

Should more oversight be provided within the Act for exempt organisations? If so, how would this best be achieved? Some options are to

- Review exemptions on a five year basis
- Make all exemptions conditional, including requiring exempt organisations to adopt a mandatory Code of Practice as a condition for obtaining exempt status
- Withdraw exempt status for breaches of the Code of Practices or other regulatory requirements
- All of the above.

CAV has proposed a number of specific and transparent conditions that exempt organisations should be required to meet. In the interests of public confidence that the Act will regulate all fundraising and that legislation is supported by best practice conduct, FIA supports universal registration without exemption for all fundraisers, who would be required to adopt a mandatory Code of Practice.

Further comment on a mandatory Code of Practice is provided at Issues 25 – 27.

Issue No 12

Should the exemption from registration for not for profit organisations that use only unpaid volunteers be changed? These changes could:

- Apply to those organisations that raise less than \$50,000 in a financial year instead of \$10,000, and
- Include exemption from some or all of the account and record keeping requirements of Part 3 of the Act.

This question needs careful consideration as the volunteer contribution to not-for-profit organisations is significant:

- During 2000, 3.7 million Australians volunteered a total of 600 million hours of labour for not-for-profit organisations of all sizes
- This voluntary contribution was equivalent to an additional \$8.9 billion worth of income to the not-for-profit sector (National Roundtable for Nonprofit Organisations, n.d.).

Fundraising contributes significantly to the Australian economy, as outlined in the introduction to this submission, and such level of business activity should require regulation, even at a minimal level. FIA believes that its position regarding universal registration for all fundraisers and adherence to a Code of Conduct, together with a simplification of reporting requirements will not create a significant administrative burden for volunteer-led organisations. FIA further notes that a number of smaller volunteer-led organisations fundraise in support of a major





cause, for example the Kindergarten Parents Victoria, which, if registered, could provide for fundraising by these third parties including smaller volunteer-led organisations. See also our response to Issue 6.

Under the conditions of universal registration, there would be no financial threshold to consider as all fundraising would be included under the regulations.

Issue No 13

What are your organisation's reporting requirements to the Victorian Government?

The Fundraising Institute Australia Ltd is not required to report to the Victorian Government. FIA's members report to various parts of Government according to their legal status and their funding base.

Issue No 14

Do you have to report to different parts of Government with regard to your fundraising activities? Are these reporting requirements consistent? Is there scope for harmonisation?

FIA has found in consultation with its members that there is a majority view towards harmonisation of reporting requirements (see Issues 28 – 34) because most organisations are required to report to different parts of government and the report requirements are not consistent.

For further discussion see above 2.2.5 Mutual recognition and national harmonisation.





Issue No 15

Do the current account and record keeping requirements of the Act provide adequate transparency for fundraising in Victoria?

FIA has argued that the registration of organisations supported by a mandatory Code of Conduct provide for public confidence in fundraising, while mandatory account and record keeping requirements in other appropriate legislation (Corporations Act or Associations Incorporation Act) provide for transparency.

As part of adopting a self-regulatory approach, FIA also suggests that the Victorian government give consideration to the self regulatory fundraising model being followed in the UK. This body could also issue guidelines of the range and type of information that fundraising organisations should make available to donors and the wider public.

Issue No 16

Where organisations are subject to multiple reporting requirements to Government should a common set of reports be provided?

There currently exists a degree of 'over regulation' between the provisions of the Act and the legislation covering corporations and incorporations. Provision for a common set of reports would be a welcome simplification of reporting requirements as there now exist burdens in meeting compliance and administrative costs on organisations that are not often in a position to meet them without compromising their core social and community missions. As we have noted in other parts of this submission, overly prescriptive regulation (e.g. mandating the disclosure of cost of fundraising ratios) can also work against the public interest by creating flawed and misleading perceptions of fundraising practice and reality.

For further discussion see above 2.2.5 Mutual recognition and national harmonisation.





Issue No 17

Given that most exempt organisations are not required to comply with the record keeping requirements of the Act, does the existence of those exemptions adversely affect the transparency of the industry as a whole?

FIA argues that the provision of exemptions affects the transparency of the industry as a whole. FIA believes that the public is not aware that approximately 80 per cent of fundraising in Victoria is undertaken by exempt organisations and suggests that if this were known it could seriously compromise public confidence in the transparency of fundraising in Victoria.

Issue No 18

Should more information be made available on the public register, such as the amount raised by a fundraiser, the amount spent in administration costs, and the proportion of proceeds that are distributed to beneficiaries?

FIA is against the introduction of any prescribed percentage or limit to the costs of raising funds being enacted in the Victorian or any other legislation. FIA sees a more productive way forward as ensuring that all organisations follow the cost of fundraising guidelines contained in the FIA's Code of Professional Conduct and Ethics. Information should be limited to that which may be useful and relevant to donors and other stakeholders (e.g. mission and goals, governance structures, fundraising activities, programs and program evaluations). A simple statement of sources and application of funds could be provided in addition to financial information available through annual reporting in accordance with corporate law.

The issues of cost of fundraising is a complex one and FIA's position is argued above (see 2.2.4 Cost of fundraising).

Issue No 19

Should different account and record keeping requirements apply depending on:
The amount raised by a fundraiser; and
Whether or not they are a commercial fundraiser or a not for profit organisation?

FIA argues that it would not be conducive to the transparency of the industry to have different reporting requirements for different parts of the industry.





Issue No 20

What information could be provided to the public to help demonstrate the relative efficiency and effectiveness of a fundraising organisation?

This issue pertains in part to the cost of fundraising also discussed under Issue 18.

FIA notes that there is a lack of consistency in the manner in which fundraisers report their work, due probably to the lack of appropriate accounting standards. FIA suggests that the Department may wish to extend its industry consultation in order to develop appropriate accounting standards within the AASB framework. As noted above, FIA has suggested that interim accounting standards could be introduced as a precursor to the agreement of national accounting standards.

It is important to recognise that efficiency and effectiveness are not mutually exclusive. Research has shown that a number of organisations have enhanced significantly their effectiveness in fundraising by apparently reducing their efficiency, i.e. they have applied a higher percentage of costs to achieve a greater fundraising target. As reported by the Industry Commission, in some cases while costs have risen from 5% to 20%, funds raised have increased by 100%. Where costs have been held at unreasonably low levels - which on the face of it may appear to be highly efficient – this has inhibited growth in fundraising capacity and therefore has significantly limited effectiveness.

For further discussion see above 2.2.5 Mutual recognition and national harmonisation.

Issue No 21

Should the Act specify a percentage of funds raised in the course of fundraising appeals undertaken for a beneficiary that must always be distributed to the named beneficiary?

This issue pertains in part to the cost of fundraising also discussed under Issue 18. FIA argues against such disclosure.





Issue No 22

Have the additional requirements for the labelling of clothing bins:

Helped the donating public to make more informed decisions about the donation of clothing?

Increased the administrative burden placed on fundraisers?

There are inconsistencies in the labelling of clothing bins. Registered fundraisers are required to provide significantly more information than commercial operators who trade in recycled goods. It is FIA's perception from members that this excess of information provides more confusion than assistance to the donating public.

Issue No 23

Should disclosure requirements including disclosure of a percentage amount apply to the sale of items that are offered for sale on the basis of a representation that some of the sale proceeds will be given to a beneficiary?

No. This issue pertains in part to the cost of fundraising also discussed under Issue 18.

Issue No 24

Should the disclosure requirements outlined in Issue No 23 apply to other fundraising activities?

No. This issue pertains in part to the cost of fundraising also discussed under Issue 18.

Issue No 25

Would the development of a Code of Practice by industry participants be an effective means of improving public confidence in fundraising?

FIA believes that public confidence in fundraising would be enhanced if a mandatory Code of Practice were referred to and sanctioned by the Act. Such compliance could be recognised by a logo used by organisations to signify their commitment to good practice. A marketing campaign to promote the industry standard would be important for its recognition and acceptance by the public.





Issue No 26

Given the diverse nature of fundraising organisations, could a Code of Practice have broad application across the industry as a whole and how could compliance with the code be monitored?

FIA's Code of Professional Conduct and Ethics currently has application across its membership which broadly represents the diverse fundraising industry so we do not recognise problems with the application of a code which is referred to and sanctioned by the Act. The Act should also specify how amendments to the code might be made, for example through endorsement by the FIA.

With regard to monitoring compliance, we draw attention to the self regulatory fundraising model followed in the UK (see section 2.2.3 above) and the establishment of a new independent body governed by a board comprised of representatives from charities and the not-for-profit sector, fundraisers, government and other experts. Apart from developing a Code of Practice, the role of the body is to:

- Raise awareness and knowledge among the fundraising and broader community of fundraising regulations and practice
- Authorize abiding fundraising organisations to use a logo signifying their commitment to good practice
- Investigate complaints and alleged breaches of the code
- Issue sanctions for non-compliance such as naming and shaming, and expulsion from the scheme.

Failure to comply with the code could also result in revocation of a licence to fundraise or refusal to renew a licence.

For further discussion see above 2.2.3 Model for fundraising regulation.

Issue No 27

What role should Consumer Affairs Victoria play in the development of a Code of Practice?

The development of a Code of Practice was discussed in interview with Mr Luke Donnellan MP and Ms Anne Plympton, Consumer Affairs Victoria, and FIA provided assurances of its willingness in response to the request to work with the Victorian Government in the development of such a code, taking FIA's existing code as a basis for this work. FIA also





draws attention to its role in the international arena and its experience in working on an international code of ethics for fundraisers.

In the UK model, the independent body, comprising representatives of charities and the not-for-profit sector, fundraisers, government and other experts, is developing a Code of Good Fundraising Practice as well as other specific codes that cover the wide range of activities.

Issue No 28

Does national harmonisation have relevance for Victorian fundraisers?

FIA agrees that national harmonisation has relevance for Victorian fundraisers. A survey of FIA members indicated that approximately 50 per cent of those surveyed worked predominantly or exclusively in their 'home state' while 50 per cent worked across state borders and are currently required to meet different regulations in each state in which they fundraise. Interestingly, more than two thirds responded that they favoured national harmonisation of fundraising regulation as a means to improve their capacity to fundraise. Accordingly, national harmonisation is seen as being relevant to industry practice, even for those fundraisers that work in only one state.

Members have reported that national organisations have significant challenges in working across all states because of the varying regulations which can impact on apparently simple tasks, such as direct mail campaigns.

Issue No 29

Should the Victorian Government work towards the development and implementation of a national approach to the regulation of fundraising?

FIA believes that any moves towards national harmonisation and national regulation are positive and should be encouraged. Moreover, FIA believes that the response of the Victorian government to its Review of the Fundraising Appeals Act 1998 can play a significant and leading role in furthering such moves.

FIA encourages the Victorian Government to work towards the development and implementation of a national approach to the regulation of fundraising and would be pleased to provide an industry perspective and assist the government in this endeavour.

For further discussion see above 2.2.5 Mutual recognition and national harmonisation.





Issue No 30

Would the development of a national Code of Conduct be a way to progress national harmonisation?

FIA fully supports the development of a national Code of Conduct as a means to progressing national harmonisation and believes that an important first step in meeting that goal is engaging with the Victorian government and other relevant stakeholders to develop and implement a national fundraising Code of Conduct that would be mandatory for fundraisers. As we have stated elsewhere throughout this submission, FIA believes that developing a new national fundraising Code of Conduct via a model of 'open self-regulation' is a good way to progress national harmonisation. It offers an approach that will achieve needed reforms more quickly (e.g. via mutual recognition procedures), and be inclusive and responsive to relevant stakeholders. By supporting such a model the Victorian government can provide a lead role in the development and implementation of a national approach to the regulation of fundraising.

For further discussion see above 2.2.3 Model for fundraising regulation.

Issue No 31

Should the Victorian Government explore options for mutual recognition as a step towards national harmonisation?

FIA supports the Victorian Government in its initiative to explore options for mutual recognition as a step towards national harmonisation but believes that national harmonisation of fundraising regulation will be more successful and effective if it takes place together with wider reform of the regulatory environment such as the development of national accounting standards for the not-for-profit sector. As noted elsewhere in our submission calls for such reform are not new and specific recommendations have previously been put forward by a number of reports. FIA supports the general thrust of the recommendations on national harmonisation.

FIA acknowledges that the progression towards national harmonisation is a long-term goal which could be advanced through mutual recognition which recognises fundraising activities common across state borders. For example, direct mail is permitted Australia-wide so its recognition in all states should not be problematic, whereas street collections would pose issues as they are not universally permitted.

For further discussion see above 2.2.5 Mutual recognition and national harmonisation.





Issue No 32

Would adherence to a national Code of Conduct be a sufficient condition for recognition of an interstate fundraiser in Victoria?

In the absence of national harmonisation, FIA suggests that adherence to a national Code of Conduct alone would be insufficient condition for recognition of interstate fundraisers in Victoria and recommends that recognition should also depend on registration in another state or territory.

See also discussion under Issue 31.

Issue No 33

Should registration on another state's register be sufficient condition for recognition in Victoria?

This issue is similar to Issues 31 and 32. Providing registration also requires adherence to a Code of Conduct, such mutual recognition would be beneficial to the fundraising industry.

Issue No 34

Would the development of national accounting standards for the not for profit sector aid the development of a national approach to the regulation of fundraising?

The not-for-profit sector is looking to the development of accounting standards that address their particular needs. Currently reporting requirements depend upon the specified accounting standards of the relevant incorporating legislation (such as Corporations Act 2001 (Commonwealth) and Associations Incorporation Act 1981 (Victoria)). For fundraising organisations the more traditional accounting standards do not provide a good fit for fundraising practice where treatment of expenses should more appropriately be treated as capital investment amortised over time, such as expenditure for donor acquisition.

Implementation of national accounting standards would significantly aid the development of a national approach to the regulation of fundraising. Such national reporting standards would also enhance standardisation of account and record keeping, and improve transparency of the industry.





For further discussion see above 2.2.5 Mutual recognition and national harmonisation.

Issue No 35

Are there any other aspects of the fundraising legislation that could be changed?

FIA wants to draw the Victorian Government's attention a number of issues that are outside the scope of the review of fundraising legislation but present significant challenges to the sector.

The relative weaknesses of the regulatory environment for the Third Sector in Australia are well known to scholars and practitioners. In a recent review of the legal and regulatory environment for not-for-profit organisations in Australia, Professor Mark Lyons drew particular attention to at least five failings of the law:

- Laws are not informed with a clear knowledge of the Third Sector and its operating logic
- Insufficient attention is paid by legislators to the changing character of Third Sector organisations and changes in the economic and social environment of the sector
- Laws are allowed to grow in a piecemeal fashion, inevitably leading to anachronisms and contradictions
- Laws are not enforced, or are enforced haphazardly, even vindictively, usually because governments fail to budget sufficiently for their proper regulation; and
- Laws are enforced over-rigorously, by a bureaucracy that ignores the intent of a law and effectively ensures that no organisation can benefit (Lyons 2003).

Lyons' view is supported by the findings from the extensive survey-based study conducted by Woodward and Marshall (2004) of over 1,000 not-for-profits in Australia that are registered as companies limited by guarantee. Among other things, this study highlighted:

- The myriad possible legal structures that exist for not-for-profits
- The confusing mix that exists between State and Federal regulations and regulators
- The lack of nationally consistent reporting obligations
- The fact that most not-for-profits want a new regulator (other than ASIC at the Federal level) to oversee their organisations.

In particular, FIA suggests that consideration be given to the following evidence-based recommendations contained in Woodward and Marshall (2004):

- Establishing a single Commonwealth statutory framework covering all corporate bodies including for-profit, not-for-profit and incorporated associations. The States would need to refer all powers to the Commonwealth (e.g. as occurred for company regulation) for this to occur. This would enable a national approach to the regulation of not-for-profit organisations by a body like ASIC;
- Introducing a single specialist not-for-profit legal structure perhaps by combining the best aspects of the corporations law and the incorporated associations laws;





- Developing and implementing specific national accounting standards for not-for-profit organisations;
- Unifying the reporting and disclosure obligations for not-for-profit organisations across State and Federal jurisdictions; and
- Developing a simple Standard Information Return similar to those used in the US, UK and proposed for New Zealand as a means for not-for-profit organisations to provide relevant information on their purposes and activities (including aspects of fundraising) to the public.

FIA recognizes that such recommendations go beyond the Victorian review and involve all State and Federal agencies. Yet there is no denying the fundraising industry would benefit enormously.

FIA's discussion on this issue is presented above 2.2.5 Mutual recognition and national harmonisation.





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Appendix 1

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Appendix 6:

FIA's Research on Key Issues in Fundraising – September 2004

We exist to make the world a better place by advancing professional fundraising through:

- *Advocacy of Standards*
- *Professional Development Pathways*
- *Measurable Credentials*

So that our members can achieve best practice

Introduction

In 2004, FIA undertook research on key issues impacting on the legislation and regulation of fundraising. The principal research findings focus on five main areas as follows:

- 1 Defining fundraising
- 2 Community confidence in fundraising
- 3 Model for fundraising regulation
- 4 Cost of fundraising
- 5 Mutual recognition and national harmonisation

FIA's research demonstrates the changing environment in which fundraising occurs in contemporary society. Conclusions drawn from this research are summarised in FIA's responses to each of the issues.

1 Defining fundraising

The first issue is clarifying the term 'fundraising' or 'fundraising appeal'. FIA notes that greater definitional clarity is appropriate however this raises the question of deciding upon an appropriate definition of fundraising.

A feature that distinguishes not-for-profit organisations from for-profit and government organisations is that they obtain their revenue from a wide range of sources (Lyons 2001). Such sources of revenue include income from the people who consume and pay for the services of a particular organisation, membership fees from those who may choose to join a particular organisation, fundraising, government funds and grants, and any interest or rents received from investments and other business activities.

Fundraising by not-for-profit organisations can be defined as 'making any "appeal for support" which contains a representation to the public purporting that the proceeds of an activity are intended to be used for a public or community purpose rather than private gain' (Flack 2004c). In this way activities that generate donations will be captured as fundraising, as will trading activities and 'gambling' activities, including lotteries and Bingo.

Fundraising revenue comes from a vast variety of fundraising techniques and activities including:

- donations of money or goods in kind from individuals or companies
- running special events
- organizing sponsorships
- bequests
- grants from foundations, trusts and governments
- workplace payroll giving programs
- lotteries and raffles
- memorial gifts
- membership fees
- direct marketing
- capital campaigns
- cause related marketing
- telemarketing
- face-to-face appeals
- road side collections
- door knock appeals
- online donations
- mail campaigns
- proceeds from the sale of goods

To what extent any one or combination of these fundraising techniques and activities (and the above list is not exhaustive) are present or relied upon by any particular not-for-profit organisation will vary according to a range of organisational (e.g. size, age, resources, staff experience) and environmental (e.g. donor profiles, time of year, regulatory frameworks etc.) factors.

While fundraising techniques and activities are varied, there is general consensus that fundraising is a philanthropic or altruistic activity, carried out for the benefit of a particular cause or issue rather than for commercial profit or benefit. A discussion paper prepared by Consumer Affairs Victoria (CAV) states when referring to the definition of fundraising in the Victorian Act:

...a fundraising appeal occurs when a person seeks or receives a benefit (monetary or otherwise) by making a representation that the benefit is not being sought just for profit or commercial benefit. This captures the idea that there is an element of giving involved (CAV 2004:4).

Nevertheless, a complication in defining fundraising arises because different organisations and practitioners have different views as to what activities are legitimately seen as fundraising. Despite considerable advances in fundraising research and professionalism over the last decade (see Lindahl and Conley 2002), the fundraising profession is yet to agree upon a standard definition or comprehensive list of the kinds of activities that comprise fundraising.

Definitions of what activities comprise fundraising not only vary across countries (e.g. in the US fundraising activities such as fetes, fairs, recycling of donated goods, and charitable gambling are more likely to be classed as commercial income rather than fundraising and thus subject to income tax) but within countries (e.g. the different State and Territory based fundraising regulations in Australia vary considerably as to what is included and excluded in their respective definitions and lists of fundraising) (see Flack 2004a for an overview of these State-based differences).

Another complication in defining fundraising is the rapid change, both technological (e.g. Internet based fundraising) and organisational (e.g. the rise of venture philanthropy, cause related marketing and community-business partnerships) that has occurred within the not-for-profit sector over the last decade. As a recent review of fundraising concluded, 'chances are that we will see as much change between now and 2015 as we have since 1985 and possibly even more' (Lindahl and Conley 2002:106). The rapid speed of change has made it difficult for fundraising legislation and regulation to remain relevant and appropriate.

A further complication is the problem that a lack of a standard definition of fundraising creates for relying on or using cost of fundraising ratios in the sector.

So what should be the role of regulation in defining or setting parameters for fundraising activity?

FIA believes that until further progress is made towards national harmonisation or mutual recognition it may be counterproductive to define fundraising in an overly exclusive or restrictive way. Instead, it sees a more productive approach as developing a set of principles as part of a Code of Practice that would guide regulators and practitioners in taking a more consistent approach to determining what should comprise fundraising activities and costs. These principles would not only provide greater consistency but allow a degree of flexibility for organisations that may have unique fundraising needs or approaches because of the nature of their sector or environment. A similar approach was taken to the complex task of defining or redefining the term 'charity' by the Committee inquiring into the definition of charities and related organisations in Australia (Fitzgerald 2002).

FIA notes that greater clarity and consistency in what is considered fundraising across Australia is needed. While there is consensus on the core issue that fundraising is inextricably linked to the act of philanthropy, differences remain on what kinds of activities it comprises. FIA believes that an important precursor to defining fundraising via regulation is to first develop an agreed set of principles for fundraising activity between itself and other relevant stakeholders. The development of these principles could be undertaken as part of developing a Code of Practice.

2 Community confidence in fundraising

In some states there is a public register for fundraisers, for example one has been in operation for two years in Victoria. Part of the Victorian government's rationale for introducing the register was to increase transparency and improve public confidence in fundraising and the organisations it serves. FIA supports measures that may improve or maintain the public's confidence in fundraising and not-for-profit organisations generally, including, as is outlined elsewhere in this submission, the universal registration of all fundraising organisations.

Nevertheless, FIA notes that not-for-profit organisations have and continue to enjoy high levels of public confidence and trust. For instance, in its most recent study of trust the World Economic Forum (WEF) found that ***the most trusted of institutions continue to be non-government organisations (NGOs)***.¹ (emphasis added) This study was based on a global survey of 19,000

¹ Several terms such as NGO, not-for-profit, charity, nonprofit are often used interchangeably to describe the range of organisations that comprise the Third Sector. According to Professor Mark Lyons, University of Technology Sydney, 'The Third Sector consists of private organisations that a) are formed and sustained by groups of people (members) acting voluntarily and without seeking personal profit to provide benefits for themselves or for others; b) that are democratically controlled and c) where any material benefit gained by a member is proportionate to their use of the organisation' (Lyons 2001:5). The term 'non-government organisation' (NGO) was coined by the United Nations when developing its Charter in post WWII period and traditionally the term was only used to refer to international agencies in the development and aid field. Since the 1980s NGO is used to describe formal, professionalized, independent, societal organisations whose main aim is to promote common goals at national or international level such as Greenpeace or the WWF (Martens 2002).

people across 20 countries and was conducted between November 2003 and February 2004. The precise question was:

'Please tell me how much you trust each of the following institutions to operate in the best interests of our society. Would you say you have a lot of trust, some trust, not much trust, or no trust at all...?'

This study found that almost two-thirds (65%) of people surveyed across the 20 countries had either a 'lot of trust' or 'some trust' in NGOs. The next most trusted institution was the United Nations (60%). This study also provided country-based findings and Table 1 shows the results for Australia. It suggests that Australians have even higher levels of trust and confidence in NGOs than other institutions compared to the international average, with over three-quarters of Australian respondents stating they had 'a lot of trust' and/or 'some trust' in NGOs.

Table 1: Australian's trust in institutions to operate in the best interests of our society

| Institutions in rank order | A lot of trust | Some trust | Total trust |
|----------------------------|----------------|------------|-------------|
| NGOs | 20 | 57 | 77 |
| United Nations | 20 | 57 | 77 |
| National Government | 15 | 50 | 64 |
| Trade unions | 11 | 47 | 58 |
| Large companies | 7 | 50 | 57 |
| Press and media | 3 | 42 | 45 |
| Global companies | 3 | 37 | 40 |

Source: World Economic Forum, Global Survey on Trust, Update 2004

Notes: Sample size approximately 1,000 citizens in Australia.

Another survey commissioned by the WEF examined the role of leadership in levels of public trust. This survey of 15,000 people across 15 countries at the end of 2002 and beginning of 2003 asked respondents how much they trust various leaders to 'manage the challenges of the coming year in the best interests of you and your family'. Table 2 shows that leaders from NGOs enjoyed the highest levels of trust among the public (average across all 15 countries surveyed).

Table 2: Degree of trust in leaders

| Type of leaders | Percentage saying 'a lot' and 'some trust' |
|------------------------------------------|--------------------------------------------|
| NGO leaders | 56 |
| Leaders at the UN | 42 |
| Spiritual/religious leaders | 41 |
| Leaders of Western Europe | 36 |
| Managers of global economy | 36 |
| Managers of national economy | 35 |
| Executives of multinational corporations | 33 |
| Leaders of the USA | 27 |

Source: World Economic Forum, Trust in Leaders survey, 2003.

Notes: Sample size approximately 15,000 citizens across 15 countries.

The high levels of trust in NGOs also emerge in global surveys of opinion and thought leaders. The global public relations firm Edelman regularly conducts the Edelman Annual Trust Barometer, a survey of 1,200 opinion leaders in Brazil, China, France, Germany, UK and the US. NGOs generally enjoy the highest levels of trust compared to other institutions in these countries. It also found that independent experts such as NGO representatives are considered among the most credible and trustworthy spokespersons, together with doctors or healthcare specialists and academics (Edelman 2004).

While this study did not include Australia, an earlier Edelman survey that also examined the responses of 200 opinion leaders in Australia found that they exhibited the highest level of trust in NGOs to 'do the right thing' compared to opinion leaders from the US or Europe (Edelman 2001).

Where there have been overt attacks on the credibility of organisations in Australia, such as attacks on The Smith Family, St Vincent de Paul Society, Australian Red Cross, overseas aid agencies, environmental agencies, the churches and nonprofit peak bodies, Fitzgerald has suggested that they have their source overseas, and in this regard he cites the role of the American Enterprise Institute whose website was launched specifically 'to expose the funding, operations and agendas of international NGOs' (Fitzgerald 2003).

FIA recognizes that trust and confidence, like reputation takes many years and decades to build but can be quickly lost. The high levels of trust and public confidence in fundraising organisations suggests that the public assumes that such organisations *do act* with integrity and in the public interest with often little appreciation for the multitude of existing regulatory codes. In the case of fundraising, damage to reputation and trust is more often due to poor communication and management by the fundraising organisations rather than any intended deceptive behaviour or fraud on their part. A recent example was the media criticism of the Australian Red Cross Bali Appeal, where poor communications of the Appeal's objectives and purposes on the part of the Australian Red Cross led to misplaced allegations by the media concerning the organisation's integrity (Department of Gaming and Racing 2003).

It is unlikely that registration requirements alone can prevent the potentially harmful flow-on effects on public confidence and trust of this case and others like it. Instead, ensuring that organisations manage their fundraising appeals professionally in accordance with the provisions of a Code of Conduct will do more to maintain the existing high levels of public trust and confidence.

Nevertheless registration does provide a means of ensuring regulatory compliance, particularly if compliance with a Code of Conduct is also mandatory for registration.

3 Model for fundraising regulation

The Industry Commission's 1995 Report on Charitable Organisations in Australia acknowledged the contribution of the charitable sector to Australian economy and sought to enhance this capacity. Among its recommendations were those that sought to:

- Improve quality of services for clients
- Improve resourcing of the sector
- Improve national accountability measures
- Support mechanisms such as benchmarking to improve performance
- Develop a notion of co-responsibility between the sector and governments.

It has been widely acknowledged that the IC report 'provided a strong blueprint for improving the national regulatory framework and the accountability of nonprofit organisations', a reform supported by the Inquiry into the Definitions of Charities that further recommended the creation of a separate independent commission, such as the Charities Commission in the UK (Fitzgerald 2003).

These recommendations take a leap forward from the current state of regulation in Australian states. Yet the questions must be raised so steps are taken to develop the most appropriate model to regulate fundraising.

FIA believes that the most appropriate model of fundraising regulation is one based on a framework of self regulation. By self regulation we mean a framework where organisations internalize the responsibility for ensuring their fundraising practices comply with a national Code of Conduct and that the systems for monitoring that compliance are open to relevant external stakeholders.

FIA agrees that there is a role for government in the regulation of fundraising. In brief, as the Industry Commission report into charities noted, three key objectives of fundraising legislation are:

- To protect the public against fraud, misappropriation of funds and misleading conduct
- To ensure that donors and the public have access to information
- To ensure that organisations use acceptable fundraising practices (IC 1995:231).

FIA acknowledges the important role of government in protecting consumers from fraudulent practices, supporting the fundraising sector and providing an appropriate framework within which fundraising activity can take place. Caution is needed however to not 'over regulate' in this area as there exist a range of other state and federal laws covering and protecting consumers in cases of fraud or misleading conduct (e.g. consumer protection laws, Trade Practices legislation, criminal codes) and others that cover account and record keeping and reporting requirements (associations incorporation acts (state), Corporations Act 2001 (Commonwealth)).

A problem with overly prescriptive or 'hard' fundraising regulation is that it runs the risk of placing heavy compliance and administrative costs and burdens on organisations that are not often in a position to meet them without compromising their core social and community missions. As we have noted elsewhere, overly prescriptive regulation (e.g. mandating the disclosure of cost of fundraising ratios) can also work against the public interest by creating flawed and misleading perceptions of fundraising practice and reality.

So how can we achieve a regulatory balance between the legitimate needs of the public and fundraising organisations? A balance that also continues to enhance the public's confidence and trust in the not-for-profit sector.

The benefits of self-regulation, supported by a Code of Practice have been outlined in the recent work of regulatory and compliance expert Dr Christine Parker (2002a) from the University of Melbourne. Parker's framework ensures that self regulation is inclusive of relevant external stakeholders including government, hence her use of the term 'open or 'permeable' self-regulation:

This (open self regulation) does not mean that companies can be left alone to self-regulate responsibility. Indeed corporate responsibility self-regulation systems are only effective when they are open to external stakeholder perspectives and values...and it is the basis for democratic social responsibility for corporations and other organisations (Parker 2002b:2).

While Parker's work applies primarily to self-regulation and compliance programs in a variety of areas (e.g. environmental, sexual harassment, consumer protection and competition policy, financial services) within corporations, the principles and frameworks are also relevant to regulating fundraising by not-for-profits and commercial agents.

Fundraising organisations would be required to comply with a Code of Practice in order to be issued with a licence to fundraise by the government regulator. Similarly, any serious breaches of the Code could result in a licence being revoked or a registration not being renewed by the

government regulator. The Code could be referred to and sanctioned by legislation, which could also specify how amendments to the Code can be made, for example through endorsement by FIA.

As part of adopting a self-regulatory approach, FIA also suggests that governments give consideration to the self regulatory fundraising model being followed in the UK. The Cabinet Office Strategy Unit report into charities found that:

The Government considers that a self-regulatory scheme which the sector itself helps to set up and run has the best chance of success. This new scheme would build on the valuable work, including work on codes of good practice, already undertaken by organisations such as the Institute of Fundraising and the Public Fundraising Regulatory Association (SU 2002:66).

The Strategy Unit recommended the establishment of a new independent body governed by a board comprised of representatives from charities and the not-for-profit sector, fundraisers, government and other experts. This body is to develop a Code of Good Fundraising Practice as well as other specific codes that cover the wide range of fundraising activity. The role of the body is also to:

- Raise awareness and knowledge among the fundraising and broader community of fundraising regulations and practice
- Authorize abiding fundraising organisations to use a logo signifying their commitment to good practice
- Investigate complaints and alleged breaches of the code
- Issue sanctions for non-compliance such as naming and shaming, and expulsion from the scheme.

FIA believes that a similar style body could make for a good system of 'open self-regulation' of fundraising nationally, building on the professional work of FIA, including its development of a Code of Professional Conduct and Ethics. Establishing such a body would provide a structured framework for the development of a revised Code of Practice between FIA and the Victorian government as well as other relevant stakeholders. This body could also issue guidelines of the range and type of information that fundraising organisations should make available to donors and the wider public.

4 Cost of fundraising

Discussions about fundraising invariably seem to turn on issues of cost of fundraising ratios. A key question is whether legislation should prescribe a percentage or limit to the costs of raising funds?

FIA is against the introduction of any prescribed percentage or limit to the costs of raising funds being enacted in any legislation. FIA sees a more productive way forward as ensuring that all organisations follow the cost of fundraising guidelines contained in FIA's Code of Professional Conduct and Ethics. Any regulation of the cost of fundraising should be limited to requiring that a range of information that may be useful and relevant to donors and other stakeholders (e.g. mission and goals, governance structures, fundraising activities, programs and program evaluations) be available and provided by not-for-profit organisations upon request.

Unfortunately, regulators in Australia and overseas are increasingly looking to mandate the use of measures such as the Cost of Fundraising ratio (CoFR) by fundraising organisations. The CoFR is the proportion of fundraising expenses to total fundraising revenue. In New South Wales for

example, s19 of the *Charitable Fundraising Act 1991* specifies that fundraising costs should not exceed more than 40 per cent of funds raised for any particular appeal.

The reasons that governments have become interested in specifying limits for fundraising costs in regulation include the belief that:

- High costs of fundraising may discourage giving
- It will enhance donor decision making as it facilitates comparisons across organisations
- It will enhance accountability for donor funds
- It will increase and maintain public confidence in charities and the not-for-profit sector
- It will prevent deception of members of the public
- It is a means of benchmarking fundraising efficiency and performance in the sector
- It will assist in the proper and efficient management of fundraising appeals
- It is a simple calculation to administer compared to other performance indicators.

The above reasons assume that the public and donors in particular would make use of CoFR in their decisions to give to a particular charity or not-for-profit organisation. The evidence about the correctness of this assumption is mixed. Some studies suggest that donors are interested in how charities use the funds they raise. A recent survey of 1,000 members of the British public found that three quarters thought it was 'important' or 'very important' for charities to provide information on the amount of money they spend on fundraising (including the cost of fundraising staff) (Charity Commission 2004). In Australia, surveys conducted by a range of organisations have also found that donors are interested in knowing the CoFR of charities (see references cited in Berman and Davidson 2003; Woodward and Marshall 2004).

Studies using US, Canadian and UK data suggest that donors are less inclined to support charities or causes with relatively higher costs of fundraising compared to those with lower costs. In contrast, other studies suggest that people's decision to give is unrelated to the CoFR and in fact that higher expenditure by charities on fundraising and publicity leads to higher levels of fundraising revenue in the future (Flack 2004a). One study using Australian data suggests that donors are more concerned with the 'donative act' rather than the purpose to which charities ultimately use their funds or fundraising costs (Berman and Davidson 2003:428). While the authors note that their study's findings should be interpreted cautiously they argue that their findings do 'not modify the conclusion that increased regulation and accountability will not necessarily increase charitable donations' (Berman and Davidson 2003:428).

While charities and not-for-profit organisations may use CoFR as an internal management tool or benchmark (see Paton 2003 for example), they are generally not likely to disclose the costs of fundraising. For example, a study of 475 Australian charities by Givewell found that 50 per cent of charities in NSW and 26 per cent in Victoria disclosed their fundraising costs (cited in Woodward and Marshall 2004). A more recent and extensive study based on almost 2,000 not-for-profits across Australia found that almost one-quarter (24%) of organisations favoured disclosing cost of fundraising information to the public (Woodward and Marshall 2004:Ch.8). In other words, three-quarters of those that responded did not think they should disclose the cost of fundraising to the public. There was no difference in response between large and small organisations. Factors associated with organisations being more likely to be in favour of disclosing CoFR included:

- Public serving not-for-profits were more likely to be in favour of disclosure (33%) than member serving not-for-profits (17%);
- Organisations that had Public Benevolent Institution (PBI) status were more likely in favour (34%) than those with non-PBI (20%); and

- Organisations in the fields of environment (54%), education (40%), philanthropy (40%), and health (41%) were more likely to be in favour with interest groups and organisations in sports and recreation least likely to be in favour.

The relatively low interest in disclosing the CoFR on the part of NFPs is not due to their lack of interest in transparency or accountability but because most NFPs know that CoFR ratios in isolation are flawed and may in fact impede rather than enhance donor decision making as they create a misleading picture of fundraising dynamics and objectives.

So while regulators may see using the CoFR as an administratively simple tool the problem is that relying solely on a cost of fundraising ratio is inherently flawed as a means of addressing some of the previously noted reasons why governments have become more interested in using CoFRs (e.g. increasing public confidence in charities).

So what are the key shortcomings of the CoFR? Several well known problems with using CoFR have been noted in the scholarly and practitioner literature on fundraising (see Flack 2004a for an extensive review) but at least four deserve particular attention:

a) Causes of CoFR variability

The issue of the suitability and merit of using CoFR was also examined by the Industry Commission report into charities in the mid 1990s (IC 1995). A key problem with CoFR that the Commission highlighted was that fundraising costs could legitimately vary across organisations due to several factors that had little to do with efficiency or accountability or transparency. These included:

- An organisation's costs associated with developing a reputation and longer-term supporters
- The start-up costs associated with particular fundraising programs
- The fact that some programs or causes are more popular with the giving public than others
- The fact that some fundraising programs also comprise educational and awareness components
- The fact that some fundraising programs also aim at attracting volunteers and/or goods in kind as well as money (IC 1995:236)

After reviewing submissions as well as the research evidence from the US, the Commission concluded that 'legislative controls on the acceptable ratio of costs to fundraising are not desirable' (IC 1995:237). Other research (cited in Flack 2004a) also confirms that fundraising costs vary across organisations due to:

- The age of the organisation – costs of fundraising are less for longer established organisations
- The type of activity or field that the organisation operates in – costs are higher for organisations involved in advocacy, disease and public safety
- The particular fundraising strategy used (e.g. telemarketing, face-to-face, mail etc).

Experience among FIA's members leads us to conclude that some organisations – for example religious organisations - may have different workplace standards regarding remuneration and conditions of service so that any comparison on the basis of CoFR between these and other fundraisers are not valid.

It is not surprising that the recent review of charities and charity law in the UK also argued against the adoption of mandatory cost of fundraising ratios for similar reasons. It is worth quoting at length from the report, *Private Action, Public Benefit*, prepared by the UK Strategy Unit on this issue:

...the fact that fundraising costs vary widely due to factors beyond the charity's control (such as the popularity of the cause, and the proportion of income from legacies and endowments) means that simple ratios without additional explanatory information can be misleading. Moreover, fundraising ratios have the obvious flaw of communicating nothing about the charity's wider performance or outcomes (Strategy Unit 2002:61).

b) Determining an objective or 'acceptable' CoFR

Another problem with the CoFR is the fact that what is considered to be an 'acceptable' cost of fundraising among donors and the general public varies considerably (e.g. from 10% to 60%) (Flack 2004a). This confirms the argument FIA made in its submission to the Productivity Commission that a problem with legislating fundraising cost ratios is that *there are no objective criteria for determining what the percentage limit should be* (IC 1995:237). The difficulty of relying on fundraising ratios to determine 'acceptable' costs is implicitly acknowledged in some legislation and governments have noted various matters that they may take into account when determining whether administrative costs are reasonable include:

- The type of fundraising appeal conducted
- The fundraiser's long term strategy
- The type of representations made to the public
- The nature of the fundraising body
- The fundraising body's financial management plans.

As a fundraising expert from the Centre of Philanthropy and Nonprofit Studies at QUT stated in a recent review of the literature on regulation and the cost of fundraising ratio in Australia:

In other words, the Director of the Department in Victoria is required to take into account the very considerations (not readily available to the public) that make the arbitrary use of cost of fundraising ratios by the public unsafe as a guide for their giving (Flack 2004a:8).

Similarly, commenting on the cost of fundraising disclosures required by the NSW *Charitable Fundraising Act 1991*, a report examining financial reporting among not-for-profits by the Chartered Accountants of Australia concluded:

Users of a NFP's reports (Annual or Financial) would be better served by measurements that are specific to the NFP's total operation (CA 2003:17).

c) CoFR and efficiency measures

An argument often heard in favour of the CoFR is that it provides a simple means to benchmark fundraising and organisational efficiency and performance across the not-for-profit sector. Recent in-depth empirical studies have in fact shown the opposite to be the case (see Flack 2004a; Paton 2003). Regulating or setting a figure that all organisations need to meet may in fact create inequities and distortions in the not-for-profit sector because it:

- Benefits larger organisations over smaller ones as they can take advantage of economies of scale;

- Favours organisations such as religious charities that may be exempt from fundraising legislation in some States and Territories;
- Benefits organisations that have the resources to employ sufficient accounting and technology to allocate costs in ways that produces more favourable ratios;
- Works against newer organisations whose costs are much higher due to lower recognition with the public, fewer long term donor relations and bequests;
- Disadvantages those causes or charities that are less popular or appealing to the public;
- Favours larger and wealthier charities with the resources to employ their own fundraising staff and volunteers, compared to smaller organisations that often rely on professional fundraising consultants (Flack 2004a:10).

d) CoFR and accounting

Discussion of efficiency also leads to another key flaw with using the CoFR as an across the board measure, namely, that in the absence of uniform accounting standards across the NFP sector, each organisation apportions the costs of fundraising in different ways. Expenses associated with providing information and awareness about a particular program to the public for example may be recognized and recorded as fundraising costs in some organisations but costed against another function (e.g. marketing, research) in other organisations. One study of performance management in the UK not-for-profit sector, for example, found different approaches to allocating costs have significant impacts on final ratios, in one case allocating £274,000 to a particular function led to a fall from 15% to 2% in the cost ratio of one charity (Paton 2003:59). As the UK Strategy Unit report into charities argued:

It would...be desirable if there were greater consistency in the way that charities allocate costs and expenditure, enabling more meaningful financial comparisons to be made (SU 2002:62).

QUT researcher Ted Flack has also outlined several other serious accounting related problems associated with the cost of fundraising ratios (Flack 2004a:18). Perhaps even more crucial than the lack of standardization in the apportionment of costs, is the lack of a common and uniform definition of what constitutes fundraising, which varies across jurisdictions within Australia, across organisations, and across countries. Flack argues:

[T]he first task for anyone interested in developing a meaningful fundraising cost ratio is to define fundraising and to decide which costs should be attributed to fundraising (Flack 2004a:15).

In summary, a regulatory focus on CoFR is misplaced and may lead to unintended and deleterious effects on not-for-profit organisations, fundraising practitioners and the donating public. Once again, it is worth quoting at length from Flack's review:

The cost of compliance with mandatory cost of fundraising disclosure requirements will...fall disproportionately on those least able to afford the capacity to produce them, those that are least likely to be advantaged by any comparisons based on cost of fundraising and on those that are most in need of the stability that the long term investment in costly donor acquisition programs would bring to their organisations (Flack 2004a:16).

FIA accepts that the CoFR is one of several indicators that not-for-profit organisations may wish to utilize for reasons relating to managing their internal systems and costs or for sector specific benchmarking exercises that may be conducted occasionally by fundraising practitioners (Paton 2003). It is opposed however to any specific percentage or cost of fundraising ratio being

included in legislation that applies across all organisations. Instead, FIA sees a more productive way forward as ensuring that all organisations apply the cost of fundraising guidelines contained in FIA's Code of Professional Conduct and Ethics. For instance, the FIA Code states:

All fundraising organisations cannot be judged equally but all should aim for levels of cost which are generally acceptable within the profession and by informed members of the community. Due regard must be given to the nature of the cause, the stage of development of the agency and the type of fundraising program used.

In budget fundraising, a line needs to be drawn between activities designed to attract the 'commercial' dollar (high cost, low return) and those seeking the 'charitable' or 'gift' dollar (low cost, high return).

In the case of the 'commercial' dollar, where services or goods representing value for money are concerned, costs (including cost of goods, services offered, etc.) in the region of 80% would not be unusual but in the case of the 'gift' dollar, costs around 25 to 35% would be regarded as acceptable.

At the other end of the scale, in the case of a relatively 'young' agency, or in donor acquisition programs, costs of approximately 100%, and sometimes higher, would not be unusual.

In capital fundraising appeals, as distinct from ongoing budget fundraising activities, costs in the area of 15 to 20% would be regarded as 'borderline', around 10 to 15% as acceptable and 5% would be unusually low. (Section 6, Fundraising Costs, FIA Code of Professional Conduct and Ethics).

Any regulation on the cost of fundraising should be limited to requiring that a range of information that may be useful and relevant to donors and other stakeholders (e.g. mission and goals, governance structures, fundraising activities, programs and program evaluations) be available and provided by not-for-profit organisations upon request. This model has also received support from the UK Charities Commission inquiry, and expert not-for-profit scholars in Australia (e.g. Woodward and Marshall 2004; Flack 2004a).

5 Mutual recognition and national harmonisation

There are a range of issues primarily concerned with national harmonisation and a national approach to the regulation of fundraising and how it can be best progressed (e.g. national Code of Conduct; mutual recognition; the development of national accounting standards for the not-for-profit sector).

A key question that arises from these issues is whether national harmonisation of the laws and regulations that govern not-for-profits and fundraising is desirable.

FIA believes that any moves towards national harmonisation and national regulation are positive and should be encouraged. Moreover, FIA believes that state governments can play a significant and leading role in furthering such moves.

Research has shown that the regulatory environment that governs the establishment and operations of not-for-profit organisations plays a critical role in sustaining and encouraging those very organisations (Salamon 1997; Lyons 2003). The regulatory environment and specific laws can either support the development of a healthy and vibrant Third Sector or stunt its growth and vitality. The relationship between the legal environment and the Third Sector was one of the

areas examined in The Johns Hopkins Comparative Nonprofit Sector project, one of the most comprehensive comparative not-for-profit data sets developed. Studies based on that data show that the relative favourability of a country's laws and legal framework is positively related to the development and size of the not-for-profit sector in that country (Salamon and Toepler 2000). In other words, countries with good regulatory systems for not-for-profit organisations have healthier and stronger not-for-profit sectors. In an analysis of thirteen countries, four countries scored highly in terms of having highly favourable legal frameworks for not-for-profits:

- Israel
- Netherlands
- USA
- Mexico

These countries also had the relatively largest not-for-profit sectors in terms of share of total employment. Australia and most European countries ranked in the middle (i.e. had medium scores with respect to their legal framework and clustered around the middle in terms of not-for-profit share of employment) with Brazil and Japan scoring poorly in terms of their legal environment for not-for-profits and share of not-for-profit employment (Salamon and Toepler 2000).

The Australian situation may not seem that negative in a comparative sense but neither is it optimal and there is clearly room to improve the regulatory environment for the Third Sector.

The relative weaknesses of the regulatory environment for the Third Sector in Australia are well known to scholars and practitioners. In a recent review of the legal and regulatory environment for not-for-profit organisations in Australia, Professor Mark Lyons drew particular attention to at least five failings of the law:

- Laws are not informed with a clear knowledge of the Third Sector and its operating logic
- Insufficient attention is paid by legislators to the changing character of Third Sector organisations and changes in the economic and social environment of the sector
- Laws are allowed to grow in a piecemeal fashion, inevitably leading to anachronisms and contradictions
- Laws are not enforced, or are enforced haphazardly, even vindictively, usually because governments fail to budget sufficiently for their proper regulation; and
- Laws are enforced over-rigorously, by a bureaucracy that ignores the intent of a law and effectively ensures that no organisation can benefit (Lyons 2003).

Lyons illustrates these failures with particular reference to the various modes of incorporation available to not-for-profit organisations in Australia and the legislative environment relating to fundraising. It is worth quoting at length from Professor Lyons conclusion on fundraising:

The contrast between the simple legislative environment provided for-profit companies and the confusing muddle confronting those wishing to incorporate and raise funds for third sector organisations is nicely illustrated when we turn to fundraising. When for-profit companies wish to raise funds, by issuing shares or debentures, they seek permission from the same regulator that handled their incorporation. When nonprofits wish to raise funds they must seek a licence from yet another regulator. These are state and territory government agencies, operating under different pieces of legislation that differ in some aspects across jurisdictions. These differences make conducting a national fundraising campaign a nightmare (Lyons 2003)

Lyons' view is supported by the findings from the extensive survey-based study conducted by Woodward and Marshall (2004) of almost 2,000 not-for-profits in Australia that are registered as companies limited by guarantee. Among other things, this study highlighted:

- The myriad possible legal structures that exist for not-for-profits
- The confusing mix that exists between State and Federal regulations and regulators
- The lack of nationally consistent reporting obligations
- The fact that most not-for-profits want a new regulator (other than ASIC at the Federal level) to oversee their organisations.

As the authors note:

The underlying health of the NFP sector is at risk. The regulatory framework that underpins the sector is complex and riddled with inconsistencies. It is time for some preventative medicine. The relevant laws and regulatory bodies need to be fair, consistent and clear in order to promote NFPs that are transparent, accountable and credible. If these fundamentals are right, then growth and innovation are more likely to occur (Woodward and Marshall 2004: 1; emphasis added).

A clear barrier to legal reform in a country like Australia is of course its Federal structure. Reform, as illustrated by the Federal regulations that now govern for-profits at a national level, is not impossible, but painstakingly slow. Some of the problems posed by current laws and regulatory systems have been recognised by the Victorian Government in a recent discussion paper under 'National harmonisation' where it states:

...any organisation wishing to fundraise in more than one state is faced with a plethora of statutory requirements affecting national fundraising. This is problematic for large organisations with a national presence, but may also impinge on the activities of local groups that may wish to link with interstate organisations with similar objectives to undertake a national campaign (CAV 2004: 12).

The complication remains however that state-based revisions and reforms of fundraising and not-for-profit legislation and regulations are limited as long as they remain confined to that state.

So what is the best way of moving towards and enhancing the prospects of harmonisation of fundraising and not-for-profit regulation?

First, as we have stated elsewhere throughout this submission, FIA believes that developing a new national fundraising Code of Conduct via a model of 'open self-regulation' is a good way to progress national harmonisation. It offers an approach that will achieve needed reforms more quickly (e.g. via mutual recognition procedures), and be inclusive and responsive to relevant stakeholders. By supporting such a model governments could provide a lead role in the development and implementation of a national approach to the regulation of fundraising.

Second, FIA believes that the national harmonisation of fundraising regulation will be more successful and effective if it takes place together with wider reform of the regulatory environment of the Third Sector such as the development of national accounting standards for the not-for-profit sector, such as exists in other industries such as the mining industry. Recognising that it will take time to implement a national accounting standard, FIA suggests governments may consider an interim accounting standard as a forerunner to a national accounting standard. Calls for such reform are not new and specific recommendations have previously been put forward by:

- The Industry Commission's report on *Charitable Organisations in Australia* in 1995

- The government commissioned *Inquiry into Charitable and Related Organisations* in 2001, and
- A University of Melbourne study and report *A Better Framework – reforming not-for-profit regulation* in 2004 (Woodward and Marshall 2004).

FIA supports the general thrust of these reports' recommendations on national harmonisation. In particular, FIA suggests the government give consideration to the following evidence-based recommendations contained in Woodward and Marshall (2004):

- Establishing a single Commonwealth statutory framework covering all corporate bodies including for-profit, not-for-profit and incorporated associations. The States would need to refer all powers to the Commonwealth (e.g. as occurred for company regulation) for this to occur. This would enable a national approach to the regulation of not-for-profit organisations by a body like ASIC
- Introducing a single specialist not-for-profit legal structure perhaps by combining the best aspects of the corporations law and the incorporated associations laws
- Developing and implementing specific national accounting standards for not-for-profit organisations
- Unifying the reporting and disclosure obligations for not-for-profit organisations across State and Federal jurisdictions
- Developing a simple Standard Information Return similar to those used in the US, UK and proposed for New Zealand as a means for not-for-profit organisations to provide relevant information on their purposes and activities (including aspects of fundraising) to the public.

FIA recognizes that such recommendations would involve all State and Federal agencies. Yet there is no denying the conclusion of Professor Lyons' review that the Third Sector would benefit enormously:

...if there was a single piece of legislation for incorporating all third sector organisations that sought a legal personality. In that way, the third sector would have a common identity to act as a counterweight to its diversity. Such legislation would clearly have to recognise some variations; placing easier reporting requirements on small organisations, for example. And it ought to allow organisations to pursue different models of governance, provided some basic accountabilities were met. Drafting such legislation would be challenging (Lyons 2003).

FIA believes that an important first step in meeting that challenge is engaging with state and federal governments and other relevant stakeholders to develop and implement a national fundraising Code of Conduct.

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Appendix 7:

FIA's Senate inquiry member and stakeholder consultation summary – August 2008

Meetings were held in Sydney, Melbourne and online in late July 2008

Terms of Reference

- a. *The relevance and appropriateness of current disclosure regimes for charities and nonprofit organisations*
- b. *models of regulation and legal forms that would improve governance and management of charities and nonprofit organisations and cater for emerging social enterprises*
- c. *other measures that can be taken by government and the nonprofit sector to assist the sector to improve governance, standards, accountability and transparency in its use of public and government funds.*

Questions

1. Are current disclosure regimes for nonprofit organisations adequate?

Participants agreed current disclosure regimes were not adequate.

Issues with current disclosure regimes discussed:

- a. Current measures of efficiency such as costs of fundraising are flawed
- b. Absence of meaningful benchmarks
- c. Uneven playing field due to the different reporting requirements for different organisations, for example, schools, political organisations and churches are exempted from reporting on their fundraising in most states.
- d. Multiple disclosure regimes resulting in confusion as to which regimes they should be adhering to.
- e. Disclosure requirements for incorporated, unincorporated and statutory bodies were different in each state
- f. Lack of proper public disclosure
- g. Disclosure currently reported only reported on fundraising, instead of the whole organisations, distorting the public perception of how a nonprofit organisation should be effective and efficient. This also causes issues as the public has developed the expectation that fundraisers should not be paid.
- h. Current disclosure regimes were too vague as they require reporting on expenses (which may or may not be gross, net, include salaries, program costs). Definitions of expenses, salary and other requirements were different for every regime reported to. This is further complicated as only the fundraising part of the

organisation is reported on, which becomes complicated as staff may work on fundraising and program delivery.

- i. Participants noted the government requires the nonprofit sector report more information than any other sector.
- j. Current disclosure regimes attempt to measure efficiency, not effectiveness.
- k. There are different disclosure regimes for fundraising appeals, raffles and lotteries. Participants raised the issue of whether their commercial activities such as raffles should be treated differently to donations. They also noted they add another set of state-based regulations and disclosure regime to their fundraising disclosure regimes.
- l. Disclosure regimes are so complex and prescriptive it has become difficult for organisations to be transparent.

Solution:

A national standard accounting system would ensure any disclosure regime will be transparent, consistent and enable charities and nonprofit organisations develop meaningful benchmarks. The UK standard the Charities Statement of Recommended Practice (SORP) was raised as an example of a nonprofit accounting system.

2. What are the potential advantages and disadvantages of moving towards a single national disclosure regime and how might any disadvantages be minimised?

Advantages

- a. Reducing red tape and compliance costs (currently there is little chance of full compliance to disclosure regimes because they are too complex – this represents a risk). Fundraising nationally would be streamlined.
- b. Participants agreed that whilst a single national disclosure regime would be ideal but raised concerns about how the efficiency of organisations would be reported such as ratios. Concern was expressed that a single disclosure regime would focus on efficiency instead of efficiency and effectiveness.
- c. Need a standard accounting system before a national disclosure regime can be implemented such as SORP. There is talk of using IFRS in Australia but it is not designed for the nonprofit sector.
- d. Reporting should be structured on the size of the organisations, small organisations need different reporting requirements. Research from Philanthropy Australia recommended there should be different disclosure regimes for the 3 different types of organisations in the nonprofit sector (charities, membership associations and government).
- e. Consistency and uniformity of a single disclosure regime would enable benchmarking measures to be developed.
- f. An opportunity to be able to educate the public on effectiveness and efficiency.

- g. The reputation of charities will be enhanced as there will be a means to respond to concerns about the integrity and standing of charities

Disadvantages

- a. Some organisations will be concerned about increased competition.
- b. Enforcement of compliance may be difficult
- c. Concerns were raised that if a national disclosure regime is implemented, it should be able to compare cancer organisations with other cancer organisations, not a one size fits all disclosure regimes that attempts to compare a church with the local football club.
- d. A single disclosure regime will not be responsive to changes.

3. Would a standardised disclosure regime assist nonprofit organisation who undertake fundraising activities and who operate nationally, to reduce their compliance costs if it meant they would only have to report on fundraising to a single entity?

Yes from all participants

4. If there was to be a nationally consistent disclosure regime, should it apply across all nonprofit organisations or should different regimes apply to different parts of the sector? Should charities be treated differently than other nonprofit entities?

Participants agreed there should be a single regime but not based on an organisation's tax status as this was a flawed means to categorise the different ways in which organisations operated. Other tax issues were raised such as Australia is the only country aside from Singapore that separated DGR status from charitable status. Definitions of a charity should be broadened beyond the narrow tax definitions as they currently stand.

How to differentiate?

Options:

- a. Different regimes for different types of organisations based on where their funding comes from.
- b. One regime but based on whether the organisations were funded by public campaigns or not. Should not have to disclose if they are not funded by public campaigns since government grant funded organisations have to report back to the government.
- c. A single disclosure system for all nonprofit organisations and charities was preferable as long as there were no exemptions (such as the current system that exempts schools and religious organisations).
- d. A single disclosure regime must ensure compliance costs for small to medium organisations are regulated proportional to risk. The differentiation could be based on the definition of a small or medium enterprise (SME). Participants also raised the possibility of using the GST threshold as a measure of size.

- e. A single disclosure regime which should be proportionally based on the organisation's volume of activity. The volume of activity must be total income/revenue (operating costs, revenue etc) rather than fundraising activity as some current disclosure regimes are structured.

Participants also raised the issue of self regulation of the nonprofit sector to set top quality reporting guidelines as part of their codes of practice so that the different missions could be treated separately (ie. Arts, health, community services).

5. If different regimes were to apply to different parts of the sector, how would this be determined and why? For example, would it be based on classifications – i.e. as a charity or deductible gift recipient – or would different regimes apply to different organisations based on their annual financial turnover or staffing levels (or some other proxy for size and/or capacity)?

Options raised and rejected

- a. Staffing levels would be an inappropriate as it is difficult to determine staffing levels in the nonprofit sector due to the use of volunteers.
- b. DGR status rejected as it does not adequately encompass the nonprofit organisations and charities. It was agreed a definition of a charity and nonprofit organisation would be required as current classification system is too complicated.

Options favoured

- a. The UK uses the reporting benchmark as organisations with revenue below £5,000. Some participants suggested whilst it would be useful to set a reporting benchmark, this figure may be too low.
- b. Participants at one forum recommended that organisations must be incorporated under the GST threshold as the GST threshold limits the amount of reporting required – some kind of mechanism would be necessary for transparency and reporting in small organisations.
- c. The UK has companies limited by guarantee, charitable trusts, cooperatives and other legal forms that are all overseen by the charity commission which recognises the different needs of different types of organisations.

Questions for Consideration

1. *Does there need to be regulatory reform of the nonprofit sector?*

Participants agree that there should be regulatory reform.

2. *Should there be a single national regulator for the nonprofit sector?*

Participants agree that there should be a national regulator. Participants disagree on whether this regulator should also oversee accounting standards or whether that should be undertaken by a separate accounting standards board.

3. *Should there be a single, specialist, legal structure for the nonprofit sector?*

Participants suggest it is more appropriate to have separate structures – in the UK, charities answer to the company regulator as well. The ATO in Australia would be appropriate to oversee certain aspects but their focus is too specific to be useful to the sector more widely.

Other participants raised the example of the UK and NZ who have a charity commission and a second financial regulator. The ATO already plays this secondary role in Australia.

Participants state that whatever structure is adopted must take into account the many different types of organisations working – charitable trusts, but also associations, incorporated organisations, sole traders, etc.

Some participants propose that legal forms are irrelevant to the issue of disclosure – standardising disclosure is being overshadowed by standardising legal forms of nonprofits.

If so, would this be best achieved through a national legislation scheme, or the referral of powers from the states and territories to the Commonwealth, and what should be the minimum features of any legal structure?

Some participants suggest that it is unlikely legislators will reach an agreement about the clearest and most reasonable way to administer charities. Participants point out that similar ideas about registration and standardisation are being successfully implemented in the health sector.

Participants state that it needs to be remembered that the purpose of standardised reporting is to assist donors and the public in making decisions about giving, and if this is the focus then perhaps the current recommendation of the Victorian State Services Authority that nonprofits publish an annual report and make it available to the public, no lodging with the government necessary.

Should this be adopted, participants stress the importance of narrative, as opposed to simply raw financial data in annual reports – evidence suggests that the public is more interested in and more motivated by information regarding how a nonprofit is fulfilling its mission.

Participants suggest that the ACFID model is more appropriate to overseas aid organisations and would not be a suitable fit for the sector in general, however it could be adapted to suit other types of nonprofits. Some participants recommend this type of peer regulation as an alternative to government regulation as it means regulation and review by an organisation that has a specific understanding of the industry.

Should there be a compact?

The Federal government has started a consultation process on developing a Compact and what the merits would be to having one. ACOSS is conducting the first review with their

members, just to establish some principles and what the sector would like to see. The government is aware of some of the issues such as the lack of indexation applied to government contracts, the need to build capacity and appropriately funding and supporting the sector.

Participants stress the importance of the industry having a role in regulating breaches of public policy, as opposed to illegal or unlawful activity.

Participants state that the ACFID code is a good example of self regulation and how it bridges the gap between the government and the sector. Some participants suggest that the government must support the compact with legislation, otherwise it lacks weight and compliance may be seen to be unimportant.

Participants state that the compact failed in NZ because there was no industry representative for organisations to sign up with. More broadly, people need to be made aware of what the compact actually is (or will be) and how to comply, otherwise it will be ineffective.

Participants point out that in the UK the compact is enforceable, and there have been at least two cases in which nonprofits have taken the government to the high court and received rulings in their favour. The unwillingness of the government to undertake an agreement that is legally enforceable against them (potentially) may be an obstacle.

Participants stress the importance of taking on a broader consultation than the government may have originally anticipated to ensure the compact reflects the needs of the whole sector and thus is taken on by as many organisations as possible.

Appendix 8:

FIA's Principles and Standards of Fundraising Practice

Principles of Fundraising Practice

- Code of Ethics and Professional Conduct
- Fundraiser's Promise to Donors
- Code of Acceptance and Refusal of Donations
- FIA Complaints Process

Standard of Fundraising Practice

- Standard of Face to Face Fundraising
- Standard of Charitable Telemarketing
- Standard of Bequest Fundraising
- Standard of Charitable Gaming
- Standard of Workplace Giving
- Standard of Events
- Standard of Grants Fundraising
- Standard of Fundraising in Schools
- Standard of Direct Mail
- Standard of e-Fundraising
- Standard of Diaspora Fundraising

Other Standards to be developed by the end of 2008 (direct mail, school fundraising and diaspora fundraising).



CODE OF ETHICS AND PROFESSIONAL CONDUCT



We exist to make the world a better place by advancing professional fundraising through:

- *advocacy of standards*
- *professional development pathway*
- *measurable credentials*

so that our members achieve best practice

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A. Introduction

FIA is the professional body that represents fundraisers in Australia. In delivering its mission, FIA focuses on:

- Providing the best professional development programs to lead and educate fundraisers;
- Developing standards of practice to enhance the integrity and professionalism of fundraisers and the fundraising sector; and
- Advocating the value of fundraising to society and governments in order to empower fundraisers in their work in and with communities.

Fundraisers champion and promote fundraising as a profession. They maintain the highest standards of fundraising, engage in the work of FIA, commit to its mission and are at all times fully representative of the fundraising community. Ethical fundraising is vital to the fundraising profession if it is to provide its community with confidence for its cause.

The application of ethics in fundraising practice provides the fundraiser and the industry with the means to enter into ongoing relationships of trust with donors, supporters, volunteers and importantly also with the beneficiaries of funds raised.

FIA is required under its constitution to establish and maintain high standards of ethics for its Members.

Membership of FIA, at any level, is dependent on observance of the FIA Code of Practice. FIA enforces the Code, where necessary, by education programs for members, cautions and warnings, or by suspending or withdrawing membership rights and privileges.



B. FIA's Statement of Ethical Principles

The following Ethical Principles have guided development of this Code. The Principles conform to the International Statement of Ethical Principles of Fundraising and serve to mark the aspirations of FIA. The Principles are:

- **Honesty:** FIA members should act honestly and truthfully so that public trust is protected and donors and beneficiaries are not misled.
- **Respect:** FIA members should act with respect for the dignity of their profession and their organisation and with respect for the dignity of donors and beneficiaries.
- **Integrity:** FIA members should act openly and with regard to their responsibility for public trust. They shall disclose all actual or potential conflicts of interest and avoid any appearance of ethical, personal or professional misconduct.
- **Empathy:** FIA members should work in a way that promotes their purpose and encourages others to use the same professional standards and engagement. They shall value individual privacy, freedom of choice, and diversity in all its forms.
- **Transparency:** FIA members should stimulate clear reports, about the work they do, the way donations are managed and disbursed, and cost and expenses, in an accurate and clear manner.

1. To Whom does this Code Apply?

- 1.1 This Code of Practice applies to FIA members. FIA will only monitor this Code and enforce it if necessary against an FIA member.
- 1.2 This Code does not replace nor override any law.



2. Definitions used in this Code

- **Appeals officer** means a person appointed by the FIA Board to conduct an appeal under the FIA Enforcement.
- **Beneficiary** means any person or entity which receives a benefit from an Organisation in pursuance of the Organisation's objects.
- **Corporation** means an entity incorporated under the Corporations Act 2001 (Cth) and established for the purpose of profit.
- **Complaint** means a notice in writing sent by any person to FIA concerning an alleged breach by an FIA member of any part of the FIA Principles and Standards of Fundraising Practice.
- **Complainant** means a person who makes a complaint to FIA.
- **Director** means a person who is appointed or elected to the position of a director of an Organisation or a Corporation.
- **Donation** means a voluntary contribution by a Donor of money, property, goods or services to an Organisation for the purpose of furthering that Organisation's objects. It does not include a sponsorship or community business partnership.
- **Donor** means an individual or other entity that makes a contribution of value to an Organisation to further the Organisation's Objects. A Donor does not include an individual or entity that engages with an Organisation for the purpose of trade.
- **Ethics Committee** means a committee of FIA members and non-members appointed by the FIA Board for the purpose of making determinations on Complaints.
- **FIA** means Fundraising Institute Australia.
- **FIA member** means a person or organisation who is registered as an FIA member.
- **Fundraiser** means a person, Corporation or Organisation, who carries out activities, whether for remuneration or as a volunteer, for the purpose of raising funds for the objects of an Organisation.
- **Fundraising Activity** means an activity carried out by a person, Corporation or Organisation, whether for remuneration or as a volunteer, for the purpose of raising funds for the object of an Organisation.
- **Objects** means the objective, purpose or cause however so defined in an Organisation's constituent documents.
- **Organisation** means an entity incorporated under Commonwealth or State law and established for a purpose other than profit.



- **Professional Misconduct** means conduct by an FIA member that is a violation of a Code that has serious adverse consequences to a Complainant or was committed intentionally by the Fundraiser or both.
- **Promotional Material** means any material in connection with a Donation, Fundraising Activity or an Organisation whether in printed, electronic or oral form made available by a Fundraiser or Organisation to any person.
- **Sponsor** means a third party who sponsors a fundraising activity for an agreed outcome.
- **Supplier** means a third party supplying goods or services for payment to an Organisation.
- **Tax** means all taxes payable in connection with an Event, including without limitation income tax, pay as you go (PAYG) and good and services tax (GST.)
- **Trade Mark** means a word or group of words, logo, image, colour, scent or shape (whether registered or unregistered) used by an Organisation to identify the Organisation.
- **Unsatisfactory Conduct** means conduct by a FIA member that is neglectful of a Code or that has minor adverse consequences to a Complainant or both.
- **Volunteer** means a person who performs a service for an Organisation without requiring compensation for performing the service.

3. Disclosure of Donations and Costs to an Organisation

- 3.1 Prior to undertaking a Fundraising Activity for an Organisation a Fundraiser must not:
- (a) guarantee fundraising results or promise compensation for failure to achieve fundraising results to the Organisation;
 - (b) misrepresent past fundraising achievements by the Fundraiser to the Organisation; and
 - (c) fail to disclose to the Organisation any cost of fundraising that they are aware of.
- 3.2 After obtaining a Donation, a Fundraiser or Organisation must not change the conditions of the Donation without first informing the Donor and obtaining their express consent which should be recorded in writing (including letter, facsimile, email) or by recorded voicemail.



3.3 A Fundraiser must not commit an Organisation to fundraising expenditure unless the Organisation has approved such an expenditure as a cost effective investment.

3.4 A Fundraiser must:

- (a) fully and accurately disclose to an Organisation all Donations received and all costs incurred by a Donation program under the Fundraiser's control, including where possible a proportion of overhead costs; and
- (b) encourage such disclosure by Organisation affiliated entities (for example state divisions, chapters, branches and auxiliaries).

3.5 Remuneration of Fundraisers

3.5.1 A Fundraiser must not use a method of remuneration or compensation for their services that is calculated as a percentage of totals funds raised by the Fundraiser for an Organisation in a Fundraising Activity.

3.5.2 Nothing in section 3.5.1 prevents a Fundraiser from using a method of remuneration or compensation for their services that is calculated as a performance based remuneration referring to the amount of Donations obtained, providing that it is not calculated as a percentage of the total amount raised in a Fundraising Activity.

3.6 A Fundraiser must comply with the Fundraiser's Promise to Donors and Code of Acceptance and Refusal of Donations.

4. Use of Promotional Materials

4.1 A Fundraiser must ensure that any Promotional Material used by them to solicit a Donation from a prospective Donor;

- (a) is factually accurate, truthful and not likely to mislead a prospective Donor;



- (b) includes a clear description of programs and activities for which a Donation is requested;
 - (c) identifies the Organisation in the manner required under section 5 of this Code;
 - (d) complies with the *Trade Practices Act 1975* (Cth) and State Fair Trade Acts, in particular those sections relating to misleading and deceptive conduct and false and misleading representations; and
 - (e) is approved by the Organisation prior to any solicitation by the Professional Fundraiser on its behalf to a prospective Donor.
- 4.2 Where a Fundraiser discloses a cost of fundraising in Promotional Materials that cost must be factually accurate.
- 4.3 A Fundraiser must make the current annual report of an Organisation for whom they represent freely available upon a reasonable request by a Donor.
- 4.4 Despite anything else in this section Promotional Materials may be part of a positive campaign by a Fundraiser to build public awareness, understanding and support for the Objects of an Organisation.

5. Organisation Identification

- 5.1 Wherever identification of an Organisation is required by this Code a Fundraiser must provide that Organisation's:
- (a) full name;
 - (b) corporate registration number [for example ABN];
 - (c) full business address; and
 - (d) logo (if any).

6. Confidential Information

- 6.1 A Fundraiser must not disclose to any member of the public an Organisation's:



- (a) financial information (other than that disclosed in an Organisation's annual reports);
- (b) security access codes or passwords into electronic data processing systems; and
- (c) list of Beneficiaries;

without the prior written permission of the Organisation.

6.2 Despite anything else in this Code, where a Donor or prospective Donor has expressly denied permission to an Organisation to do so, a Fundraiser must not disclose the identity of that Donor or prospective Donor to any member of the public.

6.3 A Fundraiser must surrender any list, record or document belonging to an Organisation other than material freely available to the public, when the relationship between the Fundraiser and the Organisation comes to an end.

7. Dignity and privacy of Beneficiaries

7.1 Fundraisers must not threaten the dignity and privacy of a Beneficiary of an Organisation. For the purposes of this section a threat to the dignity and privacy of a Beneficiary includes, but is not limited to:

- (a) a Fundraiser passing a comment unnecessarily or negatively on the impairment, dependency or disability of a Beneficiary;
- (b) a Fundraiser using language which suggests that the client is to be pitied or feared;
- (c) a Fundraiser using children on Promotional Materials to raise funds for adult services, giving the impression that the clients are childlike;
- (d) a Fundraiser stating or implying a falsehood regarding a Beneficiary; and
- (e) a Fundraiser depicting a Beneficiary's image or identity in Promotional Materials without that Beneficiary's written permission.



- 7.2 Despite section 7.1(a) Fundraiser may use a term in relation to a Beneficiary where that term:
- (a) is technically correct;
 - (b) is used only for the purposes of describing an impairment or disability that affects a Beneficiary: and
 - (c) does not identify a particular Beneficiary without their express, written permission.

8. Compliance with national laws

- 8.1 A Fundraiser must not engage in an activity during their fundraising work that reasonably appears to the Fundraiser to be a criminal offence or would constitute professional misconduct under this Code.
- 8.2 A Fundraiser must not engage in an activity during their fundraising work that does not comply with fundraising legislation in their State.
- 8.3 Where a Fundraiser is aware that an Organisation they work for does not comply with a law, the Fundraiser must try to bring this fact to the Organisation's attention in a manner that they think is appropriate for the situation.

9. Standards of Practice

- 9.1 FIA complies with the International Statement of Ethical Principles in Fundraising which is set out on FIA's website for the information of FIA members and members of the public.
- 9.2 A Fundraiser must not engage in activities that may harm an Organisation, a Donor, a Beneficiary, or members of the public.
- 9.3 A Fundraiser must not engage in activities that bring the profession of fundraising into disrepute. If a Fundraiser becomes aware of any such activity by any FIA member,



they should make a complaint in writing to the Chief Executive Officer of FIA so that it can be dealt with under the FIA Complaints Process.

- 9.4 A Fundraiser must recognise their individual boundaries of competence and be truthful about their professional experience and qualifications.
- 9.5 A Fundraiser must not engage in any activities which conflict with their fiduciary, ethical and legal obligations to the Organisations they represent.



FUNDRAISER'S PROMISE TO DONORS



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- *professional development pathway*
- *measurable credentials*

so that our members achieve best practice

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Authorised by FIA Board of Directors

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A. Introduction

The Fundraiser's Promise to Donors is one of the most important documents that a Fundraiser can adopt into their practice. The purpose of the Fundraiser's Promise to Donors is to create a bridge of trust and mutual respect between Donors and Fundraisers to ensure that Donors can have full confidence in Organisations and causes they are asked by Fundraisers to support.

FIA declares that all prospective Donors and Donors have the rights described in this Fundraiser's Promise to Donors.

1. To whom does this Fundraiser's Promise Apply?

- 1.1 This Bill of Rights applies to Fundraisers, prospective Donors and Donors throughout Australia only. The FIA can only monitor this Bill of Rights and enforce it if necessary against FIA members.
- 1.2 FIA encourages fundraisers who are not members of FIA to adopt the Fundraiser's Promise. FIA also encourages organisations to engage Fundraisers who have adopted the Fundraiser's Promise.
- 1.3 This Fundraiser's Promise does not replace nor override any law.

2. Definitions used in this Fundraiser's Promise

- **Appeals officer** means a person appointed by the FIA Board to conduct an appeal under the FIA Enforcement.



- **Beneficiary** means any person or entity which receives a benefit from an Organisation in pursuance of the Organisation's objects.
- **Corporation** means an entity incorporated under the Corporations Act 2001 (Cth) and established for the purpose of profit.
- **Complaint** means a notice in writing sent by any person to FIA concerning an alleged breach by an FIA member of any part of the FIA Principles and Standards of Fundraising Practice.
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- **FIA** means Fundraising Institute Australia.
- **FIA member** means a person or organisation who is registered as an FIA member.
- **Fundraiser** means a person, Corporation or Organisation, who carries out activities, whether for remuneration or as a volunteer, for the purpose of raising funds for the objects of an Organisation.
- **Fundraising Activity** means an activity carried out by a person, Corporation or Organisation, whether for remuneration or as a volunteer, for the purpose of raising funds for the object of an Organisation.
- **Objects** means the objective, purpose or cause however so defined in an Organisation's constituent documents.
- **Organisation** means an entity incorporated under Commonwealth or State law and established for a purpose other than profit.
- **Professional Misconduct** means conduct by an FIA member that is a violation of a Code that has serious adverse consequences to a Complainant or was committed intentionally by the Fundraiser or both.

- **Promotional Material** means any material in connection with a Donation, Fundraising Activity or an Organisation whether in printed, electronic or oral form made available by a Fundraiser or Organisation to any person.
- **Sponsor** means a third party who sponsors a fundraising activity for an agreed outcome.
- **Supplier** means a third party supplying goods or services for payment to an Organisation.
- **Tax** means all taxes payable in connection with an Event, including without limitation income tax, pay as you go (PAYG) and good and services tax (GST.)
- **Trade Mark** means a word or group of words, logo, image, colour, scent or shape (whether registered or unregistered) used by an Organisation to identify the Organisation.
- **Unsatisfactory Conduct** means conduct by a FIA member that is neglectful of a Code or that has minor adverse consequences to a Complainant or both.
- **Volunteer** means a person who performs a service for an Organisation without requiring compensation for performing the service.

3. Fundraisers' Promise to Inform Donors

3.1 Where a prospective Donor or Donor so requests, they have the right to be informed of:

- (a) the Objects of an Organisation for whom the Fundraiser represents;
- (b) the intended use of a Donation;
- (c) the capacity of the Organisation for whom the Fundraiser represents to use a Donation for its intended use;
- (d) whether the Fundraiser is engaged either as a volunteer, employee or contractor of the Organisation;
- (e) whether or not the Fundraiser is a member of FIA;
- (f) the means to access an Organisation's most recent financial statements or current annual report;



- (g) how to apply to see their records held by an Organisation and challenge its accuracy;
- (h) how to lodge a complaint under the FIA Codes Complaints Process;
- (i) the existence or otherwise of an Organisation policy requiring that a Donor's contact details not be exchanged, rented, or otherwise shared by the Organisation with another person or body corporate without the express written consent of that Donor, and that a Fundraiser engaged by the Organisation will comply with that policy; and
- (j) whether the board of an Organisation will consider the Objects, mission and capacity of the Organisation to use a Donation when deciding to use a Donation.

3.2 As far as it is reasonably within a Fundraiser's power, a Fundraiser must ensure that a prospective Donor receives a prompt answer to questions regarding information listed in this section.

3.3 A Fundraiser may inform a prospective Donor or Donor under this section orally or by the use of Promotional Material supplied by the Organisation which they represent

4. Fundraiser's Promise to Acknowledge Donors

4.1 A Donor is entitled to receive an acknowledgement of a Donation from a Fundraiser, either by:

- (a) written receipt of donation; and/or
- (b) personal thanks.



- 4.2 A Fundraiser must provide a Donor with a written receipt of their Donation upon request in accordance with the relevant Commonwealth or State legislation applying to the Fundraiser or their Organisation.
- 4.3 A Fundraiser must ensure a Donor has given prior approval before any recognition of their Donation is made public.

5. Fundraiser's Promise to Respect Donors

- 5.1 A Fundraiser must ensure that:
- (a) a Donor is not subjected to undue influence, harassment, intimidation or coercion when approached by the Fundraiser or person under the direction of a Fundraiser for a Donation; and
 - (b) a prospective Donor is advised to seek independent advice where the Fundraiser has reason to believe that a Donation may affect the prospective Donor's financial position, taxable income, or relationship with other family members.
- 5.2 A Fundraiser must observe a Donor's request to:
- (a) refuse to make a donation;
 - (b) limit to a certain amount, the frequency of solicitations by the Fundraiser to the Donor;
 - (c) not be solicited by phone or other technology; or
 - (d) not receive printed material concerning an Organisation.



CODE OF ACCEPTANCE AND REFUSAL OF DONATIONS



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A. Introduction

This part of the Code is called Acceptance and Refusal of Donations. Its purpose is to give a member of FIA who is a Fundraiser or a Director of an Organisation or Corporation a guide to make clear and consistent decisions regarding the acceptance and refusal of a donation from a Donor.

Irrespective of any internal delegation procedures within an Organisation, ultimate responsibility in respect of the acceptance and refusal of donations rests with an Organisation.

1. To whom does this Code apply?

- 1.1 This part of the Code Applies to Directors and Fundraisers of an Organisation throughout Australia only. The FIA can only monitor this Code and enforce it if necessary against Directors and Fundraisers who are members of FIA.
- 1.2 FIA encourages directors and fundraisers of an Organisation who are not members of FIA to adopt the Code. FIA also encourages an Organisation to engage Directors and Fundraisers who have adopted the Code.

2. Definitions used in this Code

- **Appeals officer** means a person appointed by the FIA Board to conduct an appeal under the FIA Enforcement.
- **Beneficiary** means any person or entity which receives a benefit from an Organisation in pursuance of the Organisation's objects.
- **Corporation** means an entity incorporated under the Corporations Act 2001 (Cth) and established for the purpose of profit.



- **Complaint** means a notice in writing sent by any person to FIA concerning an alleged breach by an FIA member of any part of the FIA Principles and Standards of Fundraising Practice.
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- **Ethics Committee** means a committee of FIA members and non-members appointed by the FIA Board for the purpose of making determinations on Complaints.
- **FIA** means Fundraising Institute Australia.
- **FIA member** means a person or organisation who is registered as an FIA member.
- **Fundraiser** means a person, Corporation or Organisation, who carries out activities, whether for remuneration or as a volunteer, for the purpose of raising funds for the objects of an Organisation.
- **Fundraising Activity** means an activity carried out by a person, Corporation or Organisation, whether for remuneration or as a volunteer, for the purpose of raising funds for the object of an Organisation.
- **Objects** means the objective, purpose or cause however so defined in an Organisation's constituent documents.
- **Organisation** means an entity incorporated under Commonwealth or State law and established for a purpose other than profit.
- **Professional Misconduct** means conduct by an FIA member that is a violation of a Code that has serious adverse consequences to a Complainant or was committed intentionally by the Fundraiser or both.
- **Promotional Material** means any material in connection with a Donation, Fundraising Activity or an Organisation whether in printed, electronic or oral form made available by a Fundraiser or Organisation to any person.
- **Sponsor** means a third party who sponsors a fundraising activity for an agreed outcome.



- **Supplier** means a third party supplying goods or services for payment to an Organisation.
- **Tax** means all taxes payable in connection with an Event, including without limitation income tax, pay as you go (PAYG) and good and services tax (GST.)
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- **Unsatisfactory Conduct** means conduct by a FIA member that is neglectful of a Code or that has minor adverse consequences to a Complainant or both.
- **Volunteer** means a person who performs a service for an Organisation without requiring compensation for performing the service.

3. **Establishing a Policy on the acceptance or refusal of a Donation: what Directors must and may consider**

- 3.1 To the extent that they are empowered to do so, a Director must ensure that the Organisation for whom they serve as a Director develops and approves a policy under which the Organisation may accept or refuse a donation from a Donor.
- 3.2 In developing and approving such a policy a Director may consider:
- (a) this FIA Code of Acceptance and Refusal of Donations;
 - (b) the Objects of the Organisation;
 - (c) the mission (no matter how defined) of the Organisation;
 - (d) compliance of the policy with any law;
 - (e) Directors' legal obligations to the Organisation;
 - (f) the reputation of the Organisation and adverse reaction from existing or potential Donors.



3.3 To the extent that they are empowered to do so, a Director must ensure that the Organisation for whom they serve as a Director establishes in writing any delegation of their decision making authority to accept or refuse a donation to volunteers or staff of the Organisation. Such a delegation must include:

- (a) the position of the person to whom that authority is delegated; and
- (b) the extent of that delegation, such as whether the delegation applies to large and small donations or separate classes of donations.

4. What must a Fundraiser consider before they may accept or refuse a Donation?

4.1 A decision by a Fundraiser to accept or refuse a Donation must comply with a policy on the acceptance or refusal of a Donation approved by the Organisation for whom they serve.

4.2 A Fundraiser must act to confirm whether a policy on the acceptance or refusal of a Donation has been approved by the Organisation for whom they serve.

4.3 A Fundraiser must act to confirm the extent of their authority to accept or refuse a Donation and the process for referral where their authority is exceeded with the Organisation for whom they serve.

4.4 A Fundraiser must not allow personal, political or commercial interests, or personal views on political or ethical issues to affect their decision to accept or refuse a Donation.

4.5 A Fundraiser must derive no personal material benefit from a Donation received by their Organisation.

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- 4.6 A Fundraiser must decline any personal material benefit offered by a Donor in relation to a Fundraising Activity. Where the Fundraiser has a personal or commercial relationship with a Donor which existed before the Donation was sought, and has accepted a personal material benefit arising from that personal or commercial relationship, FIA may take this into account on a case by case basis if the matter is referred to FIA for review under the FIA Complaints Process
- 4.7 On the basis of the evidence available to them a Fundraiser must consider whether the Objects of an Organisation for whom they serve will be best met by accepting or refusing a donation and to decide accordingly.
- 4.8 A Fundraiser must be able to demonstrate that the evidence they used to form their decision to accept or refuse a Donation addressed the Objects of an Organisation for whom they serve. In particular a Fundraiser must demonstrate evidence where:
- (a) it is not immediately clear what the Objects to be addressed are in relation to the proposed Donation;
 - (b) large sums of money or property are involved;
 - (c) there is reason to believe that a decision taken by a Fundraiser may expose the Organisation to litigation; or
 - (d) there is the threat of negative publicity to the Organisation by the refusal of a Donation.
- 4.9 A Fundraiser may accept a donation for a specific activity conducted by the Organisation provided that that specific activity is:
- (a) directly related to the Organisation's Objects; and
 - (b) is practically achievable by the Organisation.



- 4.10 Despite anything else in this section a Fundraiser may refuse a Donation for an Organisation for whom they serve where it is clear that either:
- (a) the activities of a potential Donor are directly opposed to the Objects of the Organisation, the publicly available policies of the Organisation or to the beneficiaries of the Organisation; or
 - (b) the activities of a potential Donor are directly unrelated to the Objects of the Organisation; or
 - (c) the cost to the Organisation of accepting a donation will be greater than the value of the Donation itself; or
 - (d) acceptance of the Donation will directly lead to a net decline in the asset base of an Organisation; or
 - (d) the offer of a Donation is dependent upon the fulfilment of a certain condition by the Organisation, where that certain condition is:
 - (i) contrary to the taxation status of the Organisation regarding receipt of a Donation (if any);
 - (ii) in itself, contrary to the Objects of the Organisation;
 - (iii) in itself contrary to the current policies or work priorities of the Organisation; or
 - (iv) requires the Organisation first spending its own money or resources.

5. Key legal points

- 5.1 A Director and a Professional Fundraiser must make themselves aware of:
- 5.1.1 the *Trade Practices Act 1975* (Cth) and State Fair Trade Acts, in particular those sections relating to, unconscionable conduct, misleading and deceptive conduct and false and misleading representations;
 - 5.1.2 anti-discrimination legislation regarding decisions based on race, sex, marital status, disability or religious belief;





- 5.1.3 the National Privacy Principles; and
- 5.1.4 restrictions on who may give financial and taxation advice to members of the public.





FIA COMPLAINTS PROCESS



We exist to make the world a better place by advancing professional fundraising through:

- *advocacy of standards*
- *professional development pathway*
- *measurable credentials*

so that our members achieve best practice

PO Box 642, Chatswood NSW 2057

Phone: 61 2 9411 6644

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Web: [Hwww.fia.org.au](http://www.fia.org.au)





A. Principles of the FIA Complaints Process

The fundamental goal of this Complaints Process is to promote best practice and encourage ethical behaviour by members of the Fundraising Institute Australia.

The Principles that the Complaints Process seeks to apply are:

- **Fairness:** the process should be fair to all parties
- **Accountable:** the process should report outcomes of hearings and gives reasons for its decisions
- **Accessible:** the process should be available to members and donors, in plain language, at no cost
- **Efficient:** the process should be conducted in a timely manner with adequate assistance provided to complainants to help them prepare a complaint
- **Effective:** the process should provide sanctions appropriate to an offence committed and provide an opportunity to monitor
- **Maintain professional integrity:** the process should be adequately resourced and ensure sanctions are seen to be effective and enforceable
- **Data collection:** the process should provide for collection and analysis of complaint data
- **Process review:** the process should be reviewed periodically to ensure Codes are effective and Complaints are handled efficiently.



1. To Whom does this Complaints Process apply?

1.1 Any person may file a complaint under this Complaints Process alleging a breach of a Code by a Fundraiser. The person filing the complaint need not be a member of FIA.

1.2 This Complaints Process applies to FIA members.

1.3 This Complaints Process does not replace nor override any rights available to a person at law subject to section 1.4.

1.4 FIA members acknowledge that they have:

- (a) no right of action in any court or jurisdiction; and
- (b) no right to damages or any form of compensation or indemnity;

as against FIA or any officer of FIA as a consequence of:

- (c) any costs of any nature which the FIA member may incur (including, but not limited to, legal costs) in answering a Complaint made pursuant to Code; or
- (d) any losses or damages of any nature which the FIA member may incur directly or indirectly due to the Ethics Committee making a finding of Unsatisfactory Conduct or Professional Misconduct as against that FIA member.

2. Definitions used in this Complaints Process

- **Appeals officer** means a person appointed by the FIA Board to conduct an appeal under the FIA Complaints Process.
- **Beneficiary** means any person or entity which receives a benefit from an Organisation in pursuance of the Organisation's objects.



- **CEO** means the Chief Executive officer of FIA.
- **Corporation** means an entity incorporated under the Corporations Act 2001 (Cth) and established for the purpose of profit.
- **Complaint** means a notice in writing sent by any person to FIA concerning an alleged breach by an FIA member of any part of the FIA Principles and Standards of Fundraising Practice.
- **Complainant** means a person who makes a complaint to FIA.
- **Director** means a person who is appointed or elected to the position of a director of an Organisation or a Corporation.
- **Donation** means a voluntary contribution by a Donor of money, property, goods or services to an organisation for the purpose of furthering that organisation's objects. It does not include a sponsorship or community business partnership.
- **Donor** means an individual or other entity that makes a contribution of value to an Organisation to further the Organisation's Objects. A Donor does not include an individual or entity that engages with an Organisation for the purpose of trade.
- **Ethics Committee** means a committee of FIA members and non-members appointed by the FIA Board for the purpose of making determinations on Complaints.
- **FIA** means Fundraising Institute Australia.
- **FIA member** means a person or organisation who is registered as an FIA member.
- **Fundraiser** means a person, Corporation or Organisation, who carries out activities, whether for remuneration or as a volunteer, for the purpose of raising funds for the objects of an Organisation.
- **Fundraising Activity** means an activity carried out by a person, Corporation or Organisation, whether for remuneration or as a volunteer, for the purpose of raising funds for the object of an Organisation.
- **Objects** means the objective, purpose or cause however so defined in an Organisation's constituent documents.
- **Organisation** means an entity incorporated under Commonwealth or State law and established for a purpose other than profit.
- **Professional Misconduct** means conduct by an FIA member that is a violation of a Code that has serious adverse consequences to a Complainant or was committed intentionally by the Fundraiser or both.
- **Promotional Material** means any material in connection with a Donation, Fundraising Activity or an Organisation whether in printed, electronic or oral form made available by a Fundraiser or Organisation to any person.



- **Sponsor** means a third party who sponsors a fundraising activity for an agreed outcome.
- **Stage 1** means the procedure set out in sections 3.2 to 3.9 inclusive of this Code.
- **Stage 2** means the procedure set out in 3.10 to 3.22 of this Code.
- **Stage 3** means the procedure set out in section 4 of this Code.
- **Supplier** means a third party supplying goods or services for payment to an Organisation.
- **Tax** means all taxes payable in connection with an Event, including without limitation income tax, pay as you go (PAYG) and good and services tax (GST.)
- **Trade Mark** means a word or group of words, logo, image, colour, scent or shape (whether registered or unregistered) used by an Organisation to identify the Organisation.
- **Unsatisfactory Conduct** means conduct by a FIA member that is neglectful of a Code or that has minor adverse consequences to a Complainant or both.
- **Volunteer** means a person who performs a service for an Organisation without requiring compensation for performing the service.

3. FIA Complaints Process

- 3.1 If a Complainant wishes to make a Complaint about an FIA member, the process in sections 3 and 4 applies. The process is set out in diagrammatic form in Appendix 1 for the guidance of FIA members. To avoid doubt, if there is a conflict between sections 3 and 4 of this Code and Appendix 1, sections 3 and 4 of this Code are paramount over Appendix 1. The process is in 3 stages: Stage 1, Stage 2 and Stage 3 as defined in this Code.

Stage 1

- 3.2 A Complaint must be in writing and contain sufficient details to enable FIA to identify the Complainant, the FIA member and the nature of the Complaint.
- 3.3 The Complaint will be directed to the CEO who:



- (a) must acknowledge the Complaint to the Complainant within 14 days of receiving the Complaint;
 - (b) may request further information from the Complainant if the CEO considers it necessary for the resolution of the Complaint; and
 - (c) must refer the Complaint to the FIA member within 14 days of receiving the Complaint.
- 3.4 The FIA member is entitled to respond to the Complaint by writing to the CEO within 14 days of receiving the Complaint, or a longer time as notified by the CEO to the FIA member if further information is required from the Complainant under section 3.5. If the FIA member does not respond to the Complaint within the permitted time, the CEO must continue the Complaint process and ensure the FIA member is informed of the outcome.
- 3.5 The CEO will delegate investigation of the Complaint to appropriate FIA staff members who within 30 days of receiving the FIA member's response to the Complaint (or such longer time as the CEO deems necessary) must do the following:
- (a) review and investigate the Complaint,
 - (b) seek further information as may be necessary, and
 - (c) attempt to resolve the Complaint with the Complainant and FIA member.
- 3.6 A Complaint dealt with under section 3.5 will be resolved by either of the following procedures:
- (a) by written agreement between the Complainant and the FIA member; or
 - (b) if, with the consent of the Complainant, the FIA member undertakes in writing to the Ethics Committee to take corrective action at the FIA member's expense including compulsory attendance at an FIA seminar, appropriate counselling or undergo some other undertaking as determined by the Ethics Committee to resolve the Complaint.



- 3.7 If both the Complainant and the FIA member are satisfied with the outcome of the resolution to the Complaint, and acknowledge their satisfaction in writing to the CEO, the Complaint will be deemed to be resolved.
- 3.8 When a Complaint is resolved under section 3.7, the CEO will report the Complaint and its resolution to the Ethics Committee.
- 3.9 If a Complaint is not resolved under section 3.7, or if the FIA member fails to respond to the Complaint under section 3.7, the CEO will refer the Complaint to the Ethics Committee for determination.

Stage 2

- 3.10 The CEO will provide the following information about the Complaint to the Ethics Committee:
- (a) the Complaint;
 - (b) the FIA member's response to the Complaint; and
 - (c) any additional information the CEO considers to be relevant to the Complaint.
- 3.11 The Ethics Committee must review the Complaint at its next meeting and may:
- (a) determine the Complaint; or
 - (b) adjourn the Complaint to its next meeting and
 - (c) refer the Complaint to the CEO for further investigation.
- 3.12 The Ethics Committee may adjourn the Complaint under section 3.11 (b) only once before making a determination.



- 3.13 In relation to a Complaint, the Ethics Committee has the power to make a determination of:
- (a) No case to answer; or
 - (b) Unsatisfactory Conduct; or
 - (c) Professional Misconduct.
- 3.14 Where the Ethics Committee makes a finding of Unsatisfactory Conduct against a Fundraiser it may impose on the FIA member as it sees fit the following remedies:
- (a) a written undertaking to the Ethics Committee by the FIA member to attend at the FIA member's expense an FIA seminar, appropriate counselling or undergo some other undertaking as determined by the Ethics Committee sufficient to resolve the Complaint;
 - (b) a letter of reprimand; or
 - (c) a letter of censure and prohibition against holding office in FIA.
- 3.15 Where the Ethics Committee makes a finding of Professional Misconduct against a Fundraiser it may impose as it sees fit:
- (a) compulsory attendance at an FIA seminar, counselling or some other undertaking as determined by the Ethics Committee sufficient to prevent the Complaint from re-occurring;
 - (b) suspension of FIA membership for a stated period; or
 - (c) permanent expulsion from FIA membership, including revocation of credentialing if applicable.
- 3.16 The Ethics Committee must provide the Complainant and the FIA member with a written notice of determination within 14 days of its determination stating its determination and reasons for its determination.
- 3.17 The Ethics Committee must publish the determination and reasons for the determination, but may do so in a manner to prevent identification of an FIA member.



- 3.18 The Ethics Committee must monitor compliance by an FIA member with any penalty imposed against them under section 3.16 and section 3.17.
- 3.19 The Ethics Committee must undertake a periodic review of complaints received under this Complaints Process every 3 years to determine if amendments need to be made to this Complaints Process.
- 3.20 The Ethics Committee may make recommendations to the Board of FIA to amend this Code at any time.
- 3.21 FIA on behalf of the Ethics Committee must keep records of all correspondence with a Complainant and FIA member and must keep that correspondence confidential and secure in accordance with the National Privacy Principles.
- 3.22 Where a member of the Ethics Committee, the CEO or their delegated representative is, or becomes aware that they have an interest that will make it difficult for them to discharge their duties under this Complaints Process or that may bring this Complaints process into disrepute they must declare that interest and stand aside from this Complaint Process.

4. FIA Complaint Appeals Process

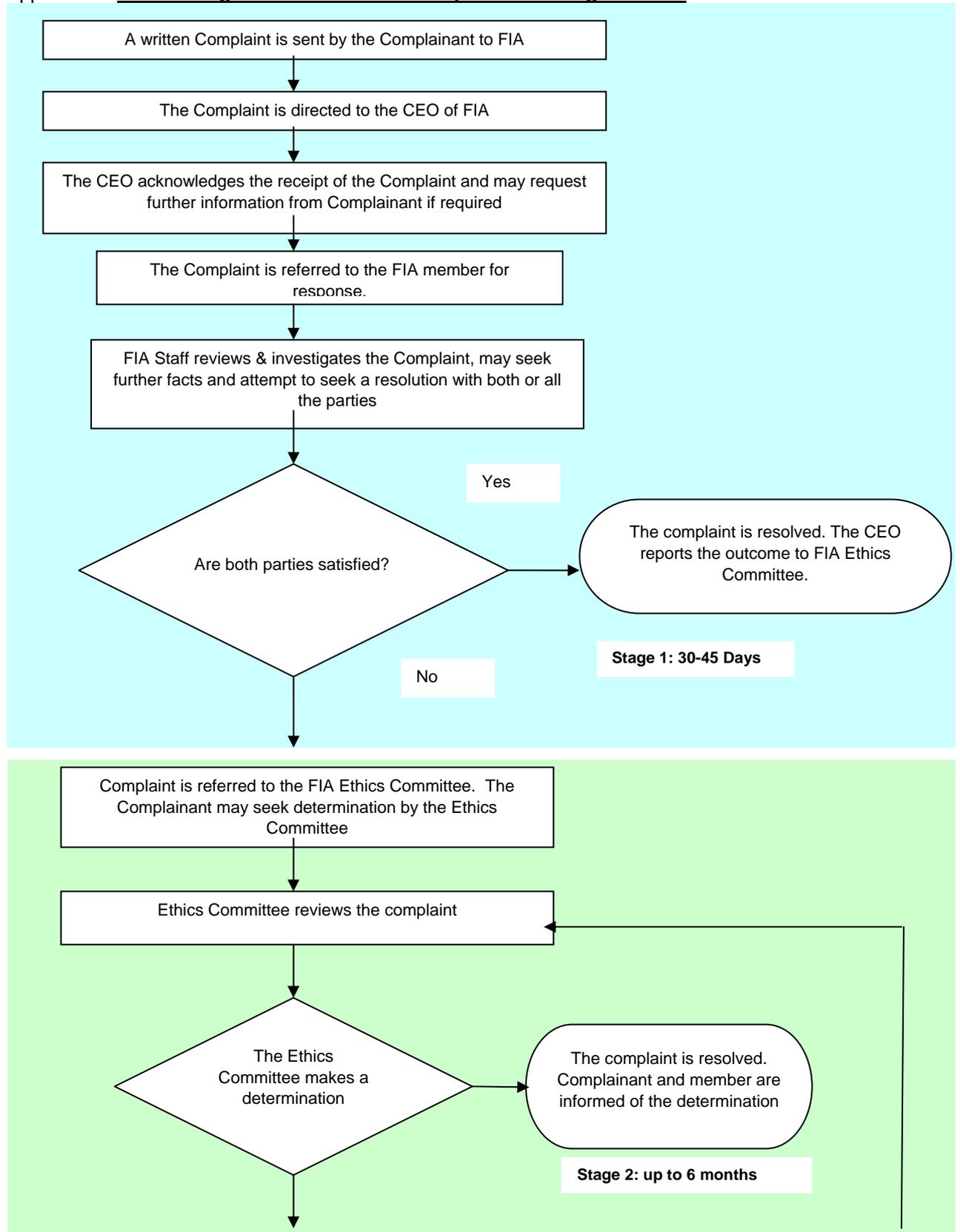
- 4.1 An appeal against a determination made by the Ethics Committee under section 3.17 or section 3.18 of this Complaints Process must be:
- (a) in writing;
 - (b) addressed to the FIA Ethics Committee Appeals Officer;
 - (c) received within 30 days of notice of the determination by the Ethics Committee; and

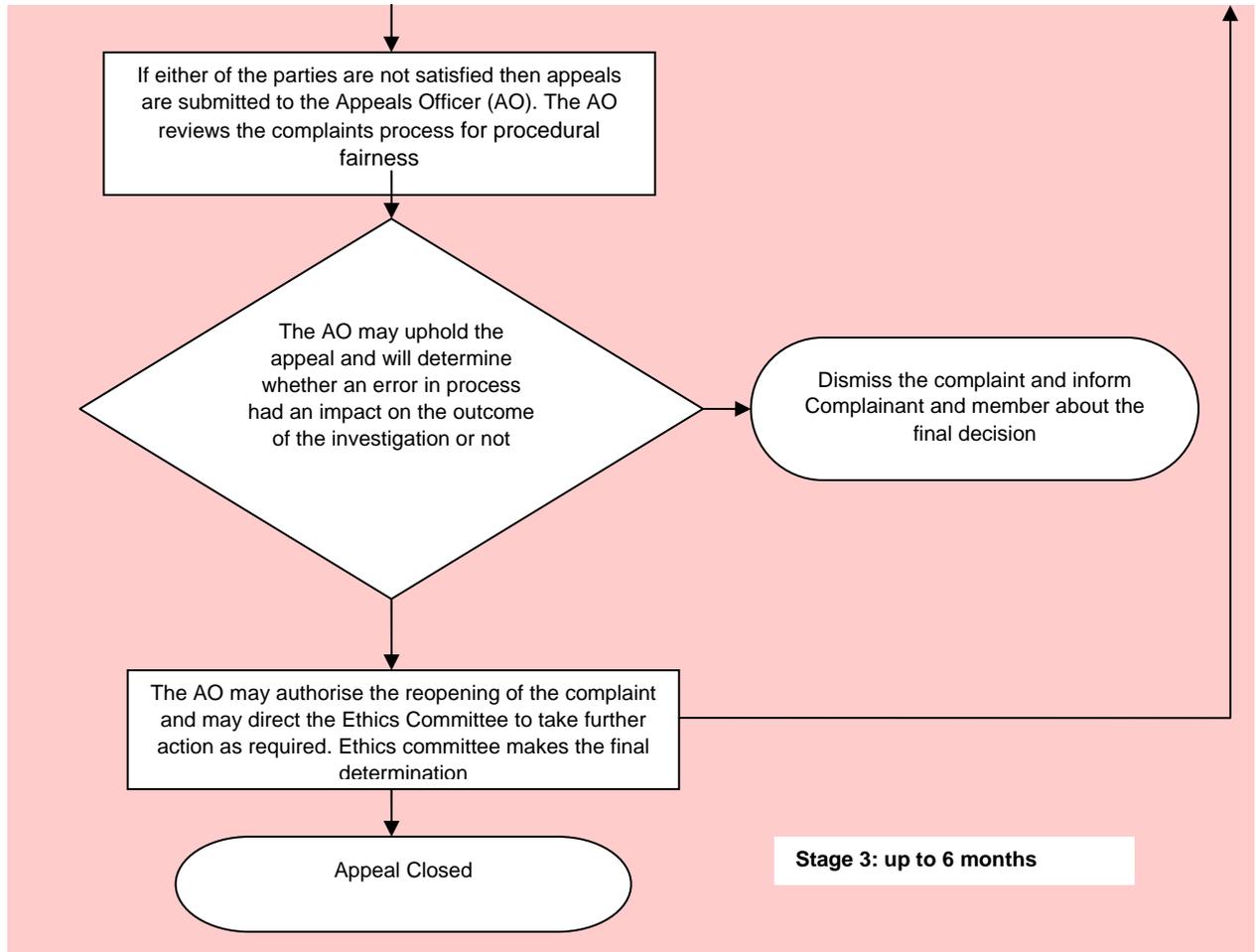


- (d) state the grounds on which the appeal is made.
- 4.2 The sole grounds for an appeal by a Complainant or FIA member are:
 - (a) failure by the Ethics Committee to follow this Complaint Process, its Terms of Reference or criteria, policies or procedures published by the Ethics Committee; and/or
 - (b) a material error or omission of fact by the Ethics Committee.
- 4.3 The Appeals Officer must make a determination either to:
 - (a) dismiss the appeal; or
 - (b) uphold the appeal.
- 4.4 Where the Appeals Officer determines to dismiss an appeal, no further action is required by FIA or the Ethics Committee except to inform the Complainant and FIA member in accordance with section 4.6.
- 4.5 Where the Appeals Officer determines to uphold an appeal he/she may refer the Complaint to the Ethics Committee for further determination as required.
- 4.6 The FIA member and the Complainant must be informed of the determination of the Appeals Officer in writing.
- 4.7 The CEO must report the outcome of the appeal to the Ethics Committee.



Appendix 1: Fundraising Institute Australia Complaint Handling Process







STANDARD OF FACE TO FACE FUNDRAISING PRACTICE



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- *professional development pathway*
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so that our members achieve best practice

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STANDARD OF FACE TO FACE FUNDRAISING PRACTICE

1. To whom does this Standard apply?

- 1.1 This Standard applies to FIA members. FIA can only monitor this Standard and enforce it if necessary against an FIA member.
- 1.2 This Standard does not replace nor override any law.

2. Definitions used in this Standard

- **Appeals officer** means a person appointed by the FIA Board to conduct an appeal under the FIA Complaints Process.
- **Beneficiary** means any person or entity which receives a benefit from an Organisation in pursuance of the Organisation's objects.
- **Corporation** means an entity incorporated under the Corporations Act 2001 (Cth) and established for the purpose of profit.
- **Complaint** means a notice in writing sent by any person to FIA concerning an alleged breach by an FIA member of any part of the FIA Principles and Standards of Fundraising Practice.
- **Complainant** means a person who makes a complaint to FIA.
- **Director** means a person who is appointed or elected to the position of a director of an Organisation or a Corporation.
- **Donation** means a voluntary contribution by a Donor of money, property, goods or services to an organisation for the purpose of furthering that organisation's objects. It does not include a sponsorship or community business partnership.
- **Donor** means an individual or other entity that makes a contribution of value to an Organisation to further the Organisation's Objects. A Donor does not include an individual or entity that engages with an Organisation for the purpose of trade.
- **Ethics Committee** means a committee of FIA members and non-members appointed by the FIA Board for the purpose of making determinations on Complaints.
- **FIA** means Fundraising Institute Australia.



- **FIA member** means a person or organisation who is registered as an FIA member.
- **Face to Face Fundraiser** means a person, Corporation or Organisation, who carries out activities, whether for remuneration or as a volunteer, for the purpose of raising funds for the objects of an Organisation by means of recruiting Donors by seeking pledges for regular Donations to an Organisation in places or venues open to members of the public.
- **Face to Face Fundraising Activity** means an activity carried out by a person, Corporation or Organisation, whether for remuneration or as a volunteer, for the purpose of raising funds for the object of an Organisation by means of recruiting Donors by seeking pledges for regular Donations to an Organisation in places or venues open to members of the public.
- **Objects** means the objective, purpose or cause however so defined in an Organisation's constituent documents.
- **Organisation** means an entity incorporated under Commonwealth or State law and established for a purpose other than profit.
- **Professional Misconduct** means conduct by an FIA member that is a violation of a Standard that has serious adverse consequences to a Complainant or was committed intentionally by the Fundraiser or both.
- **Promotional Material** means any material in connection with a Donation, Fundraising Activity or an Organisation whether in printed, electronic or oral form made available by a Fundraiser or Organisation to any person.
- **Trade Mark** means a word or group of words, logo, image, colour, scent or shape (whether registered or unregistered) used by an Organisation to identify the Organisation.
- **Sponsor** means a third party who sponsors a fundraising activity for an agreed outcome.
- **Supplier** means a third party supplying goods or services for payment to an Organisation.
- **Tax** means all taxes payable in connection with an Event, including without limitation income tax, pay as you go (PAYG) and good and services tax (GST.)
- **Unsatisfactory Conduct** means conduct by a FIA member that is neglectful of a Standard or that has minor adverse consequences to a Complainant or both.
- **Volunteer** means a person who performs a service for an Organisation without requiring compensation for performing the service.



3. Face to Face Fundraiser Training

- 3.1 An Organisation must conduct a Training Program on this Standard for a Face to Face Fundraiser
- 3.2 A Training Program must:
- (a) be of at least 30 minutes duration; and
 - (b) include at the least, training in all items described in this Standard that an Organisation must require of a Face to Face Fundraiser.
- 3.3 For the purposes of this section, a Training Program may be conducted by an Organisation as part of a general training program for a Face to Face Fundraiser and may include training at a public place where a Donation may be solicited from a Donor or prospective Donor.
- 3.4 Breach of section 3.1 or section 3.2 of this Standard constitutes Unsatisfactory Conduct by an Organisation.

4. Identification

- 4.1 An Organisation must require a Face to Face Fundraiser to clearly display to a prospective Donor:
- (a) an Authorised Pledge Form;
 - (b) a name tag which identifies the Face to Face Fundraiser by name, and a Not-for-Profit Organisation's identity in the manner described under section 5 of this Standard; and



- (c) any mandatory identification requirements for a Fundraising Appeal however so defined by statute.

4.2 Breach of section 4.1 of this Standard constitutes Professional Misconduct by an Organisation.

5. Organisation Identification

5.1 Wherever identification of an Organisation is required by this Standard an Organisation must provide its:

- (a) Full name;
- (b) Corporate registration number [for example ABN];
- (c) Full business address; and
- (d) Logo (if any).

5.2 An Organisation must comply with a law in a jurisdiction where it conducts Face to Face Fundraising that requires identification of a Face to Face Fundraiser.

6. Information Disclosures

6.1 An Organisation must require a Face to Face Fundraiser to:

- (a) explain to a prospective Donor the terms of a direct debit agreement on an Authorised Pledge Form; and
- (b) provide clear and adequate information to the Donor about any follow-up procedure to the Donor, including any telephone follow-up procedure that will be conducted by an Organisation as a consequence of receipt of the Donor's Donation.



- 6.2 An Organisation must require a Face to Face Fundraiser when so requested by a prospective Donor or Donor, to inform that prospective Donor or Donor of:
- (a) the Objects of an Organisation for whom the Face to Face Fundraiser represents;
 - (b) the intended use of a Donation;
 - (c) the capacity of an Organisation for whom the Face to Face Fundraiser represents to use a Donation for its intended use;
 - (d) whether the Face to Face Fundraiser is engaged either as a volunteer, employee or contractor of the Organisation;
 - (e) whether the Face to Face Fundraiser is a member of FIA or not;
 - (f) the means to access an Organisation's most recent financial statements or current Annual Report;
 - (g) the means to apply to see their records held by an Organisation and challenge its accuracy;
 - (h) the existence of the FIA Codes Complaints Process;
 - (i) the existence of this Standard; and
 - (j) the existence or otherwise of an Organisation policy requiring that a Donor's contact details not be exchanged, rented, or otherwise shared by the Organisation with another person or body corporate without the express written consent of that Donor, and that a Face to Face Fundraiser engaged by the Organisation will comply with that policy.
- 6.3 An Organisation must require a Face to Face Fundraiser to provide a prospective Donor or Donor with a prompt answer to a question listed in this section 6.
- 6.4 A Face to Face Fundraiser may inform a prospective Donor or Donor under this section 6 orally or by the use of printed material supplied by an Organisation for whom they represent.
- 6.5 Breach of section 6.1 or 6.2 of this Standard constitutes Unsatisfactory Conduct by an Organisation.





7. Professional Conduct

- 7.1 An Organisation must require a Face to Face Fundraiser whilst undertaking Face to Face Fundraising to not:
- (a) obstruct or restrict a person from going about their lawful business;
 - (b) impede activities of commercial organisations in public places;
 - (c) inconvenience members of the public in public places in the vicinity of commercial organisations;
 - (d) approach a person under the age of 18 with the intention of seeking a Donation;
 - (e) seek a Donation from a person who is frail and elderly, intellectually disabled or who is in any way vulnerable;
 - (f) enter a private residence under any circumstance;
 - (g) continue to seek a Donation where a potential Donor requests that they stop;
 - (h) work in teams of less than two Face to Face Fundraisers;
 - (i) wear clothing supplied by an Organisation whilst not engaged in Face to Face Fundraising;
 - (j) in any way denigrate the Objects of a Not-for-Profit Organisation;
 - (k) disobey a site agreement entered into by an Organisation;
 - (l) accept cash, a cheque, property, or a personal gift from a Donor or prospective Donor;
 - (m) mislead a Donor or allow a Donor to be misled about any matter in the Standard;



- (n) state to a Donor or prospective Donor a cost to an Organisation of conducting Face to Face Fundraising unless that cost is:
 - (i) factually accurate; and
 - (ii) approved for public release by an Organisation;
- (o) seek a Donation at a time or location other than that specified by the Organisation or its representative; and
- (p) use Promotional Material other than that approved by an Organisation.

7.2 To avoid doubt, an Organisation may remunerate a Face to Face Fundraiser using Performance Based Fundraising, providing:

- (a) a level of remuneration that a Face to Face Fundraiser may receive can be ascertained by the Face to Face Fundraiser prior to undertaking Face to Face Fundraising; and
- (b) a level of remuneration that a Face to Face Fundraiser may receive is not calculated on the basis of a percentage of a Donation.

7.3 Breach of section 7.1 of this Standard constitutes Professional Misconduct by an Organisation.

8. Complaints

8.1 Where a person wishes to make a complaint about any matter that may be addressed by this Standard an Organisation must require a Face to Face Fundraiser to:

- (a) inform the person that they may use the FIA Complaints Process; and

- (b) provide that person with a copy of the FIA Complaints Process.

8.2 Breach of section 8.1 of this Standard constitutes Unsatisfactory Conduct by an Organisation.

9. Breach of this Standard by an Organisation

Complaints concerning this Standard or the conduct of a Face to Face Fundraiser, Organisation or Corporation will be determined by the FIA Ethics Committee in accordance with the FIA Complaints Process.

10. Compliance with national laws

10.1 An Organisation must require a Face to Face Fundraiser to not engage in an activity whilst undertaking Face to Face Fundraising that reasonably appears to the Face to Face Fundraiser to be a criminal offence, in breach of an Organisation's Occupational Health and Safety Policy or would constitute Professional Misconduct under this Standard.

10.2 An Organisation must require a Face to Face Fundraiser to inform an Organisation that the Organisation may not comply with a law when:

- (a) the Face to Face Fundraiser works for that Organisation; and
- (b) the Face to Face Fundraiser become aware that the Organisation may not comply with a law.

10.3 For the purposes of section 10.2, a Face to Face Fundraiser may try to inform an Organisation that the Organisation may not comply with a law in a manner that the Face to Face Fundraiser thinks is appropriate for the situation.



STANDARD OF CHARITABLE TELEMARKETING FUNDRAISING PRACTICE



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so that our members achieve best practice

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STANDARD OF CHARITABLE TELEMARKETING

1. To whom does this Standard apply?

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- 1.2 This Standard does not replace nor override any law.

2. Definitions used in this Standard

- **Appeals officer** means a person appointed by the FIA Board to conduct an appeal under the FIA Enforcement.
- **Beneficiary** means any person or entity which receives a benefit from an Organisation in pursuance of the Organisation's objects.
- **Corporation** means an entity incorporated under the Corporations Act 2001 (Cth) and established for the purpose of profit.
- **Complaint** means a notice in writing sent by any person to FIA concerning an alleged breach by an FIA member of any part of the FIA Principles and Standards of Fundraising Practice.
- **Complainant** means a person who makes a complaint to FIA.
- **Consent** refers to either express consent, where an individual specifically agrees to receive telemarketing calls from an organisation or inferred consent, where there is a clear and reasonable expectation that the person being called would consent to receiving the call due to a prior business relationship.
- **Director** means a person who is appointed or elected to the position of a director of an Organisation or a Corporation.
- **Donation** means a voluntary contribution by a Donor of money, property, goods or services to an Organisation for the purpose of furthering that Organisation's objects. It does not include a sponsorship or community business partnership.
- **Donor** means an individual or other entity that makes a contribution of value to an Organisation to further the Organisation's Objects. A Donor does not include an individual or entity that engages with an Organisation for the purpose of trade.
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- **Sponsor** means a third party who sponsors a Fundraising Activity for an agreed outcome.
- **Supplier** means a third party supplying goods or services for payment to an Organisation.
- **Tax** means all taxes payable in connection with a Fundraising Activity, including without limitation income tax, pay as you go (PAYG) and good and services tax (GST)
- **Telemarketing** means a method of direct marketing in which a Fundraiser uses the telephone to solicit prospective or existing Donors to make a Donation to or participate in a Fundraising Activity for an Organisation.
- **Trade Mark** means a word or group of words, logo, image, colour, scent or shape (whether registered or unregistered) used by an Organisation to identify the Organisation.
- **Unsatisfactory Conduct** means conduct by a FIA member that is neglectful of a Code, Principle or Standard or that has minor adverse consequences to a Complainant or both.
- **Volunteer** means a person who performs a service for an Organisation without requiring compensation for performing the service.



3. Telemarketing Workplace

- 3.1 When undertaking a Fundraising Activity by Telemarketing, a Fundraiser must ensure that the Organisation or the Corporation conducting the Fundraising Activity provides an appropriate physical environment for the making of Telemarketing calls by Fundraisers.
- 3.2 An appropriate physical environment must comply with the requirements of industrial relations and occupational health and safety legislation and any relevant State awards.

4. Training and Development

- 4.1 Before the commencement of a Fundraising Activity, the Fundraiser must ensure that the Organisation or the Corporation conducting the Fundraising Activity has done the following:
- a) ensured that the Organisation or Corporation is licensed to conduct the Fundraising Activity and operate Telemarketing operations;
 - b) engaged appropriately skilled staff to conduct recruitment, training and supervision of Fundraisers;
 - c) conducted a training program of at least 30 minutes duration including as a minimum training in all items described under sections 5, 6, 7, 8 and 12 of this Standard for any staff member, Fundraiser and Volunteer undertaking Telemarketing;
 - d) put in place Donor follow-up procedures including a pro-forma follow-up communication in accordance with section 13 of this Standard;
 - e) ensured that the Organisation has its name, address and telephone number listed in a telephone directory or, if a new listing, its telephone number is available through a directory assistance service; and calling line identification is enabled; and
 - f) informed the Fundraisers about the provisions of the Do Not Call Register and *the Telecommunications (Do Not Call Register) (Telemarketing and*



Research Calls) Industry Standard 2007 as they apply to Organisations. This can be accessed at:

http://www.acma.gov.au/webwr/_assets/main/lib100844/dnc_tis_standard_2007.pdf

5 Professional Conduct for Telemarketing

5.1 All Fundraisers must at all times comply with the following requirements:

- a) comply with the FIA Principles of Fundraising Practice;
- b) clearly provide a Donor with an opportunity to accept or decline an invitation or offer to make a Donation;
- c) accept a refusal by a Donor of an invitation or offer to make a Donation and must do so courteously and promptly;
- d) accept a request by a Donor not to be solicited by telephone or other technology;
- e) accept a request by a Donor not to receive Promotional Materials concerning the Organisation;
- f) accept a request to provide printed Promotional Materials to the Donor;
- g) offer to call back a Donor at a more convenient time;
- h) not make outbound Telemarketing calls by using a recorded message in any form unless the Donor is informed that the Telemarketing call is a recorded message and has the ability to clear the line promptly;
- i) not record a Telemarketing call or use a recorded message in a Telemarketing call unless the Donor consents;
- j) train Fundraisers about the objects of the Organisation and the Fundraising Activity;
- k) give Fundraisers a script to use when calling Donors,
- l) include in the script words to the effect: "if you wish, you may opt-out of receiving any further calls from the Organisation" and including instructions on opting-out.



- m) if requested to do so by any person, provide details of how to make a complaint about the Telemarketing call including details of how to make a complaint under the Standard.

6. Time at which Fundraisers can contact Donors

- 6.1 Telemarketing calls must be made at times in accordance with the requirements of relevant Australian Federal, State and Territory legislation.

Note: Section 5 of the *Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007* sets out the times that Telemarketing calls can be made.

http://www.acma.gov.au/webwr/assets/main/lib100844/dnc_tis_standard_2007.pdf

- 6.2 A time referred to in section 6.1, is a time or public holiday at the Donor's location.
- 6.3 Where a Fundraiser has not received any response from a Donor they may continue to attempt to contact that Donor.

7. Provision of Contact Information

- 7.1 A Fundraiser immediately after the Telemarketing call commences must:
 - a) provide the Donor with the Fundraiser's first name;
 - b) provide the Donor with the name of the Organisation on whose behalf the Telemarketing call is being made; and
 - c) provide the Donor with the purpose of the Telemarketing call, including an accurate description of the Organisation's activities and intended use of the Donation.



7.2 A Fundraiser must further provide the following information to a Donor during the Telemarketing call immediately upon request:

- a) the information contained in section 7.1 of this Standard;
- b) the Organisation's contact details, including a telephone number and street address; and
- c) the name of the person who is responsible for handling Donor complaints for Telemarketing.

7.3 A Fundraiser must further provide the following information to a Donor during the Telemarketing call or within a reasonable time after the Telemarketing call, not exceeding 30 days, upon request:

- a) details of the source from which the Organisation obtained the Donor's contact information; and
- b) further details concerning activities undertaken by the Organisation.

7.4 If a Donor requests the annual report or a copy of the Organisation's constitution, the Fundraiser should advise the Donor how to obtain the information from the Organisation.

8. Termination of Telemarketing calls

8.1 A Fundraiser must ensure that the Donor terminates the Telemarketing call before the Fundraiser (unless the Donor has abused the Fundraiser, in which case the Fundraiser may terminate the Telemarketing call before the Donor after advising the Donor that the Fundraiser will do so).

8.2 A Fundraiser must ensure that the Donor's telephone line is released within 5 seconds of the Donor hanging up.



9. Calling Line Identification

- 9.1 A Fundraiser must not block the transmission of the calling line identity to a calling number display of a Donor who receives the Telemarketing call.

10. Answering Machines

- 10.1 If a Fundraiser leaves a Telemarketing message on a Donor's answering machine, the message must include:
- a) the name and contact details of the Organisation the Fundraiser represents;
 - b) a free call or other fixed line number charged at the standard national rate which the Donor can use to call the Fundraiser during normal business hours.
- 10.2 Fundraisers should not leave Telemarketing messages on mobile phones unless the Donor has given prior consent to the use of a mobile phone.

11. Dialling equipment used to make Telemarketing calls

- 11.1 Fundraisers must not use random or sequential dialling equipment to generate Telemarketing calls.
- 11.2 Fundraisers must ensure their dialling equipment uses a minimum ring time of 15 seconds before the Telemarketing call is discontinued or unanswered.
- 11.3 Fundraisers must ensure that, if a live operator does not take the Telemarketing call, the equipment should abandon the Telemarketing call and release the line within two seconds from when the line is picked up.



- 11.4 Fundraisers must ensure that the dialling equipment does not abandon more than 5% of connected Telemarketing calls for each Fundraising Activity during a 24 hour period.
- 11.5 Fundraisers must ensure that, where a number has received an abandoned Telemarketing call, any further Telemarketing calls to that number within the next 72 hour period is handled by a live operator.
- 11.6 For each Fundraising Activity, Fundraisers must maintain an archive of dialler statistics to show compliance with this Standard. The archive must include:
- a) the number of Telemarketing calls attempted;
 - b) the number of live Telemarketing calls;
 - c) the number of Telemarketing calls passed to a live operator;
 - d) the number of live Telemarketing calls abandoned by the dialling equipment.
- 11.7 Fundraisers must maintain the archive in section 11.6 for at least 12 months.

12. Outsourcing Telemarketing

- 12.1 When a Corporation conducts a Fundraising Activity by Telemarketing, the following requirements should be observed:
- a) A Corporation must have a written agreement with the Organisation;
 - b) A Corporation should charge an Organisation by hourly rate or for the number of Telemarketing calls completed;
 - c) A Corporation should ensure that the employees or Volunteers do not receive a commission or a percentage of the funds raised;
 - d) A Corporation should not undertake Telemarketing that requires percentage based payment;



- e) A Corporation should comply with FIA Principles of Fundraising Practice and this Standard of Charitable Telemarketing; and
- f) A Corporation must comply with relevant Australian Federal, State and Territory laws of the Donor, regardless of the physical location of the Corporation.

13. Follow-up procedures for Donors

13.1 Any Organisation or Corporation conducting a Fundraising Activity by Telemarketing should have follow-up procedures including:

- a) A follow-up communication to be sent to the Donor informing them of the details of their Donation. The communication should include:
 - (i) the date of the Donation;
 - (ii) the amount of the Donation;
 - (iii) the Donor's name and contact details;
 - (iv) the Organisation's Australian Business Number or other identifying number;
 - (v) the frequency of the Donation;
 - (vi) the payment method agreed by the Donor.
- b) The communication should be sent to the Donor within three (3) business days of the Telemarketing call.
- c) Any Donations pledged by telephone should be recorded, and if not fulfilled should be followed up within a reasonable time after the Telemarketing call.
- d) All record keeping must comply with the National Privacy Principles and any other relevant legislation.



14. Complaints Process

14.1 Fundraisers must comply with the FIA Complaints Process.



STANDARD OF BEQUEST FUNDRAISING PRACTICE



We exist to make the world a better place by advancing professional fundraising through:

- *advocacy of standards*
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so that our members achieve best practice

PO Box 642, Chatswood NSW 2057

Phone: 61 2 9411 6644

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Email: admin@fia.org.au

Web: www.fia.org.au



STANDARD OF BEQUEST FUNDRAISING PRACTICE

1. To whom does this Standard apply?

- 1.1 This Standard applies to FIA members. FIA can only monitor this Standard and enforce it if necessary against an FIA member.
- 1.2 This Standard does not replace nor override any law.

2. Definitions used in this Standard

- **Bequest** is the gift of any asset or right given to an Organisation by a Donor by the Donor's will and includes a legacy, residuary bequest, pecuniary bequest, contingency bequest or specific bequest, which are defined in Appendix 1.
- **Appeals officer** means a person appointed by the FIA Board to conduct an appeal under the FIA Enforcement.
- **Beneficiary** means any person or entity which receives a benefit from an Organisation in pursuance of the Organisation's objects.
- **Corporation** means an entity incorporated under the Corporations Act 2001 (Cth) and established for the purpose of profit.
- **Complaint** means a notice in writing sent by any person to FIA concerning an alleged breach by an FIA member of any part of the FIA Principles and Standards of Fundraising Practice.
- **Complainant** means a person who makes a complaint to FIA.
- **Director** means a person who is appointed or elected to the position of a director of an Organisation or a Corporation.
- **Donation** means a voluntary contribution by a Donor of money, property, goods or services to an organisation for the purpose of furthering that organisation's objects. It does not include a sponsorship or community business partnership.



- **Donor** means an individual or other entity that makes a contribution of value to an Organisation to further the Organisation's Objects. A Donor does not include an individual or entity that engages with an Organisation for the purpose of trade.
- **Ethics Committee** means a committee of FIA members and non-members appointed by the FIA Board for the purpose of making determinations on Complaints.
- **FIA** means Fundraising Institute Australia.
- **FIA member** means a person or organisation who is registered as an FIA member.
- **Fundraiser** means a person, Corporation or Organisation, who carries out activities, whether for remuneration or as a volunteer, for the purpose of raising funds for the objects of an Organisation.
- **Fundraising Activity** means an activity carried out by a person, Corporation or Organisation, whether for remuneration or as a volunteer, for the purpose of raising funds for the object of an Organisation.
- **Objects** means the objective, purpose or cause however so defined in an Organisation's constituent documents.
- **Organisation** means an entity incorporated under Commonwealth or State law and established for a purpose other than profit.
- **Professional Misconduct** means conduct by an FIA member that is a violation of a Standard that has serious adverse consequences to a Complainant or was committed intentionally by the Fundraiser or both.
- **Promotional Material** means any material in connection with a Donation, Fundraising Activity or an Organisation whether in printed, electronic or oral form made available by a Fundraiser or Organisation to any person.
- **Trade Mark** means a word or group of words, logo, image, colour, scent or shape (whether registered or unregistered) used by an Organisation to identify the Organisation.
- **Sponsor** means a third party who sponsors a fundraising activity for an agreed outcome.
- **Supplier** means a third party supplying goods or services for payment to an Organisation.
- **Tax** means all taxes payable in connection with an Event, including without limitation income tax, pay as you go (PAYG) and good and services tax (GST.)



- **Unsatisfactory Conduct** means conduct by a FIA member that is neglectful of a Standard or that has minor adverse consequences to a Complainant or both.
- **Volunteer** means a person who performs a service for an Organisation without requiring compensation for performing the service.

3. Setting up a Bequest program

- 3.1 Before a Fundraiser may seek a Bequest they must ensure that the Fundraiser and the Organisation which they represent:
- (a) complies with FIA's Principles of Fundraising Practice;
 - (b) complies with this Standard of Bequest Fundraising Practice; and
 - (c) has obtained relevant legal advice.

4. Use of Promotional Materials

- 4.1 A Fundraiser must ensure that any Promotional Material used by them to solicit a Donation and/or Bequest from a prospective Donor;
- (a) is factually accurate, truthful and not likely to mislead a prospective Donor;
 - (b) includes a clear description of programs and activities for which a Bequest is requested;
 - (c) recommends that the Donor seeks independent legal advice;
 - (d) includes a Bequest section which complies with section 5 of this Standard;
 - (e) complies with the *Trade Practices Act 1975 (Cth)* and State or Territory legislation, (in particular that statements in the Promotion Materials are not misleading or deceptive or likely to be misleading or deceptive to any person);
 - (f) complies with state legislation relevant to conducting a Fundraising Appeal ;
 - (g) is approved by the Organisation before any solicitation by the Fundraiser on its behalf to a prospective Donor; and

(h) should ensure that any Promotional Material identifies the Organisation in compliance with section 6 of this Standard

4.2 A Fundraiser must make the current annual report of an Organisation which they represent freely available upon a reasonable request by a Donor.

4.3 Despite anything else in this section, Promotional Materials may be part of a positive campaign by a Fundraiser to build public awareness, understanding and support for the Objects of an Organisation.

5. Bequest sections in wills

5.1 If a Donor chooses to include a Bequest section in their will, a Bequest section in a will must:

- (a) state the full legal name of the Organisation that will receive the Bequest; and
- (b) use appropriate words to indicate the type of Bequest.

5.2 Appendix 2 sets out a model Bequest section for the guidance of Fundraisers. Donors are not required to use the model Bequest section and the model Bequest section does not replace the need to advise Donors to obtain independent legal advice before making a Bequest.

6. Organisation Identification

6.1 Wherever identification of an Organisation is required by this Standard a Fundraiser should provide that Organisation's:

- (a) full legal name;
- (b) entity registration number (including state registration number, Australian Business Number, company registration number or other formal identifying number);
- (c) full business address; and
- (d) Trade Mark (if any).



7. Professional Conduct

7.1 A Fundraiser must ensure that:

- (a) the Fundraiser maintains an appropriate arm's length relationship with the Donor in connection with any Bequest or proposed Bequest;
- (b) a Donor is not subjected to undue influence, harassment, intimidation or coercion when approached by the Fundraiser or person under the direction of a Fundraiser for the granting of a Bequest;
- (c) a prospective Donor is not prevented or discouraged by the Fundraiser from seeking independent legal advice in relation to a Bequest;
- (d) written acknowledgement and receipt of a Bequest is provided to a Donor's executor or legal personal representative; and
- (e) where a Bequest is a Specific Bequest, inform a Donor's executor or legal personal representative of how the Organisation intends to use that Bequest.

7.2 For the purposes of section 7.1(b), 'undue influence' includes any improper conduct by a Fundraiser which has the effect of influencing a Donor to make a Bequest or sign any legal document which the Donor otherwise would not do.

7.3 A Fundraiser must observe a Donor's request to:

- (a) refuse to make a Bequest;
- (b) limit the frequency of solicitations by the Fundraiser to the Donor;
- (c) not be solicited by mail, telephone, facsimile, email, text messages or other technology;
- (d) not receive personal visits;
- (e) not receive printed material concerning an Organisation;
- (f) have a family member or legal personal representative present;
- (g) obtain independent legal advice;
- (h) exclude any form of public recognition for their Bequest if they choose to remain anonymous.





7.4 Disclosure

- 7.4.1 A Fundraiser must not disclose to an unauthorised person in an Organisation or any third party any details of the Donor's will except for the Bequest to the Organisation or beneficiaries other than the Organisation under the will.
- 7.4.2 Section 7.4.1 does not prevent a Fundraiser from disclosing all necessary details to a legal or financial adviser for the purpose of obtaining legal or financial advice in connection with the Bequest.
- 7.4.3 A Fundraiser must comply with FIA's Principles of Fundraising Practice in connection with the Bequest or disclosure of the Donor's will.
- 7.5 A Fundraiser must not agree or request to be appointed as an executor of the Donor's will or trustee of the Donor's estate and must not suggest to the Donor that any member or officer of the Organisation be appointed as an executor of the Donor's will or trustee of the Donor's estate.
- 7.6 A Fundraiser must not allow personal or commercial interests to affect their decision to accept or refuse a Bequest.
- 7.7 A Fundraiser must derive no personal benefit from a Bequest received by their Organisation.
- 7.8 A Fundraiser must decline any personal benefit offered to the Fundraiser by a Donor.
- 7.9 A Fundraiser must not offer to financially compensate a Donor for preparation of a will.
- 7.10 A Fundraiser may compensate a legal practitioner for the preparation of the will of a Donor **provided that** the Fundraiser discloses this fact in writing to the Donor before



compensation is paid and the will is drafted. This section does not replace the need for a Donor to obtain independent legal advice if they so choose.

7.11 A Fundraiser may provide a Donor with a list of legal practitioners who provide legal services in connection with wills and Bequests, provided that the Fundraiser does not endorse the services of a particular law firm. The Fundraiser may obtain such a list from the relevant State or regional Law Society or other appropriate organisation. This section does not replace the need for a Donor to obtain independent legal advice if they so choose.

7.12 A Fundraiser may organise a will drafting service for potential Donors or organise a Fundraising Activity with the purpose of encouraging potential Donors to draft and sign wills which include Bequests provided that the Fundraiser and the Organisation inform Donors in writing that:

- (a) Donors may obtain independent legal advice;
- (b) Donors have no obligation to make a Bequest to the Organisation hosting the Fundraising Activity;
- (c) Donors have no obligation to finalise their will at the Fundraising Activity..

7.13 A Fundraiser may provide a Donor with the model Bequest section in Appendix 2. This section will be provided to the Donor as guidance only and will not replace the need for a Donor to obtain independent legal advice.

7.14 Any breach of this section 7 by a Fundraiser will constitute Professional Misconduct.



Appendix 1 Glossary

These terms are inserted for the guidance of Fundraisers when dealing with Bequests. The Standard of Bequests applies to all types of bequests.

Contingency Bequest means a Bequest made only when the executor of an estate cannot distribute the estate as planned in the will;

Pecuniary Bequest means a Bequest of a specific sum of money;

Specific Bequest means a Bequest of a specific and severable asset or right;

Residuary Bequest means a Bequest of the residual of a Donor's estate;

For the purpose of this Standard, and as set out in section 2, an Organisation is a beneficiary if it receives a Bequest from a Donor. In Appendix 2, the term "beneficiaries" refers to all recipients of a Bequest under a will.

Appendix 2 Model Bequest section

I give to **[FULL NAME OF ORGANISATION, ABN or other ID number]** in aid of:

- (a) its general purposes OR
- (b) the specific purpose of **[insert here]**
 - the sum of **[\$XXXXXX]** OR
 - the residue of my estate OR
 - a **[X]** % share of the residue of my estate OR
 - all my property known as **[PROPERTY FOLIO NUMBER]** situated at **[ADDRESS OF PROPERTY]** OR
 - if any of my nominated beneficiaries predecease me, the bequest shall not fail but I give the share of my deceased beneficiary to **[FULL NAME OF ORGANISATION]**

and I declare that the receipt of the Chairman, President or Treasurer or authorised officer of **[FULL NAME OF ORGANISATION]** shall be a sufficient discharge to my Executors for my bequest.





Standard of Workplace Giving Fundraising Practice



We exist to make the world a better place by advancing professional fundraising through:

- *advocacy of standards*
- *professional development pathway*
- *measurable credentials*

so that our members achieve best practice

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STANDARD OF WORKPLACE GIVING

FUNDRAISING PRACTICE

Introduction

The Standard of Workplace Giving Fundraising Practice covers both workplace giving by employees and matched giving by Corporations. It provides guidelines for conducting workplace giving and matched giving fundraising activities, whether organised directly by a Fundraiser or Organisation or through a Supplier contracted to an Organisation.

1. To whom does this Standard apply?

- 1.1 This Standard applies to FIA members. FIA can only monitor this Standard and enforce it if necessary against an FIA member.
- 1.2 This Standard does not replace nor override any law.

2. Definitions used in this Standard

- **Appeals officer** means a person appointed by the FIA Board to conduct an appeal under the FIA Complaints Process.
- **Beneficiary** means any person or entity which receives a benefit from an Organisation in pursuance of the Organisation's objects.
- **Corporation** means an entity incorporated under the Corporations Act 2001 (Cth) and established for the purpose of profit.
- **Complaint** means a notice in writing sent by any person to FIA concerning an alleged breach by an FIA member of any part of the FIA Principles and Standards of Fundraising Practice.
- **Complainant** means a person who makes a complaint to FIA.
- **Deductible Gift Recipient** means an Organisation that is approved by the Australian Taxation Office as entitled to receive tax deductible Donations.
- **Director** means a person who is appointed or elected to the position of a director of an Organisation or a Corporation.



- **Donation** means a voluntary contribution by a Donor of money, property, goods or services to an Organisation for the purpose of furthering that Organisation's objects. It does not include a sponsorship or community business partnership.
- **Donor** means an individual or other entity that makes a contribution of value to an Organisation to further the Organisation's Objects. A Donor does not include an individual or entity that engages with an Organisation for the purpose of trade.
- **Ethics Committee** means a committee of FIA members and non-members appointed by the FIA Board for the purpose of making determinations on Complaints.
- **FIA** means Fundraising Institute Australia.
- **FIA member** means a person or Organisation who is registered as an FIA member.
- **Fundraiser** means a person, Corporation or Organisation, who carries out activities, whether for remuneration or as a volunteer, for the purpose of raising funds for the objects of an Organisation.
- **Fundraising Activity** means an activity carried out by a person, Corporation or Organisation, whether for remuneration or as a volunteer, for the purpose of raising funds for the object of an Organisation.
- **Matched Giving Fundraising Activity** means a Fundraising Activity whereby Corporations match the amount of Donations made by Donors to Organisations. Matched Giving Donations are paid by the Corporation and are not deducted by a Corporation's payroll office from salaries of employees.
- **Objects** means the objective, purpose or cause however so defined in an Organisation's constituent documents.
- **Organisation** means an entity incorporated under Commonwealth or State law and established for a purpose other than profit.
- **Payroll Deduction** means a method of Donation where the Donor specifies an amount to be paid through periodic deductions from his/her salary.
- **Professional Misconduct** means conduct by an FIA member that is a violation of a Principle or Standard of Fundraising Practice that has serious adverse consequences to a Complainant or was committed intentionally by the Fundraiser or both.
- **Promotional Material** means any material in connection with a Donation, Fundraising Activity or an Organisation whether in printed, electronic or oral form made available by a Fundraiser or Organisation to any person.
- **Sponsor** means a third party who sponsors a fundraising activity for an agreed outcome.

- **Supplier** means a third party supplying goods or services for payment to an Organisation.
- **Tax** means all taxes payable in connection with a Charitable Fundraising Activity, including without limitation income tax, pay as you go (PAYG) and good and services tax (GST).
- **Trade Mark** means a word or group of words, logo, image, colour, scent or shape (whether registered or unregistered) used by an Organisation to identify the Organisation.
- **Unsatisfactory Conduct** means conduct by a FIA member that is neglectful of a Principle or Standard or that has minor adverse consequences to a Complainant or both.
- **Volunteer** means a person who performs a service for an Organisation without requiring compensation for performing the service.
- **Workplace Giving (also known as payroll giving)** is a voluntary program in which Donors can pledge to make regular Donations to an Organisation that has deductible gift recipient (DGR) status. As the Donation is made before tax is calculated on their pay, the employee receives an immediate tax deduction and is not required to obtain a receipt. The pre-tax Donation is sent by the Corporation to the DGR Organisation selected by the Donor. To demonstrate support for the community and to encourage Donors to participate in Workplace Giving, Corporations may choose to provide a level of employee Donation matching.

3. Setting up a Workplace Giving Fundraising Activity

- 3.1 If an Organisation chooses to operate or participate in a Workplace Giving Fundraising Activity through a Supplier, it must have a written agreement with the Supplier. The Supplier must agree to comply with this Standard and FIA's Principles of Fundraising Practice. In this section, reference to the Fundraiser refers to both a Fundraiser directly representing an Organisation and a Supplier providing services for an Organisation.
- 3.2 The Fundraiser will liaise with the Corporation to set up the Fundraising Activity.
- 3.3 The Corporation may choose which Organisations it wishes its Donors to support in consultation with its Donors and the Fundraiser.
- 3.4 Donors may choose which Organisation they wish to support.

- 3.5 Donors may specify the amount they wish to donate from each pay. If the Corporation specifies a minimum Donation amount, the Fundraiser should ensure that the Donors are informed that this is the minimum amount they are required to donate. The Fundraiser should ensure that in Promotional Materials, the Donors are advised that small Donations will produce no or minimal change in the amount of tax to be withheld each pay.
- 3.6 Corporations may specify a minimum Donation amount for Donors and a minimum period for making Donations to minimise administrative costs.
- 3.7 The Donors' personal information about their identity, their Donations and the Organisations to whom they donate are protected under the National Privacy Principles and must not be disclosed to a third party without the consent of the Donor.
- 3.8 Appendix 1 sets out an outline of benefits in a successful partnership between a Corporation and an Organisation. This is a guide only included for the assistance of Fundraisers and is not intended to be a substitute for the Fundraiser's own plan.

4. Management of Workplace Giving

- 4.1 All modern workplace systems can facilitate Workplace Giving. Donations are withheld from the Donor's pay before tax is deducted. The Corporation's payroll officer processes the deductions, preferably as a direct debit.
- 4.2 If a Corporation does not have the facility for direct debits, the Corporation's payroll officer should collect all Donations in a trust fund in the name of the Corporation as trustee for the Organisation. At a regular designated period (eg weekly or monthly), the Corporation will send all Donations to the Organisation. The Organisation may provide a receipt to the Corporation for the Donations if the Corporation requests. Fundraisers should be aware that the Corporation may not claim a tax deduction for employee Donations but may claim a tax deduction for Matched Giving provided that the Corporation meets Australian Taxation Office requirements.
- 4.3 The Fundraiser should ascertain that the Corporation's accounting system is capable of producing a series of management reports for each Organisation including:
 - a) total Donations received;
 - b) Donations received not expected;

- c) Donations expected not received; and
- d) Donations pledged not yet started.

4.4 The Fundraiser should ascertain whether the Corporation's accounting system is able to perform the following tasks:

- a) creating Workplace Giving records for each Donor,
- b) keeping a running total of Workplace Giving Donations;
- c) showing total deductions on the Donor's PAYG statement;
- d) track the number of Donors in a Corporation;
- e) track the amount of Donations from Donors in a Corporation.

5. Management of Matched Giving

5.1 If the Organisation manages both the Donations and invoices the Corporation for a matching Donation, the Organisation's database should link Donations and raising of invoices, in addition to appropriate reports.

5.2 Donations given in a Matched Giving Fundraising Activity should be collected in a trust fund for disbursement to Organisations after the Corporation has made a contribution which matches the Donations.

5.3 The Corporation should establish a procedure to identify total Donations in order to calculate Corporation contributions under a Matched Giving Fundraising Activity.

6. Consent to withholding of Donations

6.1 Before commencing Donations, the Fundraiser should ensure that Corporations require Donors to complete a form with the following information:

- a) the Donor's written consent to the withholding of the Donation from the Donor's pay;
- b) identifying how much they wish to give;

- c) how often they wish to give;
- d) to which Organisation they wish to give.

6.2 The Fundraiser should ensure that Donors are informed that they may change the amount or frequency or cancel the Donations at any time and how to make such changes.

7. Planning

7.1 Before the Fundraising Activity is implemented, the Fundraiser should create goals for the Fundraising Activity including as a minimum:

- a) the goals in relation to the Donors;
- b) how the Donors might benefit (which may include Donation options);
- c) how the Organisation might benefit; and
- d) targets for the Fundraising Activity, based upon how many Donors would sign up or the average level of gift that is achievable.

7.2 The Fundraiser must ensure that the Organisation has obtained Deductible Gift Recipient status.

7.3 The Fundraiser should ensure that Donors are informed about the Organisation and its Fundraising Activities.

8. Promotion of Workplace Giving and Matched Giving

8.1 The Fundraiser should provide information about the Fundraising Activity to the Corporation. It is the decision of the Corporation if it wants to commit to a Workplace Giving or Matched Giving Fundraising Activity and, if so, at what level it wants to commit.

8.2 When planning a Fundraising Activity, Fundraisers should ensure the following details are included:

- a) establish the objectives, the rationale and the expected results of the Fundraising Activity;
- b) create a budget;

- c) ensure that the Organisation and Corporation execute a written contract in relation to the Fundraising Activity;
- d) create Promotional Materials in compliance with section 9 of this Standard to present a fair assessment of the Fundraising Activity.

9. Promotional Materials

9.1 A Fundraiser must ensure that any Promotional Material used to promote a Workplace Giving or Matched Giving Fundraising Activity:

- a) is factually accurate, truthful and not likely to deceive or mislead any person;
- b) identifies the Organisation;
- c) identifies the objective of the Fundraising Activity;
- d) complies with the *Trade Practices Act 1975* (Cth) and State Fair Trade Acts, (in particular those sections relating to misleading and deceptive conduct and false and misleading representations);
- e) complies with the relevant state legislation in connection with an Fundraising Activity; and
- f) is approved by the Organisation before work commences on promoting the Fundraising Activity.

9.2 The Promotional Materials must provide Donors with the following information:

- a) how Workplace Giving or Matched Giving works, details of the tax relief available and details of the Fundraising Activity;
- b) what information Donors will see on their payslips, an overview of how the process works and information on how to cancel enrolment; and
- c) explain how Workplace Giving or Matched Giving fits within any community investment program the Corporation might support.

9.3 Where a Fundraiser discloses a cost of fundraising in Promotional Materials, that cost must be factually accurate.

- 9.4 A Fundraiser must make the current annual report of an Organisation for whom they represent freely available upon a reasonable request by a Donor.
- 9.5 Despite anything else in this section, Corporations and Organisations are encouraged to use Promotional Materials as part of a positive campaign by a Fundraiser to build public awareness, understanding and support for the Objects of an Organisation.
- 9.6 After promoting Workplace Giving or Matched Giving, Fundraisers should ensure that the Organisation monitors the level of contributions and regularly thanks both the Corporation and Donors for their generosity.

10. Use of Logos and Trade Marks

- 10.1 If the Fundraising Activity or Organisation has a Trade Mark, associated with or used in connection with it, the Fundraiser must ensure that the Organisation has given permission for the use of the Trade Mark and take all reasonable steps to prevent its unauthorised use by third parties including suppliers or the media.
- 10.2 If the Corporation has a Trade Mark, associated with or used in connection with it, the Fundraiser must ensure that the Corporation has given permission for the use of the Trade Mark and take all reasonable steps to prevent its unauthorised use by third parties including suppliers or the media.

11. Compliance and Management of Complaints

- 11.1 Fundraisers and Organisations must comply with FIA's Principles & Standards of Fundraising Practice and relevant Commonwealth and State legislation and local government regulations.
- 11.2 Complaints concerning this Standard or the conduct of a Fundraiser, Organisation or Corporation will be determined by the FIA Ethics Committee in accordance with the FIA Complaints Process.

Appendix 1

Outline of benefits in a successful partnership between a Corporation and an Organisation.

| | The staff | The organisation |
|-----------------------------------------|--------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| Community Partner (Organisation) | New skills | Increased capability |
| | Improved morale, self-esteem, feeling valued for day-to-day work | Ability to meet objectives sooner, more efficiently |
| | Increased opportunities for development | Better service delivery to clients |
| | Increased knowledge of corporate world | Enhanced profile |
| | Increased opportunities to demonstrate/practice skills, for example provide training | Valued more in community |
| | New relationships | Opportunity for influence |
| | Expanded networks | Better infrastructure, enabling focus to remain on 'core business' |
| | | Opportunities for promotion of message |
| Business partner | Improved morale, self esteem | Stronger branding in the community |
| | Team spirit | Enhanced reputation |
| | New skills | More attractive to ethical/socially responsible investors |
| | Opportunity to 'give back' | Greater productivity |
| | Increased knowledge of issues in the community | More in touch with community needs |
| | Increased opportunities for example for mentoring | Visible demonstration of values |
| | Opportunities for staff development | 'Corporation of choice' , improved staff retention rates |
| | Expanded networks | Stronger community as customer and Donor base |
| | Reduced risk | Operating in enhanced |

| | | |
|----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| | | corporate community |
| The local community | <ol style="list-style-type: none"> 1. Increased profile for the community; 2. Flow-on effects from partnership projects; 3. Improved capacity to find creative solutions to local problems | |

Table based on chart in “Fact sheet 3 - Community Business Partnership Benefits” in National Community Partnerships Week Kit, an Australian Government Initiative produced by the Prime Minister’s Community Business Partnership



Appendix 2

Excerpt from Australian Taxation Office

What is workplace giving?

Workplace giving is a simple and effective way for employees to regularly donate to charities or organisations who are entitled to receive tax deductible Donations. To participate in the workplace giving program the charity or organisation, such as a library or university, must have deductible gift recipient (DGR) status.

Workplace giving is optional. Both the employee and the employer must agree to participate.

You can check the DGR status of a charity or organisation via the Australian Business Register at www.abr.gov.au or by phoning **1300 130 248** with the ABN for the charity or organisation.

Appendix 3

At present, in Australia, there are three major Suppliers of Workplace Giving Fundraising Activities. FIA does not endorse the services of or give preference to any particular Supplier. Each Supplier may have its own model for Workplace Giving Fundraising Activities. For further information, FIA members may contact the Suppliers. Website details are as follows:

The Australian Charities Fund

<http://www.australiancharitiesfund.org.au>

Charities Aid Foundation

<http://www.cafonline.org>

United Way

<http://www.unitedway.com.au>





STANDARD OF EVENTS FUNDRAISING PRACTICE



We exist to make the world a better place by advancing professional fundraising through:

- *advocacy of standards*
- *professional development pathway*
- *measurable credentials*

so that our members achieve best practice

PO Box 642, Chatswood NSW 2057

Phone: 61 2 9411 6644

Fax: 61 2 9411 6655

Email: admin@fia.org.au

Web: www.fia.org.au





STANDARD OF EVENTS FUNDRAISING PRACTICE

1. To whom does this Standard apply?

- 1.1 This Standard applies to FIA members. FIA can only monitor this Standard and enforce it if necessary against an FIA member.
- 1.2 This Standard does not replace nor override any law.

2. Definitions used in this Standard

- **Appeals officer** means a person appointed by the FIA Board to conduct an appeal under the FIA Complaints Process.
- **Beneficiary** means any person or entity which receives a benefit from an Organisation in pursuance of the Organisation's objects.
- **Corporation** means an entity incorporated under the Corporations Act 2001 (Cth) and established for the purpose of profit.
- **Complaint** means a notice in writing sent by any person to FIA concerning an alleged breach by an FIA member of any part of the FIA Principles and Standards of Fundraising Practice.
- **Complainant** means a person who makes a complaint to FIA.
- **Director** means a person who is appointed or elected to the position of a director of an Organisation or a Corporation.
- **Donation** means a voluntary contribution by a Donor of money, property, goods or services to an organisation for the purpose of furthering that organisation's objects. It does not include a sponsorship or community business partnership.
- **Donor** means an individual or other entity that makes a contribution of value to an Organisation to further the Organisation's Objects. A Donor does not include an individual or entity that engages with an Organisation for the purpose of trade.
- **Ethics Committee** means a committee of FIA members and non-members appointed by the FIA Board for the purpose of making determinations on Complaints.
- **FIA** means Fundraising Institute Australia.



- **FIA member** means a person or organisation who is registered as an FIA member.
- **Fundraiser** means a person, Corporation or Organisation, who carries out activities, whether for remuneration or as a volunteer, for the purpose of raising funds for the objects of an Organisation.
- **Fundraising Activity** means an activity carried out by a person, Corporation or Organisation, whether for remuneration or as a volunteer, for the purpose of raising funds for the object of an Organisation.
- **Objects** means the objective, purpose or cause however so defined in an Organisation's constituent documents.
- **Organisation** means an entity incorporated under Commonwealth or State law and established for a purpose other than profit.
- **Professional Misconduct** means conduct by an FIA member that is a violation of a Standard that has serious adverse consequences to a Complainant or was committed intentionally by the Fundraiser or both.
- **Promotional Material** means any material in connection with a Donation, Fundraising Activity or an Organisation whether in printed, electronic or oral form made available by a Fundraiser or Organisation to any person.
- **Sponsor** means a third party who sponsors a fundraising activity for an agreed outcome.
- **Supplier** means a third party supplying goods or services for payment to an Organisation.
- **Tax** means all taxes payable in connection with an Event, including without limitation income tax, pay as you go (PAYG) and good and services tax (GST).
- **Trade Mark** means a word or group of words, logo, image, colour, scent or shape (whether registered or unregistered) used by an Organisation to identify the Organisation.
- **Unsatisfactory Conduct** means conduct by a FIA member that is neglectful of a Standard or that has minor adverse consequences to a Complainant or both.
- **Volunteer** means a person who performs a service for an Organisation without requiring compensation for performing the service.



3 Establishing an Event program

3.1 Event production criteria

3.1.1 Each Event should be assessed for its own levels of efficiency and profitability according to the written plan set before the Event, with goals set for its production that work towards:

- identifying areas of improvement,
- control of expenses, and
- an increase in number of participants.

3.1.2 The Event procedure should include the following criteria:

- Objectives;
- Planning;
- Organisation;
- Administration; and
- Evaluation

3.1.3 Appendix 1 sets out a guideline for a model Event procedure for the guidance of Fundraisers and Organisations.

3.2 Objectives planning

3.2.1 FIA recognises that each Fundraiser and Organisation may have its own specific objectives in relation to an Event. To assist its members, FIA has identified a number of objectives for operating a successful Event. These are to:

- raise money;
- update the mission statement to educate the Organisation's constituency;
- nurture or cultivate supporters;



- attract new donors and supporters;
- expand the Organisation's network;
- solicit endorsements;
- market the Organisation and raise awareness;
- disseminate information;
- thank supporters;
- give awards;
- launch an Organisation or a project or program of an Organisation.

3.2.2 Fundraisers must

- (a) set objectives in accordance with section 3.2.1 for each Event; and
- (b) have written documentation of the objectives.

3.3 Planning an Event

3.3.1 Fundraisers must at all stages in planning an Event comply with FIA's Standard of Professional Conduct and Standard of Ethics and any other relevant FIA Standard.

3.3.2 To facilitate compliance with section 3.1 by a Fundraiser, Fundraisers should comply with the key steps to implement a successful Event which are:

before an Event,

- (a) establish an Event profile, including the objectives, the rationale and the expected results;
- (b) create a Budget;
- (c) analyse risks and prioritise risks by developing a risk management assessment plan. A model risk management assessment plan is set out in

Appendix 2 as a guideline for Fundraisers. However, Fundraisers should develop their own risk management assessment plan tailored for their particular Event;

- (d) execute written contracts with all Suppliers supplying goods or services in connection with the Event;
- (e) comply with all licensing and permit requirements in the State or Territory where the Event is held ;
- (f) create Promotional Materials to present a fair assessment of the Event. The Promotional Materials must comply with the *Trade Practices Act 1974 (Cth)* and relevant State or Territory legislation ie they must not deceive or mislead (or be likely to deceive or mislead) any person; and

after an Event,

- (g) write a report for the Organisation about the Event evaluating the outcomes set for the Event.

3.3.3 Fundraisers should support an Event only when they can demonstrate the Event complies with the goals determined by the Organisation in accordance with section 3.2.

3.4 Promotion of the Event

3.4.1 If the Event or Organisation has a Trade Mark, associated with or used in connection with it, the Fundraiser must ensure that the Organisation has given permission for the use of the Trade Mark and take all reasonable steps to prevent its unauthorised use by third parties including Traders or the media.

3.4.2 The target audience should be determined in advance to the planning of the Event,

3.5 Promotional Materials

3.5.1 A Fundraiser must ensure that any Promotional Material used by them to promote an Event;

- (a) is factually accurate, truthful and not likely to deceive or mislead any person;
- (b) identifies the Organisation;
- (c) identifies the objective of the Event;
- (d) complies with the *Trade Practices Act 1975* (Cth) and State Fair Trade Acts, (in particular those sections relating to misleading and deceptive conduct and false and misleading representations);
- (e) complies with the relevant state legislation in connection with an Event; and
- (f) is approved by the Organisation before work commences on promoting the Event.

3.5.2 Where a Fundraiser discloses a cost of fundraising in Promotional Materials, that cost must be factually accurate.

3.5.3 A Fundraiser must make the current annual report of an Organisation for whom they represent freely available upon a reasonable request by a Donor.

3.5.4 Despite anything else in this section Promotional Materials may be part of a positive campaign by a Fundraiser to build public awareness, understanding and support for the Objects of an Organisation.

3.5.5 The cost of publicity must be included in the Event Budget as an Expense.



3.6 Budget

- 3.6.1 The Fundraiser must set a Budget before the commencement of an Event.
- 3.6.2 The Fundraiser must ensure that all Expenses incurred in the Budget are lawful and comply with FIA's Standard of Ethics and FIA's Standard of Professional Conduct.
- 3.6.3 The Fundraiser must comply with:
- (a) recognised accounting standards of practice;
 - (b) reporting, record keeping and payment requirements of the Australian Taxation Office;
 - (c) reporting and record keeping requirements of relevant State or Territory legislation; and
 - (d) FIA's Standard of Professional Conduct, in particular, section 3.
- 3.6.4 Fundraisers should at all times make sure that they and/or the Organisation have a Donor recognition policy specifying levels of recognition all Donors will receive for their Donations.

3.7. Management of cash collection at the Event

- 3.7.1 When planning an Event, Fundraisers should plan to minimise the need for cash collections at the Event.
- 3.7.2 Fundraisers must ensure that cash handling is secure at the Event.
- 3.7.3 Fundraisers should pre-designate collectors to collect cash at the Event.



- 3.7.4 If appropriate, cash receiving locations should be available at the Event.
- 3.7.4 All cash received by Fundraisers should be collected, counted and recorded (including issue of receipts) by 2 people whenever practical to do so.
- 3.7.5 Income summaries should be made at the point of counting for reconciliation with banking details at a later date.
- 3.7.6 Records must be made of donations for specific purposes to ensure Donors' wishes are met.

3.8 Financial return from an Event

- 3.8.1 The Gross Proceeds of the Event must be banked in accordance with the requirements of relevant State legislation and applied in the following order:
 - (a) from the Gross Proceeds, deduct and pay all Expenses (including Tax where applicable) in connection with the Event; and
 - (b) apply the Net Proceeds to the purpose or objects of the Organisation.
- 3.8.2 If Fundraisers do not comply with this guideline, FIA will consider this to be Professional Misconduct and it will be dealt with in accordance with the Standard of Professional Conduct.

4. Relations with stakeholders

4.1 Donations in kind

- 4.1.1 If a Fundraiser is planning an Event, the Fundraiser should identify items to the Organisation's Donors and supporters that could be donated rather than purchased.

- 4.1.2 The Fundraiser must comply with FIA's Standard of Acceptance and Refusal of Donations.

4.2 Sponsors

- 4.2.1 If a Sponsor requires that an Event is promoted by using the Sponsor's Trade Mark, the Fundraiser must ensure that the Sponsor has given permission for the use of the Trade Mark and comply with the Sponsor's requirements for its appropriate use in the Event or the Promotional Materials.
- 4.2.2 Fundraisers should liaise with Organisations which comply with FIA's Standard of Ethics and Standard of Professional Conduct.
- 4.2.3 Fundraisers must enter into agreements only with Sponsors that acknowledge FIA's Standard of Ethics and FIA's Standard of Professional Conduct.

4.3 Suppliers

- 4.3 If the Event requires the entering into a relationship with a Supplier or the hiring of a Supplier on behalf of the Organisation, Fundraisers should take all reasonable steps to ensure that:
- (a) the terms and conditions of a written agreement between the Organisation and the Supplier are fair and are congruent with the objects of the Event;
 - (b) the commissions, fees and expenses incurred are reasonable;
 - (c) the Organisation exercises proper controls and supervision over the Supplier; and
 - (d) the Organisation ensures all moneys are being accounted for in a proper manner.



4.4 When a volunteer group undertakes both the running and funding of an Event

4.4.1 Individuals or groups of people may wish to raise funds for an Organisation by holding an Event. Before entering into an agreement with any group wishing to conduct an appeal or an Event in the name of the Organisation, Fundraisers should ensure that the appeal is authorised by the Organisation. To do this, Fundraisers should liaise with the Organisation.

4.4.2 The Fundraiser must:

- (a) obtain written permission from the Organisation to operate the Event and use the Organisation's Trade Marks in the proposed Event;
- (b) identify whether the volunteers or the Organisation accept the financial risk of the proposed Event and obtain the agreement in writing;
- (c) ascertain in writing how much direct involvement the Organisation will have in organising and implementing the proposed Event;
- (d) ask the Organisation to brief all volunteers about the Organisation's policy of acceptable and unacceptable methods or sources of fundraising in the Organisation's name.

4.4.3 Volunteers must comply with relevant Commonwealth and State laws and local government regulations.

4.5 Identification of collectors

4.5 If required by State or Territory legislation, volunteer collectors and paid collectors collecting Donations on behalf of an Organisation must at all times during an Event display appropriate identification.





4.6 Working with children

- 4.6.1 If children are involved in volunteering with an Event, the Fundraiser must at all time comply with all laws and regulations within the relevant State or Territory.
- 4.6.2 Where the participation of children in an Event is permitted by law, Fundraisers must ensure that the following practices are implemented by the Organisation:
- (a) prohibited persons (ie a person convicted of a sex offence) must not be employed or allowed to volunteer in any capacity to work with, supervise or have contact with children;
 - (b) a police check must always be carried out for adults who will be in contact with children;
 - (c) adults who will be in contact with children must be asked to provide all necessary personal information and complete all forms required to obtain a police check;
 - (d) children under 12 years must be directly supervised by an adult at all times during the Event;
 - (e) where a child is being paid wages or commission or some other material benefit (other than reimbursement of reasonable out of pocket expenses), a record of employment must be maintained; including the following details:
 - (i) the child's full name, residential address and phone number;
 - (ii) the child's date of birth;
 - (iii) description of the nature of the employment;
 - (iv) details of any consent provided by the child's parents nor guardian (any written record to be retained);
 - (v) name, address and telephone number of the person immediately responsible for the child during the appeal; and
 - (vi) records must also comply with any additional requirements under any relevant industrial award or Australian Workers Agreement.



- 4.6.3 The Organisation conducting the Event should prepare a list of written instructions both for the children participating in the appeal or Event and for their supervisors.
- 4.6.4 Further, the Organisation should ensure in accordance with Australian laws and regulations:
- (a) any supervisor must obey the law regarding supervision of minors;
 - (b) any supervisor must not be in charge of more children at a time than the number prescribed by relevant legislation.
- 4.6.5 Organisations must be aware of and comply with all legislation which regulates the conditions under which children may be used as collectors, including the degree of supervision required, conditions of employment, responsible service of alcohol, alcohol licensing and any other obligations to protect their welfare and safety must at all time be followed.
- 4.6.6 If participating in fundraising, children should meet the standard requirements for identification including wearing an identification badge if required by State or Territory legislation.

5. Contact details for National, State or Territory regulatory bodies

AUSTRALIAN TAXATION OFFICE (ATO)

ATO has an extensive guide on its website for record keeping and tax issues for non profit organisations. It also has an overview of regulation in each State or Territory.

Internet: www.ato.gov.au/nonprofit



AUSTRALIAN CAPITAL TERRITORY

Charitable collections fall under the *Charitable Collections Act 2003*. For a licence to collect for charity contact the ACT Office of Regulatory Services at:

Phone: (02) 6207 0475
Fax: (02) 6207 0487
Mail: PO Box 225 Civic Square ACT 2608
Email: bn.general@act.gov.au
Internet: <http://www.rgo.act.gov.au>

For fundraising through raffles, housie (bingo), trade promotion lotteries and calcuttas the relevant legislation is the *Lotteries Act 1964*. This is overseen by the ACT Gambling and Racing Commission.

Contact: ACT Gambling and Racing Commission
Phone: (02) 6207 0361
Fax: (02) 6207 7390
Email: gambling.operations@act.gov.au
Mail: PO Box 214, Civic Square Australian Capital Territory 2608
Internet: <http://www.gamblingandracing.act.gov.au/Gambling/Lotteries.htm>

On the website you will find the application for a licence to run a raffle, housie, trade promotion lottery and calcutta.

NEW SOUTH WALES

Fundraising and appeals for money, may take a variety of forms – including supply of food, entertainment, games of chance or other goods and services, or in connection with a commercial undertaking. All these activities are regulated by the Office of Charities.

Contact: Office of Liquor, Gaming and Racing.





Internet: <http://www.olgr.nsw.gov.au>
Phone: (02) 9995 0666
Fax: (02) 9995 0611
Email: charity.inquiries@olgr.nsw.gov.au
Write: GPO Box 7060, Sydney, New South Wales 2001

If a liquor licence is sought, the relevant authority needs to be contacted.

For information about holding an event, see Event NSW: <http://www.events.nsw.gov.au/>

SOUTH AUSTRALIA

Charitable collections and the conduct of any entertainment where the proceeds are to be applied to a charitable purpose must comply with the Collections for Charitable Purposes Act 1939, Collections for Charitable Purposes (Collection Bins) Regulations 1995, and the Collections for Charitable Purposes Act 1939 – Standard of Practice.

Any Organisation seeking to raise money utilising fundraising lotteries must comply with the Lottery and Gaming Act 1936 (LG Act) and the Lottery and Gaming Regulations 1993 (LG Regulations). Contact should be made with Office of Liquor and Gambling.

Contact: Office of Liquor and Gambling
Internet: www.olgc.sa.gov.au
Phone: Lottery licensing on (08) 8226 8500
Fax: (08) 8226 8588
Email: lottery@saugov.sa.gov.au
Write: Lottery Licensing, GPO Box 771, Adelaide South Australia 5001

If a liquor licence is sought, the relevant authority needs to be contacted.





QUEENSLAND

The Office of Fair Trading (OFT) administers the *Collections Act 1966*, which controls how charities and community purpose organisations conduct appeals for public support or fundraising in Queensland. Any organisation that wants to publicly fundraise for a charitable or community purpose is governed by this Act. Activities regulated by OFT under the *Collections Act 1966* include:

- fundraising appeals
- door-to-door appeals and street collections, and
- commercial appeals on behalf of charities by entrepreneurs.

Contact: Office of Fair Trading
Internet: <http://www.fairtrading.qld.gov.au/>
Phone: 13 13 04
Email: BrisbaneOFT@dtftwid.qld.gov.au
Write: GPO Box 3111, Brisbane, QLD, 4001

Compliance needs to take place with laws and regulations concerned with lotteries, raffles and games of chance, which are regulated under the Charitable and Not-for-profitable Gaming Act 1999. Contact should be made with the Queensland Office of Gaming Regulation.

Contact: Queensland Office of Gaming Regulation
Internet: www.qogr.qld.gov.au
Phone: (07) 3872 0999 or 1800 064 848
Fax: (07) 3872 0998
Email: info@qogr.qld.gov.au
Write: Locked Bag 180, City East, Brisbane Queensland 4000

If a liquor licence is sought, the relevant authority needs to be contacted.





TASMANIA

The Liquor and Gaming Branch representing the Tasmanian Gaming Commission regulates gaming permits for charitable and nonprofit organisations such as lotteries, calcuttas sweepstakes, instant draw bingo, raffles, lucky envelopes and dancing dollars.

Contact: The Liquor and Gaming Branch, Tasmanian Gaming Commission

Internet: www.gaming.tas.gov.au

Phone: (03) 6233 2475

Fax: (03) 6234 1728

Email: gaming@treasury.tas.gov.au

Write: GPO Box 1374, Hobart Tasmania 7001

Consumer Affairs and Fair Trading administers the Collections for Charities Act 2001. This applies to any person soliciting money for a charitable purpose from the public.

Contact: Consumer Affairs and Fair Trading

Internet: http://www.consumer.tas.gov.au/business_affairs/charities

Phone: (03) 6233 4523

Fax: (03) 6233 4882

Email: consumer.affairs@justice.tas.gov.au

Write: GPO Box 1244, Hobart Tasmania 7001

VICTORIA

Fundraising appeals are regulated by the Fundraising Appeals Act (VIC) 1998 (Fundraising Act) which is administered by Consumer Affairs Victoria.

Contact: Consumer Affairs Victoria

Internet: www.consumer.vic.gov.au





Phone: 1300 558 181
Fax: (03) 9627 6007
Email: consumer@justice.vic.gov.au
Write: GPO Box 123A, Melbourne Victoria 3001

Gaming activities for the benefit of the community or charitable Organisations are regulated by the Gambling Regulation Act 2003 (Gaming Act) which is administered by the Victorian Commission for Gambling Regulation.

Contact: Victorian Commission for Gambling Regulation, Minor Gaming Unit
Internet: www.vcgr.vic.gov.au
Phone: (03) 9651 3630
Fax: (03) 9651 3246
Email: Minor.gaming@vcgr.vic.gov.au
Write: PO Box 1988, Melbourne Victoria 3001

If a liquor licence is required, the relevant authority must be contacted.

WEST AUSTRALIA

To collect money or goods for charitable purposes compliance needs to take place with the Charitable Collections Act (1946) which is governed under the Department of Consumer & Employment Protection, Charitable Collections Section.

Contact: Department of Consumer & Employment Protection, Charitable Collections Section.
Internet: www.docep.wa.gov.au/charities
Phone: (08) 9282 0832
Fax: (08) 9282 0948



Email: consumer@docep.wa.gov.au

Write: Locked Bag 14, Cloister Square Western Australia 6850

Community gaming activities are regulated under the Gaming and Waging Commission Act 1987. Contact should be made with the Department of Racing, Gaming and Liquor

Contact: The Department of Racing, Gaming and Liquor

Internet: www.rgl.wa.gov.au

Phone: (08) 9425 1888

Fax: (08) 9221 7108

Email: rgl@rgl.wa.gov.au

Write: PO Box 6119, East Perth Western Australia 6892

If a liquor licence is sought, the relevant authority needs to be contacted.





Appendix 1

Model Procedure for staging an event

| Objectives |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. To raise money; 2. To update the mission statement to educate the Organisation's constituency; 3. To nurture or cultivate supporters; 4. To attract new donors and supporters; 5. To expand the Organisation's network; 6. To solicit endorsements; 7. To market the Organisation and raise awareness; 8. To disseminate information; 9. To thank supporters; 10. To give awards; 11. To launch an Organisation or a project or program of an Organisation. |
| Planning |
| <ol style="list-style-type: none"> 1. Develop a specific marketing plan for the Event. 2. Draft a Master Event Timetable. 3. Identify the amount of funds the Organisation wants to raise, how and from whom? 4. Construct an Event budget. 5. Write a tactical plan for utilisation of volunteers. |





6. Specify responsibilities for Event leadership.
7. Write a strategic plan for the Event, including a risk management assessment plan and desired Sponsorship criteria for the Event.

Organisation

1. Define and organise the Event
2. Recruit Event team members;
3. Identify attendees, for example:
 - Current contributors;
 - Past contributors;
 - Prospects;
 - Honorary members;
 - Past honorees; and/ or
 - Political and prominent community leaders.

Administration

1. Organisation timeline for Event - draft
2. Administration systems – use appropriate systems for accounting, bookings, ticketing and receipts.
3. Contracts – all agreements in writing between the Organisation and the Fundraiser; and between the Fundraiser and/or the Organisation and Traders
4. Insurance – public liability; workers compensation; consider whether professional indemnity insurance needed; if outdoor Event, wet weather insurance
5. Theme – identify theme for promotion of the Event
6. Promotion Material – organise design and printing

Evaluation

1. Evaluate outcomes set for the Event
2. Report in writing to the Organisation about the Event and the evaluation of the Event

Based on “Key elements for a special event” in Wendroff, A (2004) Special Events; proven strategies for nonprofit fundraising (2nd ed.), John Wiley & Sons Inc, Hoboken, New Jersey,





Appendix 2 Model Risk Management Assessment Plan

A risk management assessment plan should:

1. identify risks at an Event, including financial and liability
2. assess level of risks of an Event,
3. control identified risks and
4. review risk assessments

Event risks may include but are not limited to:

- Physical risks such as damage to property or persons
- Financial risks
- Compliance risks such as compliance with occupational health and safety, licensing and child protection

Risk management assessment must be a written plan. Using a risk assessment matrix such as the matrix below will assist.

SAMPLE RISK ASSESSMENT MANAGEMENT PLAN

| Identify risk | How likely is the risk ? | | | |
|--------------------------------------------------|------------------------------------------------------------------------|--------|----------|---------------|
| | VERY LIKELY | LIKELY | UNLIKELY | VERY UNLIKELY |
| | Scale 1 – 4, 1 = very unlikely, 2 =unlikely, 3 = likely, 4=very likely | | | |
| EXAMPLES OF RISK | | | | |
| Kill or cause permanent disability or ill health | 1 | 1 | 2 | 3 |





| | | | | |
|------------------------------------------------------------|---|---|---|---|
| Long term illness or serious injury | 1 | 2 | 3 | 4 |
| Medical attention required and personal leave for recovery | 2 | 3 | 4 | 5 |
| First aid needed | 3 | 4 | 5 | 6 |

Risk management assessment must consider organisational and local government regulations on matters of public health and safety such as:

- traffic management
- noise management
- food safety
- waste management
- construction of temporary structures
- public event management
- contractor/volunteer management
- accident investigation
- evacuation procedures
- patron safety

Fundraisers and/or Organisations must inform and where required obtain permission from relevant local and State authorities, for example:

- council
- police
- ambulance
- traffic authorities
- licensing authorities

Fundraisers must comply with relevant legislation including Workplace Relations Act 1994 (Cth), State/Territory occupational health and safety, State/Territory workers compensation.





Standard of Electronic Fundraising Practice



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- *advocacy of standards*
- *professional development pathway*
- *measurable credentials*

so that our members achieve best practice

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2. Definitions used in this Standard

- **Appeals officer** means a person appointed by the FIA Board to conduct an appeal under the FIA Complaints Process.
- **Beneficiary** means any person or entity which receives a benefit from an Organisation in pursuance of the Organisation's objects.
- **Corporation** means an entity incorporated under the Corporations Act 2001 (Cth) and established for the purpose of profit.
- **Complaint** means a notice in writing sent by any person to FIA concerning an alleged breach by an FIA member of any part of the FIA Principles and Standards of Fundraising Practice.
- **Complainant** means a person who makes a complaint to FIA.
- **Deductible Gift Recipient** means an Organisation that is approved by the Australian Taxation Office as entitled to receive tax deductible donations.
- **Director** means a person who is appointed or elected to the position of a director of an Organisation or a Corporation.
- **Donation** means a voluntary contribution by a Donor of money, property, goods or services to an Organisation for the purpose of furthering that Organisation's objects. It does not include a sponsorship or community business partnership.
- **Donor** means an individual or other entity that makes a contribution of value to an Organisation to further the Organisation's Objects. A Donor does not include an individual or entity that engages with an Organisation for the purpose of trade.
- **Electronic Fundraising** means any Fundraising Activity carried out by electronic communications including internet communications, electronic mail ("email") and mobile telephone communications including text messaging ("SMS")



- **Electronic Fundraising Service Provider (EFSP)** means an entity which owns or operates an electronic fundraising service for Corporations, Organisations or members of the public.
- **Ethics Committee** means a committee of FIA members and non-members appointed by the FIA Board for the purpose of making determinations on Complaints.
- **Internet Service Provider (ISP)** means a body which provides an internet communication service which gives users access to internet services including the worldwide web.
- **FIA** means Fundraising Institute Australia.
- **FIA member** means a person, Corporation or Organisation who is registered as an FIA member.
- **Fundraiser** means a person, Corporation or Organisation, who carries out activities, whether for remuneration or as a volunteer, for the purpose of raising funds for the objects of an Organisation.
- **Fundraising Activity** means an activity carried out by a person, Corporation or Organisation, whether for remuneration or as a volunteer, for the purpose of raising funds for the object of an Organisation.
- **Objects** means the objective, purpose or cause however so defined in an Organisation's constituent documents.
- **Organisation** means an entity incorporated under Commonwealth or State law and established for a purpose other than profit.
- **Professional Misconduct** means conduct by an FIA member that is a violation of a Principle or Standard of Fundraising Practice that has serious adverse consequences to a Complainant or was committed intentionally by the FIA member or both.
- **Promotional Material** means any material in connection with a Donation, Fundraising Activity or an Organisation whether in printed, electronic or oral form made available by a FIA member or Organisation to any person.
- **Sponsor** means a third party who sponsors a fundraising activity for an agreed outcome.
- **Supplier** means a third party supplying goods or services for payment to an Organisation.
- **Tax** means all taxes payable in connection with an Event, including without limitation income tax, pay as you go (PAYG) and good and services tax (GST).

- **Trade Mark** means a word or group of words, logo, image, colour, scent or shape (whether registered or unregistered) used by an Organisation to identify the Organisation.
- **Unsatisfactory Conduct** means conduct by a FIA member that is neglectful of a Principle or Standard of Fundraising Practice or that has minor adverse consequences to a Complainant or both.
- **Volunteer** means a person who performs a service for an Organisation without requiring compensation for performing the service.

3. Planning a Fundraising Activity

3.1 Before the Fundraising Activity is implemented, the Fundraiser should create goals for the Fundraising Activity including as a minimum:

- a) the goals in relation to the Donors;
- b) how the Donors are acknowledged;
- c) desired outcomes for the Organisation; and
- d) targets for the Fundraising Activity, based upon how many Donors would sign up or the average level of gift that is achievable.

3.2 When planning a Fundraising Activity, the FIA member should ensure the following details are included:

- a) how the Fundraising Activity works;
- b) details of the tax relief available;
- c) information Donors will see on their receipts;
- d) an overview of how the Donation process works;
- e) information on how to cancel enrolment and obtain a refund; and
- f) the security measures used to protect the Donor's information and the Donation.

3.3 The FIA member and EFSP must ensure that the Fundraising Activity includes:



- a) information to the Donor about the Organisation;
 - b) acknowledgement of the Donor when the Donor enters the Fundraising Activity;
 - c) payment details;
 - d) appropriate security measures (including encryption of internet transactions in accordance with industry standards) to ensure that the Donor's information and the Donation are secure at all times.
- 3.4 The Donors' personal information about their identity, their Donations and the Organisations to whom they Donate are protected under the National Privacy Principles and must not be disclosed to a third party without the consent of the Donor.

4. Management of Donations

- 4.1 Before commencing the collection of Donations, the Fundraiser, Organisation or EFSP should ensure that Donors are able to complete an online form with the following information:
- a) if Donations are collected by an EFSP, written notice that the Donation will be processed by the EFSP pending payment to the Organisation;
 - b) identifying how much the Donor wishes to donate; and
 - c) for recurring Donations, how often the Donor wishes to donate.
- 4.2 For recurring Donations, the Fundraiser, Organisation or EFSP should ensure that the Donor is informed that the Donor may change the amount or frequency or cancel the Donations at any time and how to make such changes.
- 4.3 The Organisation or EFSP must maintain an agency bank account or trust bank account or Donation bank account (as applicable to the particular entity) into which all Donations are deposited. The Organisation or EFSP must ensure that Donations are deposited into an account that is separate from general operations funds and that its operations bank account and agency bank account or trust bank account or Donations bank account are managed as separate accounts at all times.



- 4.4 The Organisation or EFSP must provide each Donor with a receipt (which may be electronically generated provided that it can be printed).
- 4.5 The EFSP must maintain a separate ledger record for each Organisation it services. The Organisation must maintain a ledger record for its Donation bank account. The ledger must record:
 - a) all Donations received;
 - b) if Donations are collected by an EFSP, all fees charged by the EFSP to the Organisation including credit card fees, bank fees and administration fees; and
 - c) all payments made to the Organisation by the EFSP.
- 4.6 The EFSP must provide reports on an agreed date for a period that is agreed with the Organisation and required by State or Territory legislation to each Organisation it services. The reports must include:
 - a) the ledger record set out in section 4.5;
 - b) any statistical and demographic data concerning the Donors that the EFSP has agreed to provide; and
 - c) the name of each Donor and the amount of each Donation.

5. Management of the Relationship between the Electronic Fundraising Service Provider (EFSP) and the Organisation.

- 5.1 The Organisation must have a written agreement with the EFSP.
- 5.2 The Organisation must ensure that the agreement requires that the EFSP:
 - a) is registered with appropriate regulators as required by Commonwealth or State law and complies with appropriate legislation;
 - b) cannot claim that it is a Deductible Gift Recipient if it does not have that status;
 - c) will have no legal control over any Donations to an Organisation made through a service provided by an EFSP and cannot prevent Donations

passing to an Organisation by claiming a legal right including a lien or set-off over the Donations;

- d) identifies full details of all fees to be paid, including payment terms, by the FIA member and/or Organisation for the service, including details of how refunds for cancelled Donations are to be paid;
- e) reports in accordance with the relevant State or Territory legislation to the FIA member and the Organisation about the Donor, statistical and demographic data processed by the EFSP;
- f) assumes liability for completion of the Donation transaction before the Donation passes to the Organisation;
- g) monitors and does not knowingly allow inappropriate content (ie sexual or violent content) on the Organisation's website;
- h) complies with the National Privacy Principles;
- i) assumes liability for protection of the Donor's personal information and transaction details;
- j) undertakes to advise the FIA member and/or Organisation immediately if there is a security breach and to take immediate action to remedy the security breach;
- k) complies with the Organisation's requirements about the use of its business name and Trade Mark on the EFSP's website; and
- l) complies with FIA's Principles of Fundraising Practice and this Standard.

6. SMS Fundraising

- 6.1 Organisations should disclose the registration process for SMS messaging on all forms of relevant documentation including websites and must include procedures for unsubscribing on all messages.
- 6.2 Organisations must only send marketing SMS messages to those mobile phones that have specifically opted to receive them. The option must be clearly set out in a written consent form, by sending a clear SMS message or other means.



Fundraising Institute Australia

- 6.3 Organisations must disclose to Donors the cost of messages sent by the Donors (when using premium rate numbers) and ought to explain to Donors how and when they will be billed, and take into account that various billing methods exist for SMS.
- 6.4 Organisations must not send Donors messages unrelated to the service for which they have subscribed, unless at the same time they offer Donors the opportunity to opt out of future communications.
- 6.5 In competitions and prize draws, Organisations should provide a clear and simple method of requesting any terms and conditions and should publish the identity of the promoter within the SMS competition.
- 6.6 Verifiable parental consent should be obtained before communicating via SMS with minors and expert legal advice should be sought beforehand.

7. Promotional Materials

- 7.1 An EFSP must ensure that any Promotional Material used to promote a Fundraising Activity:
 - a) is factually accurate, truthful and not likely to deceive or mislead any person;
 - b) identifies the Organisation;
 - c) identifies the objective of the Fundraising Activity;
 - d) complies with the *Trade Practices Act 1975 (Cth)* and State or Territory Fair Trade Acts, (in particular those sections relating to misleading and deceptive conduct and false and misleading representations);
 - e) complies with the relevant State or Territory legislation in connection with a Fundraising Activity; and
 - f) notifies the Organisation before work commences on promoting the Fundraising Activity.
- 7.2 Where an EFSP discloses a cost of fundraising in Promotional Materials, that cost must be factually accurate.



Fundraising Institute Australia

- 7.3 An EFSP must make the current annual report of an Organisation for whom they represent freely available upon a reasonable request by a Donor.
- 7.4 Despite anything else in this section Promotional Materials may be part of a positive campaign by an EFSP to build public awareness, understanding and support for the Objects of an Organisation.
- 7.5 The EFSP should ensure that the Organisation monitors the level of contributions and regularly acknowledges Donors for their generosity.
- 7.6 If the Fundraising Activity or Organisation has a Trade Mark associated with or used in connection with it, the EFSP must ensure that the Organisation has given permission for the use of the Trade Mark and take all reasonable steps to prevent its unauthorised use by third parties including Suppliers or the media.

8. Compliance and Management of Complaints

- 8.1 FIA members and Organisations must comply with FIA's Principles of Fundraising Practice and this Standard and relevant Commonwealth and State and Territory laws including the *Spam Act 2003* (Commonwealth), *Telecommunications Act 1997* (Commonwealth), *Trade Practices Act 1974* (Commonwealth), *Privacy Act 1988* (Commonwealth) and the *National Privacy Principles*.
- 8.2 Complaints concerning this Standard or the conduct of a FIA member, Organisation or Corporation will be determined by the FIA Ethics Committee in accordance with the FIA Complaints Process.



Appendix

Contact details for relevant National regulatory bodies

AUSTRALIAN TAXATION OFFICE (ATO)

ATO has an extensive guide on its website for record keeping and tax issues for non profit organisations. It also has an overview of regulation in each State or Territory.

Internet: www.ato.gov.au/nonprofit

Mail: GPO Box 9990, in the capital city of your state/territory

Phone: 1300 130 248

AUSTRALIA COMMUNICATIONS AND MEDIA AUTHORITY (ACMA)

ACMA is the government body responsible for the regulation of broadcasting, the internet, radiocommunications and telecommunications.

Internet: www.acma.gov.au

Canberra Central Office

Address: Purple Building, Benjamin Offices, Chan Street, Belconnen ACT 2617

Mail: PO Box 78, Belconnen ACT 2616

Phone: 02 6219 5555

Melbourne Central Office

Address: Level 44 Melbourne Central Tower, 360 Elizabeth Street, Melbourne Vic. 3000

Mail: PO Box 13112 Law Courts, Melbourne Vic 8010

Phone: 03 9963 6800

Sydney Central Office

Address: Level 15, Tower 1 Darling Park, 201 Sussex Street, Sydney NSW 2000



Mail: PO Box Q500, Queen Victoria Building NSW 1230

Phone: 02 9334 7700

**DEPARTMENT OF BROADBAND, COMMUNICATIONS AND THE DIGITAL ECONOMY
(DBCDE)**

The Department of Broadband, Communications and the Digital Economy provides resources and news about telephone, Internet, broadband and ICT services for consumers and for business: funding, policy, legislation, statistics, reviews, online security and contacts for industry bodies.

Internet: www.dbcde.gov.au/

Mail: GPO Box 2154, Canberra ACT 2601, Australia

Phone: 02 6271 1000

THE OFFICE OF THE PRIVACY COMMISSIONER (OPC)

The Office of the Privacy Commissioner is an independent Office which has responsibilities under the federal *Privacy Act 1988 (Cth)*.

Internet: www.privacy.gov.au

Mail: GPO Box 5218, Sydney NSW 2001

Phone: 1300 363 992



DRAFT STANDARD OF CHARITABLE GAMING FUNDRAISING PRACTICE



We exist to make the world a better place by advancing professional fundraising through:

- *advocacy of standards*
- *professional development pathway*
- *measurable credentials*

so that our members achieve best practice

PO Box 642, Chatswood NSW 2057

Phone: 61 2 9411 6644

Fax: 61 2 9411 6655

Email: admin@fia.org.au

Web: www.fia.org.au



DRAFT STANDARD OF CHARITABLE GAMING FUNDRAISING PRACTICE

1. To whom does this Standard apply?

- 1.1 This Standard applies to FIA members. FIA can only monitor this Standard and enforce it if necessary against an FIA member.
- 1.2 This Standard does not replace nor override any law.

2. Definitions used in this Standard

- **Appeals officer** means a person appointed by the FIA Board to conduct an appeal under the FIA Enforcement.
- **Beneficiary** means any person or entity which receives a benefit from an Organisation in pursuance of the Organisation's objects.
- **Charitable Gaming Activity** means any game of chance (including raffles, lotteries, art unions, bingo, lucky dips, lucky door prizes and guessing competitions) carried out as a Fundraising Activity in pursuance of the Organisation's objects.
- **Corporation** means an entity incorporated under the Corporations Act 2001 (Cth) and established for the purpose of profit.
- **Complaint** means a notice in writing sent by any person to FIA concerning an alleged breach by an FIA member of any part of the FIA Principles and Standards of Fundraising Practice.
- **Complainant** means a person who makes a complaint to FIA.
- **Director** means a person who is appointed or elected to the position of a director of an Organisation or a Corporation.
- **Donation** means a voluntary contribution by a Donor of money, property, goods or services to an Organisation for the purpose of furthering that Organisation's objects. It does not include a sponsorship or community business partnership.

- **Donor** means an individual or other entity that makes a contribution of value to an Organisation to further the Organisation's Objects. A Donor does not include an individual or entity that engages with an Organisation for the purpose of trade.
- **Ethics Committee** means a committee of FIA members and non-members appointed by the FIA Board for the purpose of making determinations on Complaints.
- **FIA** means Fundraising Institute Australia.
- **FIA member** means a person or Organisation who is registered as an FIA member.
- **Fundraiser** means a person, Corporation or Organisation, who carries out activities, whether for remuneration or as a volunteer, for the purpose of raising funds for the objects of an Organisation.
- **Fundraising Activity** means an activity carried out by a person, Corporation or Organisation, whether for remuneration or as a volunteer, for the purpose of raising funds for the object of an Organisation.
- **Objects** means the objective, purpose or cause however so defined in an Organisation's constituent documents.
- **Organisation** means an entity incorporated under Commonwealth or State law and established for a purpose other than profit.
- **Professional Misconduct** means conduct by an FIA member that is a violation of a Principle or Standard of Fundraising Practice that has serious adverse consequences to a Complainant or was committed intentionally by the Fundraiser or both.
- **Promotional Material** means any material in connection with a Donation, Fundraising Activity or an Organisation whether in printed, electronic or oral form made available by a Fundraiser or Organisation to any person.
- **Trade Mark** means a word or group of words, logo, image, colour, scent or shape (whether registered or unregistered) used by an Organisation to identify the Organisation.
- **Sponsor** means a third party who sponsors a fundraising activity for an agreed outcome.
- **Supplier** means a third party supplying goods or services for payment to an Organisation.

- **Tax** means all taxes payable in connection with a Fundraising Activity including without limitation income tax, pay as you go (PAYG) and good and services tax (GST.)
- **Unsatisfactory Conduct** means conduct by a FIA member that is neglectful of a Principle or Standard of Fundraising Practice or that has minor adverse consequences to a Complainant or both.
- **Volunteer** means a person who performs a service for an Organisation without requiring compensation for performing the service.

3. Establishing a Charitable Gaming Activity

- 3.1 Before undertaking a Charitable Gaming Activity, a Fundraiser should:
- a) determine the purpose of the Charitable Gaming Activity,
 - b) outline outcomes relation to Donors, and,
 - c) identify a fair and reasonable return to be achieved by the Charitable Gaming Activity.
- 3.2 Before undertaking a Charitable Gaming Activity, a Fundraiser must ensure they have been granted any approval or permit required for conducting a Charitable Gaming Activity under the relevant State or Territory legislation.
- 3.3 Fundraisers are referred to the model risk management plan in Appendix 2 for a guideline as to managing risk for a Charitable Gaming Activity.

4. Advertising a Charitable Gaming Activity

- 4.1 Fundraisers must not produce or distribute any Promotional Material that:
- a) encourages any breach of any State, Territory or Commonwealth legislation;

- b) depicts children participating in a Charitable Gaming Activity;
- c) is false, misleading or deceptive or likely to be so; or
- d) suggests that winning is a guaranteed outcome of participating in a Charitable Gaming Activity.

4.2 Fundraisers must ensure Promotional Material clearly states:

- a) permit/approval number for the Charitable Gaming Activity (if applicable);
- b) price of the ticket or entry fee;
- c) details of any tax relief associated with the cost of purchase of tickets or entry fee;
- d) name and contact details of the Organisation which will benefit from the Charitable Gaming Activity;
- e) details of prizes and their value;
- f) time, date and place of draw or game and approval number or information for the premises on which the Charitable Gaming Activity will be conducted (if applicable);
- g) how winners of the Charitable Gaming Activity will be notified; and
- h) how results of the Charitable Gaming Activity will be publicised.

4.3 If a Charitable Gaming Activity cannot be conducted as advertised, Fundraisers must make all reasonable efforts to inform ticketholders or entrants of the cancellation.

5. Conducting a Charitable Gaming Activity in conjunction with a Supplier

5.1 If a Fundraiser or Organisation enlists a Supplier to conduct a Charitable Gaming Activity on their behalf, they should ensure that the goals and aims of the Supplier reflect those of the Fundraiser and Organisation.

5.2 A Fundraiser must create a written agreement with the Supplier detailing:

- a) which services the Supplier will undertake on behalf of the Fundraiser or Organisation;
- b) how and when the Supplier will be remunerated for its services;
- c) whether the Supplier will be in possession of the proceeds of the Charitable Gaming Activity at any point;
- d) when and how the proceeds will be disbursed to the Organisation; and
- e) how any disputes that may arise between the Supplier, the Fundraiser and the Organisation will be resolved.

5.3 A Fundraiser should ensure that a representative of the Organisation is present at the Charitable Gaming Activity.

6. Tickets and ticket sales

6.1 Tickets must be consecutively numbered. Different series of tickets must be marked by colour, number or other identifying symbol.

6.2 All tickets sold must display:

- a) permit number (if applicable),
- b) price of ticket; and,
- c) any other information required by the relevant State or Territory legislation.

6.3 A Fundraiser must not distribute to any person tickets to be sold without that person's express consent.

6.4 A Fundraiser must specify a maximum ticket price.

6.5 A Fundraiser must comply with any State or Territory legislation concerning the sale of tickets by children

7. Prizes and prize winners

7.1 A Fundraiser must ensure that all advertised prizes are kept safe and free from mishandling by any person.

7.2 Where a prize consists of land, a Fundraiser must:

- a) take out insurance on the land for the period of the Charitable Gaming Activity, until the prize is signed over to the winner; and,
- b) take responsibility for the maintenance and upkeep of the land for the duration of the Charitable Gaming Activity until the prize is signed over to the winner.

7.3 Where a prize consists of any of land, second-hand goods, motor vehicles, works of art, antiques, animals or gemstones, a Fundraiser must:

- a) provide the winner with a correct certificate of market value from an appropriate valuer; and,

7.4 A Fundraiser must not offer any of the following as a prize:

- a) items or substances that are prohibited by law;
- b) firearms, ammunition and other prohibited weapons;
- c) tobacco products;
- d) surgical or dental procedures or other medical or therapeutic treatment; or
- e) any other items restricted or prohibited by State legislation or permit conditions.

7.5 A Fundraiser must arrange for prizes to be distributed:

- a) as advertised; or
- b) if for any reason section 7.10 (a) cannot be complied with, as requested by prize winners.

7.6 A Fundraiser must take all reasonable effort to notify the winners of a Charitable Gaming Activity.

8. Conducting the Charitable Gaming Activity

8.1 All participants must have a fair and equal chance of winning a Charitable Gaming Activity.

8.2 Prizes must be drawn in descending order of value, unless otherwise permitted by relevant State or Territory legislation.

8.3 A Fundraiser must ensure that winning is not contingent upon being present at the draw of the Charitable Gaming Activity.

8.4 If using electronic drawing equipment in a Charitable Gaming Activity, a Fundraiser must ensure that the equipment complies with any guidelines set out by State legislation and permit conditions and if required, have the equipment's operation certified by an authorised party.

8.5 If a ticket is not included in the draw for a Charitable Gaming Activity, a Fundraiser must make all reasonable efforts to advise the ticket holder and refund their money within 7 days of the date of notice.

9. Record keeping and auditing

9.1 A Fundraiser must ensure that the Organisation maintains financial records of any Charitable Gaming Activity, including income and expenditures.

9.2 Charitable Gaming Activity records must be kept for the time period required by State legislation.

9.3 A Fundraiser, if required by State or Territory law, must submit financial records to the relevant State or Territory office for auditing.

10. Compliance and FIA Complaints Process

10.1 FIA members and Organisations must comply with FIA's Principles and this Standard and relevant Commonwealth and State laws including the Spam Act 2003 (Commonwealth), Trade Practices Act 1974 (Commonwealth), Privacy Act 1988 (Commonwealth) and the National Privacy Principles.

10.2 Complaints concerning this Standard or the conduct of a FIA member, Organisation or Corporation will be determined by the FIA Ethics Committee in accordance with the FIA Complaints Process.

Appendix 1 Contact details for National, State or Territory regulatory bodies

AUSTRALIAN TAXATION OFFICE (ATO)

ATO has an extensive guide on its website for record keeping and tax issues for non profit organisations. It also has an overview of regulation in each State or Territory.

Internet: www.ato.gov.au/nonprofit

AUSTRALIAN CAPITAL TERRITORY

Charitable collections fall under the *Charitable Collections Act 2003*. For a licence to collect for charity contact the ACT Office of Regulatory Services at:

Phone: (02) 6207 0475

Fax: (02) 6207 0487

Mail: PO Box 225 Civic Square ACT 2608

Email: bn.general@act.gov.au

Internet: <http://www.rgo.act.gov.au>

For fundraising through raffles, housie (bingo), trade promotion lotteries and calcuttas the relevant legislation is the *Lotteries Act 1964*. This is overseen by the ACT Gambling and Racing Commission.

Contact: ACT Gambling and Racing Commission

Phone: (02) 6207 0361

Fax: (02) 6207 7390

Email: gambling.operations@act.gov.au

Mail: PO Box 214, Civic Square Australian Capital Territory 2608

Internet: <http://www.gamblingandracing.act.gov.au/Gambling/Lotteries.htm>

On the website you will find the application for a licence to run a raffle, housie, trade promotion lottery and calcutta.

NEW SOUTH WALES

Fundraising and appeals for money, may take a variety of forms – including supply of food, entertainment, games of chance or other goods and services, or in connection with a commercial undertaking. All these activities are regulated by the Office of Charities.

Contact: Office of Liquor, Gaming and Racing.
Internet: <http://www.olgr.nsw.gov.au>
Phone: (02) 9995 0666
Fax: (02) 9995 0611
Email: charity.inquiries@olgr.nsw.gov.au
Write: GPO Box 7060, Sydney, New South Wales 2001

If a liquor licence is sought, the relevant authority needs to be contacted.

For information about holding an event, see Event NSW: <http://www.events.nsw.gov.au/>

SOUTH AUSTRALIA

Charitable collections and the conduct of any entertainment where the proceeds are to be applied to a charitable purpose must comply with the *Collections for Charitable Purposes Act 1939*, *Collections for Charitable Purposes (Collection Bins) Regulations 1995* and the *Collections for Charitable Purposes Act 1939 – Standard of Practice*.

Any organisation seeking to raise money utilising fundraising lotteries must comply with the *Lottery and Gaming Act 1936 (LG Act)* and the *Lottery and Gaming Regulations 2008 (LG Regulations)*. Contact should be made with Office of Liquor and Gambling.

Contact: Office of Liquor and Gambling
Internet: www.olgc.sa.gov.au
Phone: Lottery licensing on (08) 8226 8500
Fax: (08) 8226 8588

Email: lottery@saugov.sa.gov.au

Write: Lottery Licensing, GPO Box 771, Adelaide South Australia 5001

If a liquor licence is sought, the relevant authority needs to be contacted.

QUEENSLAND

The Office of Fair Trading (OFT) administers the *Collections Act 1966*, which controls how charities and community purpose organisations conduct appeals for public support or fundraising in Queensland. Any organisation that wants to publicly fundraise for a charitable or community purpose is governed by this Act. Activities regulated by OFT under the *Collections Act 1966* include:

- fundraising appeals
- door-to-door appeals and street collections, and
- commercial appeals on behalf of charities by entrepreneurs.

Contact: Office of Fair Trading

Internet: <http://www.fairtrading.qld.gov.au/>

Phone: 13 13 04

Email: BrisbaneOFT@dtftwid.qld.gov.au

Write: GPO Box 3111, Brisbane, QLD, 4001

Compliance needs to take place with laws and regulations concerned with lotteries, raffles and games of chance, which are regulated under the *Charitable and Non-Profit Gaming Act 1999*. Contact should be made with the Queensland Office of Gaming Regulation.

Contact: Queensland Office of Gaming Regulation

Internet: www.qogr.qld.gov.au

Phone: (07) 3872 0999 or 1800 064 848

Fax: (07) 3872 0998

Email: info@qogr.qld.gov.au

Write: Locked Bag 180, City East, Brisbane Queensland 4000

If a liquor licence is sought, the relevant authority needs to be contacted.

TASMANIA

The Liquor and Gaming Branch representing the Tasmanian Gaming Commission regulates gaming permits for charitable and nonprofit organisations such as lotteries, calcuttas sweepstakes, instant draw bingo, raffles, lucky envelopes and dancing dollars.

Contact: The Liquor and Gaming Branch, Tasmanian Gaming Commission

Internet: www.gaming.tas.gov.au

Phone: (03) 6233 2475

Fax: (03) 6234 1728

Email: gaming@treasury.tas.gov.au

Write: GPO Box 1374, Hobart Tasmania 7001

Consumer Affairs and Fair Trading administers the *Collections for Charities Act 2001*. This applies to any person soliciting money for a charitable purpose from the public.

Contact: Consumer Affairs and Fair Trading

Internet: http://www.consumer.tas.gov.au/business_affairs/charities

Phone: (03) 6233 4523

Fax: (03) 6233 4882

Email: consumer.affairs@justice.tas.gov.au

Write: GPO Box 1244, Hobart Tasmania 7001

VICTORIA

Fundraising appeals are regulated by the *Fundraising Appeals Act (VIC) 1998 (Fundraising Act)* which is administered by Consumer Affairs Victoria.

Contact: Consumer Affairs Victoria
Internet: www.consumer.vic.gov.au
Phone: 1300 558 181
Fax: (03) 9627 6007
Email: consumer@justice.vic.gov.au
Write: GPO Box 123A, Melbourne Victoria 3001

Gaming activities for the benefit of the community or charitable Organisations are regulated by the *Gambling Regulation Act 2003 (Gaming Act)* which is administered by the Victorian Commission for Gambling Regulation.

Contact: Victorian Commission for Gambling Regulation, Minor Gaming Unit
Internet: www.vcgr.vic.gov.au
Phone: (03) 9651 3630
Fax: (03) 9651 3246
Email: Minor.gaming@vcgr.vic.gov.au
Write: PO Box 1988, Melbourne Victoria 3001

If a liquor licence is required, the relevant authority must be contacted.

WESTERN AUSTRALIA

To collect money or goods for charitable purposes compliance needs to take place with the *Charitable Collections Act (1946)* which is governed under the Department of Consumer & Employment Protection, Charitable Collections Section.

Contact: Department of Consumer & Employment Protection, Charitable Collections Section.
Internet: www.docep.wa.gov.au/charities
Phone: (08) 9282 0832



Fundraising Institute Australia

Fax: (08) 9282 0948

Email: consumer@docep.wa.gov.au

Write: Locked Bag 14, Cloister Square Western Australia 6850

Community gaming activities are regulated under the *Gaming and Waging Commission Act 1987*. Contact should be made with the Department of Racing, Gaming and Liquor

Contact: The Department of Racing, Gaming and Liquor

Internet: www.rgl.wa.gov.au

Phone: (08) 9425 1888

Fax: (08) 9221 7108

Email: rgl@rgl.wa.gov.au

Write: PO Box 6119, East Perth Western Australia 6892

If a liquor licence is sought, the relevant authority needs to be contacted.

Appendix 2 Model Risk Management Assessment Plan

A risk management assessment plan should:

1. identify risks for a Charitable Gaming Activity including financial and liability
2. assess level of risks of a Charitable Gaming Activity
3. control identified risks and
4. review risk assessments

Charitable Gaming Activity risks may include but are not limited to:

- Physical risks such as damage to property or persons
- Financial risks
- Reputational Risks such as outstanding Charitable Gaming Activity books
- Fraud risk such as improperly allocated or false ID badges
- Risks associated with outsourcing Charitable Gaming Activity management to Suppliers
- Compliance risks such as compliance with licensing, solicitation, occupational health and safety and child protection

Risk management assessment must be a written plan. Using a risk assessment matrix such as the matrix below will assist.

SAMPLE RISK ASSESSMENT MANAGEMENT PLAN

| Identify risk | How likely is the risk ? | | | |
|------------------|--------------------------|--------|----------|---------------|
| | VERY LIKELY | LIKELY | UNLIKELY | VERY UNLIKELY |
| EXAMPLES OF RISK | | | | |

| | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|
| Kill or cause permanent disability or ill health | 1 | 1 | 2 | 3 |
| First aid needed | 3 | 4 | 5 | 6 |
| Risk of fraud (e.g. failure to return ticket books and ID badges at conclusion of Charitable Gaming Activity) | 1 | 2 | 3 | 4 |
| Inappropriate conduct by Charitable Gaming Activity Supplier on behalf of a Organisation | | | | |
| Financial loss or failure to make a profit. Inability to predict with degree of certainty the levels of ticket sales, in balance against the high up-front costs in conducting a Charitable Gaming Activity | 2 | 3 | 4 | 5 |
| Inability to deliver prize – must be able to securely store 'prizes' and have ability to deliver prizes in a timely manner, as promised | | | | |

Risk management assessment must consider organisational and government regulations on matters of public health and safety such as:

- public event management
- contractor/volunteer management
- accident investigation
- evacuation procedures
- patron safety

Fundraisers and/or Organisations must inform and where required obtain permission from relevant local and State authorities, for example:

- council
- police
- licensing authorities

Fundraisers must comply with relevant legislation including *Workplace Relations Act 1994* (Cth), State/Territory occupational health and safety, State/Territory workers compensation, and State/Territory legislation for Charitable Gaming Activities.



Draft Standard of Grants Fundraising Practice



We exist to make the world a better place by advancing professional fundraising through:

- *advocacy of standards*
- *professional development pathway*
- *measurable credentials*

so that our members achieve best practice

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DRAFT STANDARD OF GRANTS

FUNDRAISING PRACTICE

Introduction

This purpose of this standard is to provide guidelines for ethical conduct of fundraising practice for Fundraisers and Organisations making applications for Grants from a Fund or Organisation

1. To whom does this Standard apply?

1.1 This Standard applies to FIA members. FIA can only monitor this Standard and enforce it if necessary against an FIA member.

1.2 This Standard does not replace nor override any law.

2. Definitions used in this Standard

- **Appeals officer** means a person appointed by the FIA Board to conduct an appeal under the FIA Complaints Process.
- **Beneficiary** means any person or entity which receives a benefit from an Organisation in pursuance of the Organisation's objects.
- **Corporation** means an entity incorporated under the Corporations Act 2001 (Cth) and established for the purpose of profit.
- **Complaint** means a notice in writing sent by any person to FIA concerning an alleged breach by an FIA member of any part of the FIA Principles and Standards of Fundraising Practice.
- **Complainant** means a person who makes a complaint to FIA.
- **Deductible Gift Recipient** means an Organisation that is approved by the Australian Taxation Office as entitled to receive tax deductible Donations.
- **Director** means a person who is appointed or elected to the position of a director of an Organisation or a Corporation.
- **Donation** means a voluntary contribution by a Donor of money, property, goods or services to an Organisation for the purpose of furthering that Organisation's objects. It does not include a sponsorship or community business partnership.

- **Donor** means an individual or other entity that makes a contribution of value to an Organisation to further the Organisation's Objects. A Donor does not include an individual or entity that engages with an Organisation for the purpose of trade.
- **Ethics Committee** means a committee of FIA members and non-members appointed by the FIA Board for the purpose of making determinations on Complaints.
- **FIA** means Fundraising Institute Australia.
- **FIA member** means a person or Organisation who is registered as an FIA member.
- **Fundraiser** means a person, Corporation or Organisation, who carries out activities, whether for remuneration or as a volunteer, for the purpose of raising funds for the objects of an Organisation.
- **Fundraising Activity** means an activity carried out by a person, Corporation or Organisation, whether for remuneration or as a volunteer, for the purpose of raising funds for the object of an Organisation.
- **Fund** means a gift or trust fund:
 - a) to which Donations of money or property are made for the principal purpose of a Trust; and
 - b) to which any money received by the Trust because of those Donations is to be credited.

This definition includes but is not limited to prescribed private fund.

- **Grant** means an award of money made to an Organisation by a Fund after assessing the Organisation's application for a Grant.
- **Objects** means the objective, purpose or cause however so defined in an Organisation's constituent documents.
- **Organisation** means an entity incorporated under Commonwealth or State legislation and established for a purpose other than profit.
- **Professional Misconduct** means conduct by an FIA member that is a violation of a Principle or Standard of Fundraising Practice that has serious adverse consequences to a Complainant or was committed intentionally by the Fundraiser or both.

- **Promotional Material** means any material in connection with a Donation, Fund or an Organisation whether in printed, electronic or oral form made available by a Fundraiser or Organisation to any person.
- **Sponsor** means a third party who sponsors a Fund or an Organisation for an agreed outcome.
- **Supplier** means a third party supplying goods or services for payment to an Organisation.
- **Tax** means all taxes payable in connection with a Grant, including without limitation income tax, pay as you go (PAYG), good and services tax (GST) and capital gains tax.
- **Trade Mark** means a word or group of words, logo, image, colour, scent or shape (whether registered or unregistered) used by an Organisation or Fund to identify the Organisation.
- **Trust** means a trust established under a trust deed.
- **Trust Deed** means the written document which establishes a Trust.
- **Trustee** means the person named in the Trust Deed as the Trustee and any other person appointed as a Trustee from time to time;
- **Unsatisfactory Conduct** means conduct by a FIA member that is neglectful of a Principle or Standard of Fundraising Practice that has minor adverse consequences to a Complainant or both.
- **Volunteer** means a person who performs a service for an Organisation without requiring compensation for performing the service.

3. Ethical considerations when applying for a Grant

- 3.1 A Fundraiser must not hold financial interests which conflict with their duties for the Organisation they represent.
- 3.2 A Fundraiser must not engage in financial transactions using confidential information acquired in the course of applying for a grant or allow the improper use of such confidential information to further any private interest.
- 3.3 When applying for a Grant, a Fundraiser must not offer to any Fund any gift of monetary value from any person or entity.

- 3.4 A Fundraiser must not make express or implied statements to the effect that an Organisation will obtain a Grant as a result of the Fundraiser's application.
- 3.5 A Fundraiser must not accept remuneration based on a percentage of the amount of the Grant awarded to an Organisation. However, Fundraisers may accept remuneration based on a reasonable commission or bonus that is not related to the amount of the Grant awarded.
- 3.6 A Fundraiser must not make Grant applications that contain material that is illegal, discriminatory or unethical.
- 3.7 A Fundraiser must comply with FIA's Principles of Fundraising Practice and this Standard at all times and will only work with Organisations that comply with FIA's Principles of Fundraising Practice and this Standard.

4. Guidelines for applying for a Grant

- 4.1 These guidelines are included for the assistance of Fundraisers. However, Fundraisers should rely on their own skill, experience and expertise in applying for a Grant.
- 4.2 The cost benefit to the Grant seeking Organisation should be assessed according to the written plan set before applying for the Grant.
- 4.3 The Grant procedure should include the following criteria:
 - a) Planning;
 - b) Administration; and
 - c) Evaluation
- 4.4 Appendix 1 sets out a guideline for a model Grant procedure for the guidance of Fundraisers and Organisations.

5. Planning a Grant

5.1 A Fundraiser should comply with the key steps to make a Grant application which are:

When applying for a Grant,

- a) establish a proposal consistent with the Objects of the Grant seeking Organisation, including the objectives, the rationale and the expected results; and
- b) prepare a budget in accordance with section 7.1;

After the award of a Grant,

- c) write a report for the Grant making Organisation or Fund about the Grant, evaluating the outcomes set for the Grant.

5.2 A Fundraiser should not make Grant applications that:

- (a) do not meet the guidelines for the Grant application; or
- (b) are made to a Fund or Organisation whose Objects are not consistent with the Objects of the Organisation represented by the Fundraiser, to avoid making Grant applications which will not be considered.

6. Budget

6.1 A Fundraiser must set a budget before making the application for a Grant.

6.2 A Fundraiser must ensure that all expenses incurred in the budget are lawful and comply with FIA's Code of Ethics and Professional Conduct.

6.3 A Fundraiser must comply with:

- a) recognised accounting standards of practice;
- b) reporting, record keeping and payment requirements of the Australian Taxation Office;
- c) reporting and record keeping requirements of relevant State or Territory legislation; and
- d) FIA's Code of Ethics and Professional Conduct, in particular, section 3.

7. Promotional Materials

7.1 A Fundraiser must ensure that any Promotional Material used:

- a) is factually accurate, truthful and not likely to deceive or mislead any person;
- b) identifies the Organisation for which the Promotional Material will be distributed;
- c) identifies the objective of the Organisation or Fund;
- d) complies with the *Trade Practices Act 1975* (Cth) and State Fair Trade Acts, (in particular those sections relating to misleading and deceptive conduct and false and misleading representations);
- e) complies with the relevant Commonwealth, State or Territory legislation in connection with a Fund; and
- f) is approved by the Organisation or Fund.

7.2 Where a Fundraiser discloses a cost of fundraising in Promotional Materials, that cost must be factually accurate.

7.3 A Fundraiser must make the current annual report of an Organisation they represent freely available upon a reasonable request.

8. Use of Logos and Trade Marks

- 8.1 If the Fund or Organisation has a Trade Mark, associated with or used in connection with it, the Fundraiser must ensure that the Fund or Organisation has given permission for the use of the Trade Mark and take all reasonable steps to prevent its unauthorised use by third parties including Suppliers or the media.

9. Compliance and Management of Complaints

- 9.1 Fundraisers and Organisations must comply with FIA's Principles & Standards of Fundraising Practice and relevant Commonwealth and State legislation.
- 9.2 Complaints concerning this Standard or the conduct of a Fundraiser, Organisation or Corporation will be determined by the FIA Ethics Committee in accordance with the FIA Complaints Process.



Appendix 1 Model Procedure for applying for a Grant

| Planning |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. Identify the amount of funds the Organisation wants to raise, how and from whom? 2. Draft a timetable for the application. 3. Construct a budget for the Grant proposal. 4. Develop a specific application plan for the Grant proposal. |
| Administration |
| <ol style="list-style-type: none"> 1. Obtain the guidelines for the Grant. 2. Use appropriate systems for accounting. 3. Promotional Material – organise design and printing. |
| Evaluation |
| <ol style="list-style-type: none"> 1. Evaluate outcomes set for the Grant 2. Report in writing to the Organisation about the Grant and the evaluation of the Grant |

Based on “Key elements for a special Event ” in Wendroff, A (2004) Special Events; proven strategies for nonprofit fundraising (2nd ed.), John Wiley & Sons Inc, Hoboken, New Jersey, p. 37



Appendix 9:

Fundraising Standards Board UK overview



Fundraising Standards Board (FRSB) (UK)

The Fundraising Standards Board (FRSB) is the new self-regulatory body for fundraising in the UK. The Fundraising Standards Board self-regulatory scheme was set up after wide consultation with key individuals from a range of charitable bodies and Government. The principle behind its introduction is to allow fundraising organisations to demonstrate best practice, eliminate poor practice and increase public trust and confidence in the voluntary and community sector. FRSB exists to deal with public complaints about fundraising activity and to help the public give with confidence to charities. Charities and organisations that display the scheme's logo are demonstrating that they have signed up to the highest fundraising standards.

Charities with the Fundraising Standards Board tick have committed to be honest, respectful and accountable in their fundraising. And now this promise is backed up an independent complaints procedure should it be needed. The FRSB encourages members of the public to support charities and to look for the tick so they can give with confidence.

Self-regulation

There are two key parts to self-regulation. Firstly, the requirement to sign up to the Codes of Fundraising Practice, which are the best practice standards that the fundraising community set through the work of the Institute of Fundraising's Standards Committee. The second part is the donor facing and independent Fundraising Standards Board, which operates a complaint mechanism and ensures that the general public's views and opinions are heard.

Self-regulation provides one platform from which charities can consistently demonstrate high standards, across the UK. In addition, it will enable charities to visibly demonstrate their commitment to best practice and sustain and build upon public trust and confidence in the charities that they currently enjoy.

Background

The self-regulation of fundraising scheme was established as a result of recommendations made in Private Action, Public Benefit, a 2002 government report on charity law and regulation.

Following an 18-month consultation process undertaken by the Buse Commission during 2003-2004, a sector-wide steering committee chaired by the Charities Aid Foundation (CAF) then reviewed the commission's recommendations and proposed a structure for the voluntary self-regulation fundraising scheme.

The Buse Commission recommended the creation of a voluntary opt-in membership scheme whereby fundraising organisations would commit to adhering to the Institute of Fundraising's Codes of Fundraising Practice as well as The Fundraising Promise, and use the Fundraising Standards Board quality mark on fundraising materials. In the first instance this scheme was administered by IoF and was fully integrated into their structure. It has since separated as an independent organisation.

With an ultimate goal of increasing public confidence in fundraising and ensuring accountability and transparency in fundraising activities throughout the UK, the aims of the self-regulation of fundraising are:

- To maintain high standards in UK fundraising.
- To investigate fundraising complaints from the public.
- To demonstrate best practice in fundraising.

What does joining the Fundraising Standards Board mean for charities and fundraising organisations?

The FSB encourages charities and other fundraising organisations to become members of the self-regulation scheme and ensure that each member commits to the highest fundraising standards, and that they have a robust complaints procedure in place.

The FRSB began recruiting organisations to join the scheme in June 2006 and the scheme was publicly launched in February 2007. FRSB encourages charities and other fundraising organisations to become members of the Fundraising Standards Board scheme. They ensure that each member commits to the highest fundraising standards, and that they have a robust complaints procedure in place. Around 800 organisations have become members of the scheme since its inception.

Members of the Fundraising Standards Board Scheme must:

- Adhere to the Institute of Fundraising's Codes of Fundraising Practice and Code of Conduct and The Fundraising Promise, which together represent the highest standards of good practice in fundraising.
- Have procedures in place to deal with public complaints. They should also offer a complaints 'safety net' whereby members of the public can contact the Fundraising Standards Board if they are not satisfied with the charity's response.
- Demonstrate that they are members of the Fundraising Standards Board scheme by displaying the scheme logo on their external communications.

How does FRSB relate to other regulatory bodies?

When it comes to other regulatory bodies, Memorandums of Understanding have been established to cover potential areas of overlap and eliminate any areas of duplication. If a complaint is received that isn't relevant to FRSB, they direct the complainant to the relevant body.

Funding and operations

The Cabinet Office and Scottish Executive have provided funding for the first five years, after which time the scheme will become self-financing by its members.

FRSB is a Community Interest Company; that is, a limited company designed specifically to operate for the benefit of the community, rather than for private advantage. It consists of 12 Board Members and an operational team. The 12 Fundraising Standards Board's Board members are responsible for making final adjudications on public complaints about fundraising. In order to represent a balance of interests, the Board members include representatives from the voluntary, consumer protection and charity law sectors, plus five lay board members.

The Fundraising Standards Board's operational team consists of six members of staff and the Chief Executive, Jon Scourse.

One current challenge for FRSB is the funding model which underpins its operations and appears unlikely to provide sufficient revenue to sustain the board as first envisaged. This is one of the challenges of separating code development from compliance management and enforcement.

INTRODUCTION

What is ACFID?

The Australian Council for International Development (ACFID) is an association of approximately 80 non government organisations in Australia working in the fields of human rights and international aid and development. As well as administering the Code of Conduct, ACFID provides information, training and coordination services to member organisations to assist in the development and implementation of standards of good practice.

Why an ACFID Code of Conduct?

The ACFID Code of Conduct is a voluntary, self regulatory industry Code. The Code represents the active commitment of overseas aid agencies or Non Government Development Organisations (NGDOs) to conduct their activities with integrity and accountability.

The Code aims to enhance standards throughout the NGDO community to ensure that public confidence is maintained in the way that community contributions to overseas aid are used to reduce poverty through effective and sustainable development.

All members of ACFID must be compliant signatories to the Code of Conduct however organisations may choose to become a signatory to the Code of Conduct without becoming a member of ACFID.

Adherence to the Code is required for organisations to be accredited with the Australian Agency for International Development (AusAID) in order to apply for funding from the Australian government aid program.

The Code of Conduct sets out standards in the fields of:

1. organisational integrity
2. governance
3. communication with the public
4. finances
5. personnel and management practice

As a minimum step to ensure transparency and public accountability, the ACFID Code requires all signatory organisations to make available to donors and supporters an annual report that:

- describes the goals, purposes and activities of the organisation
- lists the names and qualifications of the members of the governing body
- includes audited financial statements in prescribed and easy to understand formats.

This annual reporting requirement together with the common financial format means that donors may more easily compare one organisation with another and stay informed about how their support is being put to use.

How is the Code monitored?

A Code of Conduct Committee monitors adherence to the Code and investigates complaints which may be brought by any member of the public. The Committee comprises of six members elected from the NGDO community, an independent Chairperson and a representative of Australian donors nominated by the Australian Consumers' Association. The Code sets out a clear process through which complaints are investigated and findings determined. Where a breach of the Code is found, the Committee takes action to address the problem. If no satisfactory solution is reached the Committee may withdraw recognition of the organisation as a signatory to the Code and publish the findings of an investigation.

How is the Code applied to everyday practice?

The Code of Conduct is not just a set of written standards, it is an ongoing and active commitment by signatories to good practice. The scope and implementation of the Code is regularly reviewed by the Committee and the overseas aid community through ACFID. Seminars and workshops are conducted every year to train and inform personnel of the requirements of the Code and how the standards are applied to everyday practice.

What is the Guidance Document?

The Guidance Document complements the ACFID Code of Conduct. It should be noted that the requirement for signatories to the Code to comply with the Code of Conduct applies only to the principles of the Code itself, not to the Guidance Document. Signatories are not obliged to observe the Guidance Document (unless direct reference is made to it by the Code of Conduct), nor do board members have to approve it. Rather, the Guidance Document is a tool that can help signatories interpret and apply the principles of the Code. It suggests practical ways that signatories can implement the Code in their guidelines, policies and practices.

This Guidance Document is not legally binding. It is expected that the document will be regularly revised on the basis of the evolving standards of the NGDO and voluntary sector as a whole.

PREAMBLE

Introduction

The Preamble to the Code of Conduct describes the nature of organisations who are Code signatories and defines a collective set of shared values and principles. In addition the Preamble provides an introduction to the standards of operation that signatories are required to comply with and their legal responsibilities.

Guidance information

Code of Conduct clause 1.1

This Code of Conduct defines standards of governance, management, financial control and reporting with which non government development organisations (NGDOs) should comply. It identifies mechanisms to ensure accountability in NGDO use of public monies. The Code aims to maintain and enhance standards throughout the NGDO community, ensuring public confidence in: the integrity of individuals and organisations comprising the NGDO community; and quality and effectiveness of NGDO programs.

This clause outlines the standards to which signatories are required to comply. All requirements indicated in the clause are addressed in more detail and more specifically throughout the Code.

Code of Conduct clause 1.2

Organisations which are signatories to this Code aim to build creative and trusting relationships with people of developing countries and to meet program standards which:

- ***give priority to the needs and interests of the people they serve***
- ***encourage self help and self-reliance among beneficiaries and thus avoid creating dependency***
- ***involve beneficiary groups to the maximum extent possible in the design, implementation and evaluation of projects and programs***
- ***respect and foster internationally recognised human rights, both socio-economic and civil-political***
- ***seek to enhance gender equity***
- ***are based on an understanding of the history and culture of the people served.***

All Australian NGDOs have principles that flow from their values and philosophy. Some of these are unique to each organisation and some are shared amongst the sector.

These values and principles are used by signatories as a foundation to inform the development of policies and program strategies, defining each signatory's own contribution to global development. Diversity within the sector is valued as it allows a wide range of possible responses to the complex issues of development.

This section of the Code outlines the shared values and principles, providing a view of development, which has emerged from the collective experience of ACFID members over many years.

Code of Conduct clause 1.3

NGDOs are required to meet a range of state and federal legal obligations which are presumed in this Code. These obligations may include corporations laws, rules of incorporation of associations, fundraising and charitable institutions legislation, privacy legislation, equal employment opportunity principles, occupational health and safety standards, anti discrimination legislation, intellectual property and copyright legislation and other codes of ethics.

It is the responsibility of each signatory organisation to ensure they are meeting the numerous state and federal legal obligations. As the nature of signatory organisations is diverse, the Code does not specify in detail these obligations.

Other references

- ACFID NGO Effectiveness Framework (June 2004) - www.acfid.asn.au

ORGANISATIONAL INTEGRITY

Introduction

This section of the Code outlines the obligations signatories have to their stakeholders, and specifies standards that ensure the integrity, accountability and transparency of the work they undertake.

This is based on the values and principles outlined in section 1 of the Code.

Guidance information

Code of Conduct clause 2.1

In all of its activities and particularly its communications to the public, the organisation will accord due respect to the dignity, values, history, religion, and culture of the people with whom it works consistent with principles of basic human rights.

This clause builds on the values and principles for signatories outlined in paragraph 1.2 of the preamble to the Code. It requires signatories to operate in a manner consistent with these values in all activities, often articulated in the organisational vision and purpose statements. Signatories have enhanced these values with an additional principle adopted at the ACFOA NGO Effectiveness Conference in July 2002, which states that:

Australian NGOs shall identify their values, communicate them to all key stakeholders and reflect them in their work.

The chart on the following page shows compliance indicators for Clause 2.1

Code of Conduct clause 2.1

| Code Requirement | Compliance Indicators |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>In all of its activities and particularly its communications to the public, the organisation will accord due respect to the dignity, values, history, religion, and culture of the people with whom it works consistent with principles of basic human rights.</p> | <p><i>Organisational governance</i> - The values and principles (consistent with this requirement) that inform the work of the organisation are:</p> <ul style="list-style-type: none"> • clearly articulated in the organisation's vision and purpose statements • are in key documents (such as the constitution, annual report and strategic plan) • are communicated clearly to all key stakeholders – the public, official donors, implementing partners and government bodies, the people for whom they are working. <p><i>Marketing and fundraising</i></p> <ul style="list-style-type: none"> • A clear process and practice is in place to ensure that staff regularly assess public communication materials against the requirements. As these are clearly value judgements, this should be done as part of a review process. <p><i>Advocacy, research and campaigns</i></p> <ul style="list-style-type: none"> • A similar approach to the one listed in the previous point should be used and include public policy documents and research articles as well as campaign materials. <p><i>Program management</i></p> <ul style="list-style-type: none"> • All aspects of the project management cycle, staff conduct and relationships with partner organisations, should be regularly scrutinised against these criteria using a review process. |

TIPS

The additional statement adopted by NGOs in July 2002 indicates that signatories must be transparent and accountable to all their stakeholders, including implementing partners and the people for whom they are working.

The relationship between signatories and their implementing partners should be based on shared values and principles.

Code of Conduct clause 2.2

The organisation will be formed voluntarily and be not-for-profit.

This requirement reflects the inherent link between the values that inform NGOs and their work and the governance and legal structures that reflect them. Voluntarism and not-for-profit are important criteria that distinguish NGOs from commercial companies and government agencies.

| Code Requirement | Compliance Indicators |
|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The organisation will be formed voluntarily | <p>Voluntary organisations:</p> <ul style="list-style-type: none"> • are formed by a group of interested people for a common purpose • serve a public benefit • rely on volunteers (at least for governance) • rely on some financial and in-kind support from the community • have limited direct influence by governments other than in relation to legislative and tax requirements. |
| and be not-for-profit | <p>An organisation is not-for-profit if it is not carried on for the profit or gain of its individual members.</p> <p>Organisations will be not-for-profit where their governing instrument prevents them from distributing profits or assets for the benefit of particular persons, both while they are operating and on winding up.</p> <p>The governing instrument must indicate the organisations not-for-profit character. A not-for-profit organisation can still make a surplus. However, any surplus it makes must be used to carry out its purposes. The surplus must not be distributed to owners, members or other private persons.</p> |

TIPS

Examples of not for profit clauses required:

Non-profit clause. *The assets and income of the organisation shall be applied solely in furtherance of its above-mentioned objects and no portion shall be distributed directly or indirectly to the members of the organisation except as bona fide compensation for services rendered or expenses incurred on behalf of the organisation.*

Dissolution clause. *In the event of the organisation being dissolved, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to any organisation with similar purposes which is not carried on for the profit or gain of its individual members.*

Information informed by www.ato.gov.au 24 April 2003

Code of Conduct Clause 2.3

The organisation will oppose and not be a willing party to wrongdoing, corruption, bribery, or other financial impropriety in any of its activities. It shall take prompt and firm corrective action whenever and wherever wrongdoing is found among its governing body, paid staff, contractors, volunteers and partner organisations.

This clause requires the organisation to have policies and procedures in place to monitor and address any potential for wrongdoing. The emphasis is on the organisation to be proactive in identifying and addressing any potential cause for concern.

| Code Requirement | Compliance Indicators |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The organisation will oppose and not be a willing party to wrongdoing, corruption, bribery, or other financial impropriety in any of its activities</p> | <p>Clear communication to the governing body, paid staff, contractors, volunteers and partner organisations of the organisations expectations of them in relation to wrongdoing, corruption, bribery, or other financial impropriety. Articulation methods could include procedures manuals, internal codes of conduct, partnership agreements and contracts.</p> |
| <p>It shall take prompt and firm corrective action whenever and wherever wrongdoing is found among its governing body, paid staff, contractors, volunteers and partner organisations.</p> | <p>Clear procedures to deal with situations where wrongdoing is identified.</p> <p>Clear communication of this procedure to governing body, paid staff, contractors, volunteers and partner organisations. Communication methods could include procedures manuals, internal codes of conduct, partnership agreements and contracts.</p> |

Code of Conduct clause 2.4

The organisation will have a policy to enable staff confidentially to bring to the attention of the governing body evidence of misconduct on the part of anyone associated with the organisation. All reports must be channelled through the chief executive officer unless it is an issue concerning the chief executive officer which should be taken directly to a member of the governing body.

Signatories should clearly define and articulate to governing body members, paid staff, contractors, volunteers and partner organisations professional conduct standards and expectations.

A process to address breaches of professional conduct standards should be developed. This process should be clear, trustworthy and ensure confidentiality for all parties involved.

| Code Requirement | Compliance Indicators |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The organisation will have a policy to enable staff confidentially to bring to the attention of the governing body evidence of misconduct on the part of anyone associated with the organisation.</p> <p>All reports must be channelled through the chief executive officer unless it is an issue concerning the chief executive officer which should be taken directly to a member of the governing body.</p> | <p>A clear statement of professional conduct requirements for governing body, paid staff, contractors, volunteers and partner organisations.</p> <p>A clear and reasonable procedure in place to deal with issues of misconduct. The procedure must enable issues to be raised confidentially. The procedure must clearly identify who within the organisation complaints are to be reported to – (this must include one member of the governing body).</p> <p>Clear articulation of this procedure to all governing body, paid staff, contractors, volunteers and partner organisations. This could include procedures manuals, internal codes of conduct, partnership agreements and contracts.</p> |
| <p>T I P S</p> | <p>Reference Documents:</p> <ul style="list-style-type: none"> - Grievance Procedures Guidelines—The NSW Anti Discrimination Board of NSW - Whistleblowers Protection Act 2001 - The ACFID Code of Conduct Complaints procedure (section 8) |

Code of Conduct clause 2.5

The organisation will conduct itself in ways that do not denigrate other agencies, or make misleading or false public statements regarding other agencies.

Denigrate: To sully, defame or attack the good name or reputation of (Macquarie Dictionary)

The principle underlying this clause is one of respect based on mutual accountability. It recognises that the behaviour of an organisation can have an effect on other organisations: a scandal involving one NGO affects the whole community. The public does not necessarily differentiate among NGOs or follow all the nuances of different agencies and selective use of information may undermine the public trust in the NGO community.

This does not prevent signatories becoming involved in responsible public debates about issues of concern to the international development sector. It also does not prevent public criticism of one signatory by another in the event that the conduct of that signatory has undermined the integrity, credibility or accountability of the sector as a whole.

The Code recognises that there are diverse ways of undertaking development work, that there are a variety of program approaches and that all Code signatories must take seriously their accountability to the NGO community and standards described in the Code.

| Code Requirement | Compliance Indicators |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The organisation will conduct itself in ways that do not denigrate other agencies, or make misleading or false public statements regarding other agencies.</p> | <p>Communication by signatories regarding another agency must:</p> <ul style="list-style-type: none"> • be factual • not mislead • not be made with the intention of creating a self benefit. |
| <p style="writing-mode: vertical-rl; transform: rotate(180deg);">T I P S</p> | <p>It is inappropriate for an organisation, for reasons of self-promotion, to imply that other organisations spend unreasonable amounts on administration compared to their own organisation.</p> <p>Organisations should describe themselves in terms of their own merits rather than in comparison to other NGOs.</p> <p>Organisations should have clearly understood guidelines and approval processes for the making of written and verbal public statements.</p> |

Code of Conduct clause 2.6

The organisation will have policies and procedures to promote the safety and well being of all children accessing their services and programs, particularly to minimise the risk of abuse of children.

The work of the majority of signatories impacts directly and indirectly on the lives of children. It is essential, that these organisations have taken all necessary measures to ensure the protection, safety and well-being of these children. Policies and procedures must be in place allowing them to respond efficiently to any cases of alleged abuse or exploitation.

This applies to organisations working both locally in Australia and overseas.

| Code Requirement | Compliance Indicators |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The organisation will have policies and procedures to promote the safety and well being of all children accessing their services and programs, particularly to minimise the risk of abuse of children.</p> | <p>Clear child protection policies and procedures in place.</p> <p>Child protection policies address the following areas (if applicable):</p> <ul style="list-style-type: none"> • program planning and implementation • use of images and personal information for promotion, fundraising and development education • personnel recruiting – for headquarters and field offices including staff, volunteers, consultants and suppliers • behaviour protocols • reporting procedures for allegations and/or incidences • training and education of staff in child protection policy and protocols • legal responsibilities • policy to be reviewed on regular basis in line with other audits |

TIPS

The requirements outlined in Code clause 4.2 (fundraising solicitations and the use of photographs) and clause 2.1 (paying due respect to dignity, values, history, religion and culture) should be kept in mind when developing a child protection policy.

Programs working with children should have systems in place where children can speak up and participate.

Other References

- Child Wise – www.childwise.net
- Choose with Care: Building Child Safe Organisations— an information and training program.
- Grievance Procedures Guidelines - The NSW Anti-Discrimination Board of NSW
- Whistleblowers Protection Act 2001-
- The Code of Conduct Complaints procedure (section 8)
- UN Convention on the Rights of the Child - www2.ohchr.org/english/law/crc.htm
- National Association for Prevention of Child Abuse & Neglect - www.napcan.org.au
- Australian Families and Children Council (AFCC)
- Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) (and State counterparts) – www.facsia.gov.au/.
- Australian Tax Office – www.ato.gov.au
- ACFID NGO Effectiveness Framework, June 2004

Code of Conduct clause 2.7

Funds and other resources designated for the purpose of aid and development will be used only for those purposes and will not be used to promote a particular religious adherence or to support a political party, or to promote a candidate or organisation affiliated to a political party.

The purpose of this clause is to ensure that signatories are clearly, accurately and transparently representing, undertaking and accounting for their activities to the people they work with, donors and the public. The intention is not in anyway to restrict the activities of Code signatories or to judge their values.

The underlying principle of this clause is that funds raised for aid and development purposes are only to be used in programs which in no way exploit the people and communities who are vulnerable and do not place any conditions or obligations on recipients in terms of religious or political outcomes that would affect their access to services being offered.

It is recognised that applying this clause will be quite complicated in some situations and that a number of 'grey areas' currently exist in terms of compliant behaviour. The guidance information cannot at this stage provide answers on how to comply with this clause in all situations.

If signatories find that the Guidance Document does not provide them with a clear answer on how to comply in a particular circumstance, they should ensure that they document clearly the decisions they make and the reasons behind them so that both recipients and donors have some explanation about how programs have been developed and will be delivered.

| Code Requirement | Compliance Indicators |
|---------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Funds and other resources designated for the purposes of aid and development will be used only for those purposes.</p> | <ul style="list-style-type: none"> • Guidance Document requirements for section 5.5 of the Code are adhered to. • The agency has a policy or guidelines approved by the Governing Body, that indicates how its aid and development program is separated from its other organisational activities. <p>Other organisational activities might include (but are not limited to) evangelistic, welfare and/or partisan political activities. (Agencies should note that AusAID's requirements are that welfare and development activities can be differentiated – see definitions at end of this Part).</p> • Documented arrangements (are in place and available) with all implementing organisations that reflect the principles of this clause. <p>For example:</p> <ul style="list-style-type: none"> - Documented communications with implementing organisations that make clear the purpose of funds transferred from Australia eg agreements with partners include the agencies policies on evangelism, political and development activities. • Documented monitoring practices (are in place and available) to ensure implementing organisations compliance with the principles of this clause. |



For example:

- Documented agreements with implementing organisations that include regular monitoring strategies.
- Documented acknowledgements/reports from implementing organisation indicating their understanding and acceptance of the principles of this clause.

Such documentation could be reported in Annual Reports and/or websites.

Code Requirement

Funds and other resources designated for the purposes of aid and development will not be used to promote a particular religious adherence or to support a political party, candidate or organisation affiliated to a political party.

Compliance Indicators

Where a signatory's objectives include the funding and management of non-development activities, the signatory must be able to demonstrate the independence of aid and development activity from other organisational activity. The following compliance indicators apply:

Beneficiaries (people we work with in country)

- Program beneficiaries are clearly informed of the intended outcome of programs.
- If an organisation is undertaking both aid and development programs and 'other' non aid and development activities in a community:
 - Beneficiaries must be consulted and informed of the distinction and independence of activities.
 - All effort must be made (and documented) by the organisation to ensure that the beneficiaries are aware that the programs are separate and not reliant upon each other.

Funds

- Guidance Document requirements for section 5.5 of the Code are adhered to;
- Where funding is invited for the general objectives of the organisation (e.g. for non-designated purposes) the agency must have clear policies/procedures in place to ensure the allocation of funding is as per what the funding invitation promises or implies;
- Code of Conduct Summary Financial reports should clearly disaggregate aid and development activities from non-development activities; and
- Appropriate allocation of funds requirements continues until all funds are fully expended.

Public Communication

- Where promotional, fundraising or educational material contains references to aid and development activities and other organisational activities, the separation of programs must be clearly articulated.
- In all fundraising solicitations that include references to aid and development, donors are given the opportunity to contribute to aid and development activities specifically.

Staff

- Guidance Document requirements for clause 6.2 of the Code are adhered to.
- Have a clear and demonstrable separation of duties;
- Job descriptions for staff clearly reflect the proportion of funding from development and non-development funds; and
- Management practices are in place which adequately monitor the above two points.

Non-compliant examples:

1. An organisation runs an appeal in Australia for its development work in Papua New Guinea. The funds are then transferred to a partner agency in Papua New Guinea that applies the funds to development activities which include components which seek to change the faith or denominational affiliation of the participants.
2. An organisation runs an appeal in Australia for its development work in Indonesia. The funds are then used to fund a development worker in Indonesia. The development worker 'while implementing program' seeks to persuade the program participants to support a particular candidate in the next election.
3. An organisation produces and distributes a newsletter to its membership which includes a general fundraising appeal for the organisation. The content of the newsletter could be characterised as 80% aid and development, 10% evangelism and 10% other. When the funds are received they are allocated on a ratio of 80% to evangelism and 20% to aid and development activities.

Clause 2.7 Definitions

| Item | Definition |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| Other Resources | Include (but are not limited to) funds raised, gifts in kind, property, assets, staff and volunteers of signatory and partner organisations. |

Clause 2.7 Definitions cont..

| Item | Definition |
|------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Promoting a particular religious adherence | Activities undertaken with the intention of converting individuals or groups from one faith and/or denominational affiliation to another. |
| Supporting a political party, candidate, or organisation affiliated to a political party | <p>Agency staff (when using the agency name or resources or in paid time):</p> <ul style="list-style-type: none"> - being involved in party political activities - using funds or resources to facilitate or support a specific political party, candidate, or party-political organisation in a local, regional or general/national election. - using funds or resources to facilitate or support a particular politician or faction to gain power within a government or within a political party structure. |
| Welfare (AusAID Welfare Definition) | <p>Welfare means assistance to maintain individuals in a particular condition on a long-term basis, such as institutionalised care programs provided by orphanages, child sponsorship (that is, funds given directly to children or their families, and not funds drawn from child sponsorship and used for development purposes), hospital care programs, hospices, and costs for the maintenance of structures for institutionalised care programs (for example, schools or orphanages).</p> <ul style="list-style-type: none"> - Welfare is implemented independently of other sustainable community development activities. - Welfare includes no strategy for integration into a broader, community development program. - Welfare is provided on an individual or family basis, rather than on a community basis, and is unconnected to emergency needs. - Welfare activities are implemented on a long-term basis with no clear exit strategy. |
| Other organisational activities | <p>Includes all activities that do not meet the following Code of Conduct definition for aid and development activities:</p> <p><i>Aid and development refers to activities undertaken in order to reduce poverty and address global justice issues via direct engagement through community projects, humanitarian relief and/or community education and public policy campaigns.</i></p> |

Governance

Introduction

What is governance & management?

'Governance is the process by which a governing body ensures that an organisation is effectively and properly run....Governance is not necessarily about doing; it is about ensuring things are done.' (UK Trust)

'Corporate governance usually refers to the process by which organisations are directed, controlled and held to account. It encompasses authority, accountability, stewardship, leadership, direction and control exercised in the organisation.' (Australian National Audit Office)

'The system by which entities are directed and controlled.' (OECD)

'Management is the process of getting activities completed efficiently and effectively with and through other people.' (Gulick & Urwick 1937. Papers on the Science of Administration)

In practice, governance and management are not as clearly distinguished as the above quotes suggest. Together, the board and the executive officer provide the leadership of the organisation.

Guidance Information

Code of Conduct clause 3.1

An organisation's governing instrument (constitution, articles of association, rules, by-laws or similar documents) will be consistent with legislative requirements and set forth the organisation's basic goals and purposes, define membership, governance structure of the organisation including the frequency of meetings (at least two a year) and the size of a quorum.

All signatories must have a written document (called a governing instrument in the Code) that sets out the goals and purpose of the organisation and defines how it operates. A governing instrument may be called a constitution, rules, articles of association or by laws.

The chart on the following page shows compliance indicators for clause 3.1 .

Code of Conduct clause 3.1

| Code Requirement | Compliance Indicators |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>An organisation's governing instrument (constitution, articles of association, rules, by-laws or similar documents) will:</p> | |
| <ul style="list-style-type: none"> be consistent with legislative requirements | <p>The organisation can present information demonstrating that their governing instrument complies with relevant Commonwealth and state legislation.</p> |
| <p>T I P S</p> <p>The majority of signatories are incorporated as either incorporated associations or companies limited by guarantee. This means that they are formed in accordance with an Act of Parliament and registered as a legal entity with the state or federal government. Consequently, the governing instrument must comply with all relevant Commonwealth and state legislation.</p> | |
| <ul style="list-style-type: none"> set forth the organisation's basic goals and purposes | <p>The governing instrument includes details of the organisations goals and purposes - objectives for a given year do not satisfy this requirement.</p> |
| <ul style="list-style-type: none"> define membership | <p>The governing instrument defines:</p> <ul style="list-style-type: none"> who members of the organisation are membership rights and obligations. |
| <ul style="list-style-type: none"> governance structure of the organisation including the frequency of meetings (at least two a year) | <p>The governing instrument defines:</p> <ul style="list-style-type: none"> how the governing body of the organisation is appointed/elected how often the governing body meets (this must be a minimum of twice a year). |
| <ul style="list-style-type: none"> and the size of a quorum. | <p>The governing instrument defines the size of a quorum for meetings of the governing body.</p> |
| <p>T I P S</p> <p>Quorum refers to how many people (who are eligible to vote) are required to attend a meeting of the governing body for the meeting to be considered legitimate, ie. adequately representative of the membership rather than the interests of one or more individuals.</p> | |

Code of Conduct clause 3.2

Each organisation will have a governing body elected/appointed by members from within the membership/supporters. The governing body will approve the annual budget and may delegate authority to staff or others but must accept ultimate responsibility for governance over all aspects of the organisation. There should be clearly defined lines of authority between the governing body and management.

Code Requirement

Each organisation will have a governing body elected/appointed by members from within the membership/supporters.

Compliance Indicators

The governing instrument defines the process for appointing/electing the governing body from the membership/supporter base.

T I P S

The Code of Conduct Committee is aware that operating structures vary considerably depending on the type of agency, focus etc. For example, church agencies are often established under the authority of the governing body of the church (synod, conference etc).

The status of member and supporter within organisations vary and are defined by individual agencies. However there are some common features:

In general, members:

- are defined by an organisation's governing instrument
- have a formal status which endows them with certain rights and responsibilities towards the organisation
- have to pay an annual membership fee.

In general, supporters:

- are not necessarily defined in the organisations governing instrument
- have a less formal status than that of membership.

The governing body will approve the annual budget and may delegate authority to staff or others but must accept ultimate responsibility for governance over all aspects of the organisation.

The powers and responsibilities of the governing body are clearly outlined within the governing instrument, terms of reference or operational guidelines and statutes.

The powers/responsibilities include:

- the power to delegate authority to officers, staff and others,
- a statement of the responsibility of the governing body for governance over all aspects of the organisation,
- approval of the annual budget,
- appointment of the organisations auditor
- receiving and reviewing the annual financial report.

T I P S

The governing body (board, executive committee or council) is responsible for ensuring the organisation does what is stated in its governing instrument.

The governing body may delegate some of its responsibilities to officers or staff but ultimately it is responsible for the organisation.

There should be clearly defined lines of authority between the governing body and management.

The roles and responsibilities of the governing body, management and staff are documented and clearly articulated to staff, management and the governing body.

Code of Conduct clause 3.3

There will be written policies covering appointment, termination and, where applicable, remuneration of members of the governing body. The organisation will have policies restricting the number of paid staff who are voting members of the governing body.

To ensure the integrity and accountability of an organisation's operations, there must be clearly documented operational processes for the governing body.

Limiting the number of paid staff on the governing body helps ensure there is balance between the interests of paid employees (staff) and the members represented by of the governing body in pursuing the aims of the organisation.

| Code Requirement | Compliance Indicators |
|-----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>There will be written policies covering appointment, termination and, where applicable, remuneration of members of the governing body.</p> | <p>The organisation has written policies covering:</p> <ul style="list-style-type: none"> • appointment, • termination, • (where applicable) remuneration of members of the governing body. |
| <p>The organisation will have policies restricting the number of paid staff who are voting members of the governing body.</p> | <p>The organisation (if applicable) has written policies restricting the number of paid staff who are voting members of the governing body.</p> |

Code of Conduct clause 3.4

Members of the governing body, paid staff, and volunteers will make known to the governing body any conflict of interest or any affiliation they might have with an actual or potential supplier of goods and services, recipient of grant funds or organisation with competing or conflicting objectives. Members of the governing body and paid staff will absent themselves from discussion and abstain from voting or otherwise participating in the decision on any issue in which there is a conflict of interest. Large or otherwise inappropriate gifts to members of the governing body or staff for personal use shall be forbidden.

A conflict of interest arises when a person participating in decision making is able to gain or could be perceived as gaining:

- personal advantage from the outcome of the decision and/or
- advantage for another organisation/person with which they are involved,
- advantage due to access to privileged information.

To avoid the real or perceived conflict, an individual must make known the interest and absent themselves from the discussion and decision making if required.

| Code Requirement | Compliance Indicators |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Members of the governing body, paid staff, and volunteers will make known to the governing body any conflict of interest or any affiliation they might have with an actual or potential supplier of goods and services, recipient of grant funds or organisation with competing or conflicting objectives.</p> | <p>The organisation has a clearly articulated process for notification of conflicts of interest by any governing body member, paid staff and volunteers.</p> |
| <p>T I P S</p> | <p>The conflict of interest process should clearly outline the steps to be followed when a conflict of interest is identified.</p> |
| <p>Members of the governing body and paid staff will absent themselves from discussion and abstain from voting or otherwise participating in the decision on any issue in which there is a conflict of interest.</p> | <p>Conflict of interest processes ensure that:</p> <ul style="list-style-type: none"> • real or perceived conflicts of interest are clearly recorded • the capacity to influence a decision in which there is a conflict of interest is eliminated. |
| <p>Large or otherwise inappropriate gifts to members of the governing body or staff for personal use shall be forbidden.</p> | <p>Conflict of interest processes ensure that assessment of gifts and favours is undertaken to distinguish those that represent goodwill and friendship from those, which are designed to create indebtedness.</p> |

Code of Conduct Clause 3.5

The governing body will commit the organisation to open and accurate disclosure of information concerning its goals, programs, finances and governance. Due regard will be given to the human rights and personal safety of staff, partners and aid recipients, legal requirements regarding privacy and confidentiality, proprietary information and personnel matters.

The provision of open and accurate information concerning an organisation's activities is key to public accountability.

| Code Requirement | Compliance Indicators |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The governing body will commit the organisation to open and accurate disclosure of information concerning its goals, programs, finances and governance.</p> | <p>A minimum requirement for open and accurate disclosure is demonstrated through the production and distribution of an annual report (as defined in the ACFID Code of Conduct clause 4.1), newsletters and websites.</p> |
| <p>Due regard will be given to the human rights and personal safety of staff, partners and aid recipients, legal requirements regarding privacy and confidentiality, proprietary information and personnel matters.</p> | <p>Policies, procedures and processes relating to staff, partners and aid recipients that should (where relevant) be informed by:</p> <ul style="list-style-type: none"> • rights and obligations as outlined in the Universal Declaration of Human Rights and expressed in relevant employment legislation, • personal safety issues, • privacy legislation and any other confidentiality issues, • proprietary information - commercial information (apart from annual financial statements) about the internal operations of the organisation should be protected and confidentiality respected, • personnel matters - section 6 of this Guidance Document for further information on personnel matters. |

T I P S

See section 6 of this Guidance Document for further information on personnel and management

Code of Conduct clause 3.6

The organisation will hold an annual general meeting of its members as defined in its governing instrument and which meets the requirements of the legislation under which the organisation is incorporated. The AGM will receive the annual audited financial statements and appoint an independent auditor for the subsequent year/s.

All incorporated organisations are required (as defined by the legislation under which they have incorporated) to convene an annual general meeting.

The annual general meeting is a key means of maintaining the accountability of the organisation. All members must be invited to attend and participate.

| Code Requirement | Compliance Indicators |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The organisation will hold an annual general meeting of its members as defined in its governing instrument and which meets the requirements of the legislation under which the organisation is incorporated</p> | <p>Annual general meetings are convened as defined in the signatory's governing instrument.</p> |
| <p>The AGM will receive the annual audited financial statements and appoint an independent auditor for the subsequent year/s.</p> | <p>The annual general meeting meets the requirements set out in the signatory agency's governing instrument and at a minimum:</p> <ul style="list-style-type: none"> • receive the audited annual financial statements; and • appoint an independent auditor for the following year/s. |

Communication with the Public

Introduction

Clear, accurate and transparent communication is essential in maintaining public confidence in the work of overseas aid and development organisations.

Guidance Information

Code of Conduct clause 4.1

An annual report is to be produced and made available to the organisations own members, supporters and members of the public upon request.

The ACFID Code requires all signatories to make available to donors and supporters an annual report as a minimum to ensure transparency and public accountability.

This annual reporting requirement, together with the common financial format provides consistent and reliable information for donors to enable more informed decision making.

The purpose of an annual report is to document and inform members, supporters and the general public of the annual activities of an organisation and is a key mechanism of an agency's accountability and transparency. Annual reports are not to be produced exclusively for the purposes of the Code of Conduct Committee.

Electronic versions (via websites) of annual reports are acceptable under the Code of Conduct provided that they:

- comply with the requirements listed below
- that it's clearly advertised to members and donors that the annual report has been produced
- that a hard copy is available upon request.

Signatories should produce their annual report and submit it (a paper copy) to the ACFID Code of Conduct Committee **within five months** of the end of their financial reporting period.

The Code of Conduct definition of an annual report is contained inn section 9 of this document.

| Code Requirement | Compliance Indicators |
|-----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A statement of the organisation's goals or purposes. | A statement of the organisations goal's or purposes are included in the annual report |
| T I P S | This can be detailed or brief. The aims and objectives as listed in the organisations governing instrument or the organisation's mission statement or vision are sufficient. |
| A summary of overall program activities by country or region. | A summary of overall program activities by country or region is included in the annual report. |
| T I P S | The purpose of this requirement is to inform donors and the public of the work undertaken during the year being reported on. Details such as location and type of project are sufficient but more detail is encouraged. |
| Names and qualifications of the Governing Body as well as those who served at any time during the period being reported on. | A list of the names and qualifications of the Governing Body are included in the annual report. |
| T I P S | The purpose of this requirement is to identify the people governing the organisation. This may include simple information such as name and educational, professional qualifications/ experience or relevant affiliations. |
| Financial reports using the Code of Conduct Summary Financial Report format. | Financial reports using the Code of Conduct Summary Financial Report format are included in the annual report. |
| T I P S | The Conduct Summary Financial Report format is contained in section 5 of the Guidance Document. |
| An audit opinion on the financial reports, clearly identifying the auditor (name, company, address and signature). | An audit report (auditor clearly identified) on the financial reports is included in the annual report. |
| T I P S | Further details on audit requirements are contained in Section 5 of this Guidance Document. |

Code of Conduct clause 4.2

Fundraising solicitations will be truthful, will accurately describe the organisation's identity, purpose, programs, and needs and will only make claims which the organisation can fulfil. There will be no material omissions or exaggerations of fact, no use of misleading photographs, nor any other communication which would tend to create a false impression or misunderstanding.

It is recommended that Code signatories have clear guidelines on fundraising practice to guide staff involved in the organisations fundraising activities.

Signatories and their staff are encouraged to be aware of and comply with the *Fundraising Institute of Australia Code of Ethics* and *Code of Professional Conduct* and any other appropriate professional standards.

| Code Requirement | Compliance Indicators |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Fundraising solicitations will be truthful and will accurately describe the organisation's: | |
| <ul style="list-style-type: none"> identity and purpose | Solicitations accurately identifying the organisation's name, Australian Business Number, address and purpose/primary function. |
| <ul style="list-style-type: none"> programs and needs and will only make claims which the organisation can fulfil. | Solicitations clearly state why the donations are being collected and what they will be used for. |
| There will be no: | |
| <ul style="list-style-type: none"> material omissions or exaggerations of fact | <p>Solicitations accurately state what donations will be used for.</p> <p>Solicitation must not exaggerate or mislead what a donors response will achieve or the extent of the need.</p> |
| <ul style="list-style-type: none"> no use of misleading photographs, nor any other communication which would tend to create a false impression or misunderstanding. | <p>Solicitations should accurately portray intended recipients, their situations and the potential solutions.</p> <p>Solicitations should not leave potential donors feeling that their failure to respond to the solicitation will have greater consequences than the reality of the situation.</p> |

TIPS

General guidance on the use of images:

- Images of intended recipients should present them in a dignified manner.
- Key figures in images should be informed of what the image is being used for and their permission gained.
- The origins of images should be known and necessary copyright releases held.
- The use of images should not in anyway endanger the people they include.

See also the Dochas Code for images and messages:

www.dochas.ie/documents/Images_and_Messages.pdf

All fundraising solicitations should adhere to state/territory charities/fundraising legislation requirements.

Code of Conduct Clause 4.3

In all fundraising activities initiated or authorised by it, the organisation will have policies (consistent with the Privacy Act 1988) set up to protect donors' rights to:

- *have their names deleted from mailing lists;*
- *have their names deleted from mailing lists the organisation may intend to share;*
- *be informed whether those seeking donations are volunteers, paid staff or agents of the organisation;*
- *be informed about the causes for which funds are being raised;*
- *get information on the application of their donation; and*
- *be able to identify collectors and have documentation confirming the bona fides of the organisation.*

| Code Requirement | Compliance Indicators |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| In all fundraising activities initiated or authorised by it, the organisation will have policies (consistent with the Privacy Act 1988) set up to protect donors' rights to: | Evidence must be available to show that the organisation is aware of the Privacy Act 1988 and has policies and procedures as required. |
| <ul style="list-style-type: none"> • have their names deleted from mailing lists • have their names deleted from mailing lists the organisation may intend to share | <p>The inclusion of 'opt out' clauses in relevant solicitations.</p> <p>Procedures in place to ensure that requests for removal of names from mailing lists are acted upon.</p> |
| <ul style="list-style-type: none"> • be informed whether those seeking donations are volunteers, paid staff or agents of the organisation | Collection staff wearing authorised identification stating whether they are volunteers or staff members. |
| <ul style="list-style-type: none"> • be informed about the causes for which funds are being raised | The purpose of the solicitation is clearly stated on fundraising material. Also see requirements for Code clause 5.5. |
| <ul style="list-style-type: none"> • get information on the application of their donation | Financial and program reporting on all appeals in the annual report. |
| <ul style="list-style-type: none"> • be able to identify collectors and have documentation confirming the bona fides of the organisation. | <p>The organisation has procedures in place to ensure that collectors and the organisation are clearly identified at the collection point.</p> <p>Collectors wear authorised identification.</p> |

T I P S

Information on national privacy legislation can be found on the Privacy Commissioners website - www.privacy.gov.au

All fundraising solicitations should adhere to state/territory charities/fundraising legislation requirements.

Code of Conduct clause 4.4

The organisation will be responsible for all fundraising activities outsourced to a third party and will put all such contracts and agreements in writing.

Code Requirement

The organisation will be responsible for all fundraising activities outsourced to a third party and will put all such contracts and agreements in writing.

Compliance Indicators

All contracts with third party fundraisers are in writing.

Contracts with third party fundraisers clearly state the expectations, responsibilities and obligations of each party.

Other References

- Fundraising Institute of Australia– www.fia.org.au
- *Code of Ethics*
- *Code of Professional Conduct*
- Privacy Commissioner - www.privacy.gov.au
- State/territory charities/fundraising legislation requirements.

Finances

Introduction

Signatories demonstrate their commitment to accountable and transparent financial management practices by adhering to the Code's financial standards and complying with all other legal obligations.

Monitoring of Financial and Annual Reporting

The Code's financial and annual reporting requirements are two sections of the Code that are actively monitored by the Code of Conduct Committee.

Within five months of the end of a signatory organisation's financial reporting period, they are required to submit to the Code of Conduct Committee:

- One copy of the agency's annual report (see section 9 of the Guidance Document for a definition) that meet Code of Conduct standards, and
- One copy of the agency's full financial report (see section 9 of the Guidance Document for a definition). Full financial reports must comply with any legal obligations. If an agency includes the full financial report in their annual report a separate submission of the full financial report is not required.
- From 1 January 2008, the Code of Conduct Annual Report Lodgment Form must accompany all annual report submissions. Annual Reports submitted without the Code of Conduct Annual Report Lodgment Form will not be accepted for submission and will be returned to the signatory.

Tsunami Reporting Amendment 2005

The massive response by the donor public to the Asian tsunami prompted the Code of Conduct Committee to review and amend the annual and financial reporting requirements of the Code. To increase transparency of reporting, minor but important adjustments have been made to the annual and financial reporting requirements for **signatory agencies that have raised funds for the tsunami**.

All agencies that have conducted tsunami appeals or that have otherwise received funding, bequests, donations or other forms of support which are in respect of the tsunami are required to:

- ***Complete the table of cash movements for designated purposes in relation to these funds; and***
- ***Include information in their annual report on how these funds have been used.***

The Code of Conduct Committee will continue to monitor the annual and financial reports of all signatories to the Code but has committed to a more detailed review process of tsunami-related funds for a minimum period of five years or until funds and resources are fully expended.

Guidance Information

Code of Conduct clause 5.1

The organisation will have internal control procedures which minimise the risk of misuse of funds. Reporting mechanisms which facilitate accountability to members, donors and the general public will be used. The organisation will have adequate procedures for the review and monitoring of income and expenditure. Loans to and transactions with governing body members shall be publicly disclosed. Loans to staff shall be disclosed to the governing body.

| Code Requirement | Compliance Indicators |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The organisation has internal control procedures to minimise the risk of misuse of funds.</p> | <p>Formal procedures are in place to ensure that no one person has the capacity to both approve payments and disburse funds.</p> |
| <p>T I P S</p> <p>An example of an internal control is a procedure such as having two authorised signatures for approving disbursements.</p> | |
| <p>The organisation has internal mechanisms to ensure accountability to members, donors and the general public.</p> | <p>Procedures are in place to ensure that Code of Conduct financial and annual reporting requirements are adhered to.</p> <p>Auditors and staff are aware of Code of Conduct requirements.</p> <p>Members receive or are notified of the availability of annual reports and financial reports.</p> |
| <p>The organisation has adequate procedures for the review and monitoring of income and expenditure.</p> | <p>The organisation keeps detailed accounting records.</p> <p>Accounting records are monitored regularly through the appropriate internal channels (financial managers, treasurers and governing bodies).</p> |
| <p>Loans to and transactions with governing body members shall be publicly disclosed.</p> | <p>If an organisation has provision for making loans to the governing body members there must be a written policy in place describing how these loans operate.</p> <p>All loans and transactions with members of the governing body must be audited and included in the full financial reports.</p> |
| <p>Loans to staff shall be disclosed to the governing body.</p> | <p>If an organisations has provision for making loans to staff, they must have a policy to ensure that such loans are disclosed to the governing body.</p> <p>All loans to staff must be reported to the governing body on a regular basis.</p> |

Code of Conduct clause 5.2.

Notwithstanding any other legal requirements, the Organisation must publish in their annual report, financial statements prepared in accordance with the Code of Conduct Summary Financial Report Format found in the Guidance Document to the ACFID Code of Conduct. Additionally, organisations may choose to publish their Full Financial Statements within their Annual Report.

| Code Requirement | Compliance Indicators |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Notwithstanding any other legal requirements, the organisation must publish in their annual report, a financial report prepared in accordance with the Code of Conduct Summary Financial Report Format found in this Guidance Document to the ACFID Code of Conduct.</p> | <p>Production of Annual Reports which contain:</p> <ul style="list-style-type: none"> • a financial report prepared in accordance with either Option 1 or Option 2 (see below for further information) of the Code of Conduct Summary Financial Report format. • a Table of Cash Movements (if required) or a statement noting that it was not required. • a reference to the availability of the full financial report only if the full financial report has not been included in the annual report. • an audit report on the Code of Conduct Summary Financial Reports. |
| <p>T I P S</p> | <p>Signatories must each year (at the same time as submitting their annual report) provide the Code of Conduct Committee with a copy of the organisation's full financial reports (as per the definition in section 9) which meet legal requirements.</p> |
| <p>Additionally, organisations may choose to publish their full financial reports within their annual report.</p> | <p>If the full financial reports have been included in the annual report, all the above requirements apply but the auditors report must be on the full financial report.</p> |

Code of Conduct Summary Financial Report Format Options

As a minimum, all signatories to the Code must present their financial reports in their annual report in a format that complies with either **Option 1** or **Option 2** of the Code of Conduct Summary Financial Report Format as detailed below. The governing body must review and approve the organisation's financial reports and a directors' statement/report must be signed (and included in the Full Financial Report).

If an organisation chooses to publish only the Code of Conduct Summary Financial Report (and not the organisation's Full Financial Report) in the Annual Report, a reference to the availability of the Full Financial Report must be included in the Annual Report.

Auditing requirements as detailed in clause 5.3 of the Code of Conduct must be adhered to.

OPTION 1**Organisations operating relatively small aid and development programs**

For those agencies where the proportion of their total aid and development revenue is below \$250,000 or 20% of the total agency revenue (whichever is the lesser), the minimum level of disclosure required is set out below. It will **not** be necessary to prepare the organisation's accounts in compliance with the Option 2 Code of Conduct Summary Financial Report format.

As a note to the signatory's operating statement, the signatory must make the following disclosure on their international aid and development activities:

Revenue

Donated funds
Grants
Other Income
Total Revenue

Expenses

Overseas Projects
Community Education
Fundraising Costs
Administration
Total Expenses

Excess (Deficit) of Revenue over Expenses

- All headings listed in the template for this report should be used even if a zero balance is incurred.
- No Balance Sheet is required.
- No Statement of Changes in Equity is required.
- Table of Cash Movement requirements (as detailed in Option 2) apply.
- All other annual reporting requirements apply.
- Definitions for this operating statement are as per Option 2 Operating statement definitions.

OPTION 2**All other signatory organisations**

All signatories that do not meet the criteria for Option 1 of the Code of Conduct Summary Financial Report Format must comply with the minimum disclosures set out in Option 2 of the Code of Conduct Summary Financial Report Format detailed in the following pages.

Option 2 requires the production of a financial report as per the guidelines and templates set out in the following pages. Additionally, organisations may be required to produce a Table of Cash Movements if they meet the relevant requirements.

Income Statement (also known as an Operating Statement, Statement of Income and Expenditure, and Profit and Loss Statement, Statement of Financial Performance)

- The Income Statement discloses the revenue and expenses of the agency during the financial reporting period.
- Comparison figures for the previous reporting period must also be disclosed.
- The focus of the revenue section is on major income types.
- The focus of the expenses section is on major expense types.
- The purpose of using defined categories of income and expenditure is to allow the reader of the financial report to determine and make comparisons on areas such as fundraising costs, administration and community education.
- All revenue and expense headings in this report should be used even if a zero balance is incurred.

Balance Sheet (also known as a Statement of Financial Position)

- The Balance Sheet details the financial position of an organisation at a specific point in time. It is a record of an organisation's assets and liabilities.
- The level of disclosure necessary in this report will be determined by whether the agency is subject to Corporations Law or other requirements. However, the Code of Conduct format for the Statement of Financial Position is a minimum level necessary for all agencies.
- All headings listed in the template for this report should be used even if a zero balance is incurred.
- Treatment of Grants
 - Grants received are to be recognised as revenue upon receipt.
 - If the grantee fails to meet their obligation and the grantor requires the unspent portion to be refunded, then the unspent portion of the grant should be treated as a liability.
 - Table of cash movements for designated purposes must be considered and adhered to when reporting on funds received for designated/specific purposes.

Note: There has been some debate and confusion regarding the correct treatment of unspent grants. To clarify the correct treatment of grants the Code of Conduct Committee has engaged with the Australian Accounting Standard Board and the Urgent Issues Group. The above treatment of grants is in accordance with AASB 1004 "Revenue" and Statement of Accounting Concepts 4 "Definition and Recognition of the Elements of Financial Statements".

Statement of Changes in Equity

The Statement of Changes in Equity has been incorporated into the financial reporting requirements of the Code of Conduct in response to the implementation of the International Financial Reporting Standards in Australia. All signatories are strongly encouraged to discuss with their accountants the effects that the International Financial Reporting Standards may have on their organisation.

The Statement of Changes in Equity provides a reconciliation of movements in equity during the financial reporting period, specifically:

- the operating result for the period;
- each item of income and expense recognised directly in equity;
- total income less expense (the sum of the above);
- the effect of changes in accounting policies and errors on each component of equity;
- the amounts of transactions with owners, showing separately distributions to owners;
- reconciliation of opening and closing balance and changes during the period for:
 - accumulated surplus/deficit;
 - each class of contributed equity; and
 - each reserve.

All headings listed in the template for this report should be used even if a zero balance is incurred.

***Table of Cash Movements for Designated Purposes
(not to be confused with the Statement of Cash Flows which is required for entities required to comply with Corporations Law and like requirements)***

- The purpose of the Table of Cash Movements is to ensure the accountability of funds raised for designated purposes. The Table of Cash Movements is used to disclose the amount of cash that has been raised, disbursed and remains unspent at the end of year for a designated purpose.
- The Table of Cash Movements **is only required** if cash raised for a designated purpose in any one financial reporting period exceeds 10% of total revenue. The Table of Cash Movements is to be included as a note to the Balance Sheet.
- Examples of a designated purpose include:
 - - appeals for emergency relief funds in a particular country or region.
 - - funds received for a specific project under a contract with the government.
- This Table of Cash Movements is to be prepared on a cash, as opposed to accrual, basis.
- Disclosure of the balance of cash for a designated purpose must be shown in the Table of Cash Movements in subsequent years until all of the cash for that designated purpose has been disbursed.
- Where an organisation's financial report is accrual based, a note reconciling the 'cash available at end of financial year' total to the corresponding items in the financial report may be necessary.
- The 'Total for Other Purposes' row of the Table of Cash Movements is where all other revenue is to be included (such as any cash received from general purpose appeals). This is to allow for a total 'Cash Available at the end of the financial year' to balance with **cash assets** in the Balance Sheet.

Note: If a Table of Cash Movements is not required to be produced the following statement or words to this effect should be included in the finance section of the organisation's annual report '**no single appeal or other form of fund raising for a designated purpose generated 10% or more of total income for the period under review**'.

- All headings listed in the template for this report should be used even if a zero balance is incurred.

Table of Cash Movements for Designated Purposes

| | Cash available at beginning of financial year | Cash raised during financial year | Cash disbursed during financial year | Cash available at end of financial year |
|---------------------------------|----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| Designated Purpose or Appeal A* | Total of any funds raised for that designated purpose in the previous year | Total funds raised for a designated purpose during the financial year | Total funds expended on a designated purpose, appeal or grant during the financial year | Total of any unexpended funds for a designated purpose at the end of the financial year |
| Designated Purpose or Appeal B* | | | | |
| Total for other purposes | | | | |
| TOTAL | Should equal the previous year's total cash asset in the Balance Sheet. | Must agree to the total of cash donations, government and other grants, interest receipts and any other income | Must agree to the sum of operating expenses and any other outgoings | Must agree to the total of cash assets in the <i>Balance Sheet</i> . |

OPTION 2 - Code of Conduct Summary Financial Report Templates

ORGANISATION NAME
INCOME STATEMENT FOR THE YEAR ENDED 200X
(Statement of Financial Performance)

| | 200X \$000 | 200X \$000 |
|------------------------------------------------------------------------------------------------------------------|---------------|---------------|
| REVENUE | | |
| Donations and gifts - monetary & non-monetary | | |
| Legacies and bequests | | |
| Grants | | |
| <ul style="list-style-type: none"> • AusAID • other Australian • other overseas | | |
| Investment income | | |
| Other income | | |
| Total revenue | | |
| EXPENSES | | |
| Overseas projects | | |
| <ul style="list-style-type: none"> • funds to overseas projects • other project costs | | |
| Domestic projects | | |
| Community education | | |
| Fundraising costs | | |
| <ul style="list-style-type: none"> • public • government, multilateral and private | | |
| Administration | | |
| Total expenses | | |
| Excess of revenue over expenses (shortfall) from continuing operations | | |

ORGANISATION NAME
BALANCE SHEET AS AT 200X
(Statement of Financial Position)

| | 200X \$000 | 200X \$000 |
|---------------------------------|---------------|---------------|
| ASSETS | | |
| Current assets | | |
| • Cash and cash equivalents | | |
| • Financial assets | | |
| Non current assets | | |
| • Property, plant and equipment | | |
| • Other | | |
| Total assets | | |
| LIABILITIES | | |
| Current liabilities | | |
| • Trade and other payables | | |
| • Provisions | | |
| Non current liabilities | | |
| • Payables | | |
| • Other | | |
| Total liabilities | | |
| Net assets | | |
| EQUITY | | |
| Reserves | | |

ORGANISATION NAME
STATEMENT OF CHANGES IN EQUITY
FOR THE YEAR ENDING XXXX

| | Retained Earnings | Reserves | Total |
|------------------------------------------------|-------------------|----------|-------|
| Balance at XXXX (commencing balance) | | | |
| Excess of revenue over expenses | | | |
| Amount transferred (to) from reserves | | | |
| Balance at XXXX (year end balance) | | | |

Please note: Any additional disclosure required under the transitional provisions for the first time implementation of Australian Equivalents to International Financial Reporting Standards must also be made. Please contact your accountant for advice.

Table of Cash Movements for Designated Purposes
For the Year Ended [date]

| | cash available at beginning of year | cash raised during year | cash disbursed during year | cash available at end of year | comments |
|---------------------------------------|----------------------------------------------|----------------------------|----------------------------------|-------------------------------------|----------|
| Designated Purpose or Appeal A* | | | | | |
| Designated Purpose or Appeal B* | | | | | |
| Total for other purposes | | | | | |
| TOTAL | | | | | |

The minimum requirement is to show cash for designated purposes when the cash raised for that specific purpose in any one financial reporting period exceeds 10% of total revenue.

Full Financial Reports

Code of Conduct signatories are required to submit a copy of their full financial report at the same time they submit their annual report to the Code of Conduct Committee – within five months of the end of their financial year. If organisations full financial report forms part of the annual report (as opposed to the inclusion of only the Code of Conduct Summary Financial Report) then a separate submission of the full financial report is not required.

This requirement allows the Code of Conduct Committee to:

- verify that Code of Conduct Summary Financial Report Information is obtained from the full financial report.
- view signed directors reports and directors declarations. The Committee views signed director's reports and declarations as essential to ensuring that governing bodies are fully aware of the financial position of the organisation that they govern.

The content and layout of full financial reports are determined by a range of authorities and professional pronouncements. Depending on how the organisation is structured and where the particular organisation is based the requirements may differ. The organisations auditor is responsible for reporting on whether the organisation's financial reports have been prepared in accordance with applicable requirements. Guidance on these requirements is available from your auditor, professional associations and the state/territory and federal industry regulators.

Full Financial Reports include:

- Directors' Report
- Income Statement (profit and loss statement, statement of financial performance)
- Statement of Changes in Equity
- Balance Sheet (statement of financial position)
- Statement of Cash Flows (not to be confused with the Table of Cash Movements required under the Code of Conduct for some entities)
- Notes to the statements
- Directors' declaration
- Auditor's Report
- Auditors Independence declaration (only for companies)

Code of Conduct Summary Financial Report Format Definitions

The definitions listed below relate directly to the Code of Conduct Summary Financial Report template. These definitions are to be used by all signatories in the preparation of these reports. Further definitions (unrelated to the Code of Conduct Summary Financial Report Template) are contained in the 'Definitions' section (see section 9) of the Guidance Document.

| Operating Statement Item | Definition |
|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Revenue | |
| <p>Donations and gifts – monetary and non-monetary</p> | <p>Donations and gifts are benefits received free of charge (or without providing consideration in return) and include all donations, gifts and gifts in kind actually received.</p> <p>Valuing Gift in Kind and Volunteers</p> <ul style="list-style-type: none"> • The statement of financial performance requires disclosure of goods received in kind. These are to be valued only if they are material to the organisation and a fair value can be reasonably determined. • The basis of fair value is “the amount for which an asset could be exchanged between a knowledgeable, willing buyer and a knowledgeable, willing seller in an arm’s length transaction” (AASB 1015). Both usability and marketability are joint considerations in determining fair value. The fair value of impaired or encumbered assets is, or is likely to be, less than similar but unimpaired examples of those assets. • Where agencies wish to value the services of volunteers then this may be done and included in accounts. This may occur only where the amounts are material. Included in the published accounts must be a full statement disclosing the method of valuing those services. <p>Where donations and gifts form the major types of income, agencies are required to provide further detail of the composition of these, eg. specified and unspecified, domestic, overseas or by major fundraising activity.</p> |

Code of Conduct Summary Financial Report Format Definitions, cont.

| Operating Statement Item | Definition |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Legacies and bequests | Financial support in the form of gifts or donations received through wills. |
| Grants | |
| - AusAID | Grants sourced from AusAID. |
| - Other Australian | Grants sourced from all other Australian Institutions. |
| - Other overseas | All grants sourced from non Australian Institutions. |
| Investment income | Includes all income from interest, dividends, rent and foreign exchange transactions. |
| Other income | Includes any income not included in the other categories and specifically would include gross income from any commercial activities. This income must be shown gross. |
| Expenses | |
| Overseas projects | |
| - Funds to overseas projects | <p>Funds to overseas projects must be limited to funds and gifts in kind actually remitted overseas to aid and development projects, plus the cost of remitting those gifts. It includes salaries of staff working overseas which might be paid from Australia, the cost of acquiring property, plant and equipment in Australia which is then sent overseas -eg. a computer and transportation costs in getting gifts overseas.</p> <p>Funds to overseas projects other than for aid and development purposes should be shown as an extra line in expenses such as "Funds to other overseas projects" to which may be added words that describe the general purpose of those funds.</p> <p>Agencies are encouraged to show details of their overseas projects either by program or by country. These details may be disclosed either in the statement of financial performance or in notes in the form of a supplementary report or set of graphics.</p> |

Code of Conduct Summary Financial Report Format Definitions, cont.

| Operating Statement Item | Definition |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| - other project costs | Includes the direct cost of project administration spent in Australia, including project design, monitoring and evaluation and project management. It includes the training and professional development of staff involved in the effective management of projects, whether based in Australia or overseas. |
| Domestic projects | Includes projects amongst indigenous people and projects involving payments to third parties to implement projects in Australia. |
| Community education | <p>Includes all costs related to informing and educating the Australian community of, and inviting their active involvement in, global justice and development issues. This includes the cost of producing and distributing materials, the cost of conducting educational and public policy campaigns, and the cost of personnel involved in these activities.</p> <p>Educational materials and campaigns often include the opportunity for the community to provide financial or other support to the organisation.</p> <p>If educational and campaign activities include an element of fundraising, the following requirements must be followed:</p> <ul style="list-style-type: none"> · an amount proportionate to the fundraising elements involved must be charged to Fundraising Costs. For example, a one page fundraising request in a 20-page campaign newsletter will charge 5% of the total newsletter costs to Fundraising Costs. · If the amount exceeds more than 10% of the total costs for this activity, then the whole cost must be charged to Fundraising Costs. · The method for allocating the proportion of fundraising costs must be clear and be available to the auditor during the annual audit. <p>These requirements ensure that all costs associated with fundraising activities are disclosed at the highest levels of transparency.</p> |

Code of Conduct Summary Financial Report Format Definitions, cont.

| Operating Statement Item | Definition |
|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Fundraising costs | |
| - Public | Includes all costs related to the purpose of raising revenue from the public (including gifts in kind). Items include the production and mailing of fundraising materials, the cost of promotional or marketing campaigns and the cost of personnel involved in preparing and conducting marketing and fundraising campaigns. |
| - Government, multilateral and private sector | Includes the cost of personnel and related expenses in the preparation of funding submissions for grants from government, multi-lateral agencies, corporate and philanthropic organisations. |
| Administration | <p>Includes costs (not able to be allocated to a program activity) associated with the overall operational capability of the organisation.</p> <p>These costs include (but are not limited to):</p> <ul style="list-style-type: none"> · audit/accounting · legal fees · memberships · office accommodation expenses (rent, maintenance, utilities, etc.) · bank charges · general training. <p>Note: Costs of goods sold for merchandising activities, if material, should be shown separately under this heading.</p> |

Code of Conduct clause 5.3

Code of Conduct Summary Financial Reports and Full Financial Reports must be audited by at least a qualified accountant who is a member of the Australian Society of Certified Practising Accountants, the Institute of Chartered Accountants in Australia or by a Registered Company Auditor. The Auditors statement must accompany the financial report in the Annual Report.

| Code Requirement | Compliance Indicators |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Code of Conduct Summary Financial Report and full financial report must be audited. | The Code of Conduct Summary Financial Report and full financial report are accompanied by a satisfactory audit report. The audit must have been performed in accordance with relevant Australian Auditing |
| <p>The audit must be undertaken by at least a qualified accountant who is a member of:</p> <ul style="list-style-type: none"> • the Australian Society of Certified Practising Accountants • the Institute of Chartered Accountants in Australia or • a registered company auditor. | <p>The accompanying audit report clearly notes the identity and qualification of the auditor.</p> <p>Enough identification information is included in the audit report for someone to contact them if necessary.</p> <p>The audit report is signed by the auditor.</p> |
| T I P S | <p>To check whether someone is a certified practicing accountant contact the Australian Society of Certified Practising Accountants on (03) 9606 9606 or via their website www.cpaaustralia.com.au.</p> |
| | <p>To check whether someone is a chartered accountant contact the Institute of Chartered Accountants in Australia on (02) 9290 1344.</p> |
| | <p>To check whether someone is a registered company auditor, visit the Australian Securities and Investment Commissions (ASIC) website on www.asic.gov.au and search their professional register.</p> |
| The Auditor's statement must accompany the financial report in the annual report. | <p>The financial reports are accompanied by a satisfactory audit report.</p> <p>The audit report must:</p> <ul style="list-style-type: none"> • be performed in accordance with relevant Australian Auditing Standards • clearly identify the auditors name, contact details and relevant registration numbers • be signed. |

Code of Conduct clause 5.4

Where an organisation chooses to publish only their Code of Conduct Summary Financial Report in their Annual Report and not the organisations full financial report, the annual report must make reference to the fact that the Full Financial Report is available on request. Any other organisational publications that detail, summarise, or comment on financial performance must also indicate that the full financial report is available on request.

Making available the full financial reports from which figures are summarised or commented on, ensures transparency of reporting to members and the public and works towards raising the level of trust and confidence in the financial operations of signatory agencies.

| Code Requirement | Compliance Indicators |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Where an organisation chooses to publish only their Code of Conduct Summary Financial Report in their annual report and not the organisations full financial report, the annual report must make reference to the fact that the full financial report is available on request.</p> | <p>The inclusion of words such as: <i>"for a copy of the full financial report for the year ending ... please contact ..."</i> in the financial section of the annual report.</p> |
| <p>Any other organisational publications that detail, summarise, or comment on financial performance must also indicate that the full financial report is available on request.</p> | <p>The inclusion of words such as <i>"for a copy of the full financial report for the year ending ... please contact ..."</i> in any documents where information gained from the full financial reports is detailed summarised or commented on.</p> |

Code of Conduct clause 5.5

Donations shall be used as promised or implied in fundraising appeals or as requested by the donor. When funding is invited from the general public for a specific purpose, the Organisation shall have a plan for handling any excess and shall make this known as part of the appeal. Organisations shall substantiate upon request, that their application of funds is in accordance with donor intent or request.

Organisations and the reputation of the sector relies on all organisations being transparent and accountable for the way funds donated are spent. A donor has a right to know where funds they donate are directed, especially in the case of specific purpose appeals, eg. disaster relief, contracts for specific purposes.

| Code Requirement | Compliance Indicators |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Donations shall be used as promised or implied in fundraising appeals or as requested by the donor. | The availability of financial records that allow for fundraising claims to be substantiated. |
| When funding is invited from the general public for a specific purpose, the Organisation shall have a plan for handling any excess and shall make this known as part of the appeal. | Inclusion of information on what any excess funds will be used for in the appeal invitation. |
| T I P S | A 'plan' is simply a strategy for handling excess donations. eg. When a particular project concludes, unused funds are transferred to a project that is deemed to satisfy donors' wishes. |
| Organisations shall substantiate upon request, that their application of funds is in accordance with donor intent or request. | The availability of financial records that allow for the application of funds to be substantiated. |

Code of Conduct clause 5.6

The use of ratios in publications shall at all times be accompanied by a note explaining how these have been determined.

| Code Requirement | Compliance Indicators |
|--------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The use of ratios in publications shall at all times be accompanied by a note explaining how these have been determined. | If ratios (such as the percentage of funds raised which are spent on administration costs) are used a note must accompany them explaining how they have been calculated. |

Personnel and Management Practice

Introduction

International development agencies need to ensure that their philosophy of humane action is reflected in its personnel policies and management. Signatories have a duty of care to personnel, both paid and volunteer, especially given the often insecure and stressful nature of the work. Signatories are required to implement personnel and management policies and procedures that value all staff and volunteers and clearly define and protect their rights and safety.

Good personnel and management practice also contributes to greater organisational effectiveness and enables international development agencies better achieve their organisational and programmatic objectives.

Guidance Information

Code of Conduct clause 6.1

The Organisation will seek to achieve best practice in its personnel policies in response to initiatives in the aid sector and to changes in working and legal environments. The Organisation will have well defined policies and procedures relating to paid staff including expatriate and local staff employed overseas and volunteers working in Australian or overseas. These policies and procedures will clearly define and protect the rights and safety of personnel assuring fair treatment in all matters. Policies and procedures relating to staff and volunteers based outside Australia will be informed by the People in Aid: Code of best practice in the management and support of aid personnel.

Signatories should be committed to the development of policies that aim for best practice and not only for the minimum legal and professional requirements.

| Code Requirement | Compliance Indicators |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The organisation will seek to achieve best practice in its personnel policies in response to initiatives in the aid sector and to changes in working and legal environments.</p> | <p>Commitment to achieving best practice in personnel policies is demonstrated by keeping informed of and applying relevant employment best practice initiatives in the aid sector such as:</p> <ul style="list-style-type: none"> the <i>People in Aid: Code of good practice in the management and support of aid personnel</i> relevant legal requirements as indicated in clause 1.3. |
| <p>The organisation will have well defined policies and procedures relating to paid staff including expatriate and local staff employed overseas and volunteers working in Australian\ or overseas.</p> <p>These policies and procedures will clearly define and protect the rights and safety of personnel assuring fair treatment in all matters.</p> | <p>Clearly stated organisational values (with respect to management and human resource matters) as part of the organisations staff policies and procedures.</p> <p>Documented staff policies and procedures which are well defined, clearly articulated and available to all staff and volunteers. Refer to Appendix 1 Contents list of ACFID staff terms and conditions for example list of procedures.</p> |
| <p>Policies and procedures relating to staff and volunteers based outside Australia will be informed by the <i>People in Aid: Code of good practice in the management and support of aid personnel</i>.</p> | <p>If signatories have staff and volunteers based outside Australia they will ensure that relevant staff policies and procedures are informed by the <i>People in Aid: Code of good practice in the management and support of aid personnel</i> (see Appendix 6)</p> |

Code of Conduct clause 6.2

The organisation's expectations of its employees' and volunteers' professional conduct shall be clearly communicated and consistent with the requirements of the ACFID Code of Conduct.

Employees and volunteers are generally the key representatives of an organisation. Clearly communicated guidelines on the organisation's expectations of staff and volunteers ensure that both staff and volunteers are aware of what the organisation expects of them and what their responsibilities are in terms of representing their organisation.

Staff and volunteers of signatory organisations must be aware of any Code of Conduct requirements that impact on their role within the organisation. As representatives of their organisation, they must be aware that their actions may impact on their organisations compliance with the Code.

| Code Requirement | Compliance Indicators |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The organisation's expectations of its employees and volunteers professional conduct shall be clearly communicated and consistent with the requirements of the ACFID Code of Conduct. | Evidence that employees and volunteers have been made aware of the standards of behaviour and professional conduct that they are required to adhere to as representatives of their agency. These standards must be consistent with the requirements of the ACFID Code of Conduct and reflect the ethics and values outlined in the preamble of the Code (1.1 and 1.2). |

T I P S

Mechanisms for communicating requirements could be:

- organisational codes of conduct
- policies and procedures and
- job descriptions and duty statements.

For an example see Appendix 2 the ACFID Staff Code of Conduct.

Code of Conduct Clause 6.3

The organisation will be committed to continuous improvement in its management practice including the provision of regular opportunity to employees for training and professional development.

| Code Requirement | Compliance Indicators |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The organisation will be committed to continuous improvement in its management practice including the provision of regular opportunity to employees for training and professional development. | Staff policies and procedures clearly communicate the process and regularity with which staff may access training and professional development opportunities. |

Code of Conduct clause 6.4

The Organisation will have policies and strategies to promote gender equity especially in senior positions in the management and governance of the Organisation.

ACFID Gender Equity Definition (2002):

Equity is generally regarded as a state of fairness and justice. It requires that the specific needs of particular groups are considered separately and acted upon accordingly. The concept of gender equity recognises that women and men have different life experiences, different needs, different levels of power and access to decision making in our society and differing expectations by others. Gender equity strategies recognise that gender leads to different social, economic and political opportunities for women and men.

Gender equity strategies seek to achieve fairness and justice in the distribution of benefits and responsibilities between women and men, and recognises that different approaches may be required to produce equitable outcomes.

| Code Requirement | Compliance Indicators |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The organisation will have policies and strategies to promote gender equity especially in senior positions in the management and governance of the organisation.</p> | <p>Staff policies and procedures (including leave options training and promotion policies) are aimed at achieving fairness and justice in the distribution of benefits and responsibilities between men and women.</p> <p>Policies and procedures relating to representation on delegations, boards and other decision making bodies clearly state a commitment to achieving gender balance.</p> <p>The use of gender equity as a guiding principle for nomination, selection and/or secondment of staff to senior management positions.</p> |
| <p style="writing-mode: vertical-rl; transform: rotate(180deg);">T I P S</p> | <p>Examples:</p> <ul style="list-style-type: none"> • An organisation sets and adopts gender equity targets for governing body membership and management • Nomination, selection and/or secondment to senior management positions are based on relative ability, skills, experience and suitability for the position. But where gender imbalances exist in the organisation and qualifications and the skills, experience and suitability of candidates are comparable, additional weight is given to gender balance in the final decision. |

Other References

- Appendix 1 - Contents list of ACFID staff terms and conditions
- Appendix 2 - ACFID Staff Code of Conduct
- Appendix 3 - ACFID Commitment to Gender Equity, Diversity and Flexibility
- Appendix 6 - People in Aid: Code of best practice in the management and support of aid personnel

Reference to Other Codes and Standards

Introduction

This section of the Code formalises references to other Standards and Codes for programs management, humanitarian response and advocacy activities.

Guidance Information

Code of Conduct 7.1

Organisations that are signatories to the ACFID Code of Conduct are guided by the strategies and standards of engagement for program management in the ACFID NGO Effectiveness Framework.

The NGO Effectiveness Framework was developed (via a consultation process with ACFID members) to increase the impact that humanitarian and development agencies have in their work with marginalised and vulnerable communities. The Framework includes strategies and standards identified as a key to increasing the effectiveness and quality of Australian NGO work.

The framework is not designed as a checklist or prescriptive formula to be adhered to in order to be considered effective. It is important that organisations do not regard this as an imposed requirement to meet. Being 'guided' by the framework means using it as a reference point and as a tool for continuous improvement and learning.

Below are some suggested ways that signatories could use the framework:

| Aim | Possible activities |
|---------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Raise awareness of the framework by the organisation's governing body and staff. | <ul style="list-style-type: none"> • Hold discussions with staff, board members and volunteers to identify the links between the organisation's vision, values, principles, strategic planning documents and relevant codes and standards (such as those in 7.2 below); and • Create regular opportunities to discuss the framework and its application. |
| Share the framework with your program partners and stakeholders. | <ul style="list-style-type: none"> • Inform partners and stakeholders of how your organisation is using the framework; and • Seek input and feedback from partners and stakeholders on the practical application and any possible implications. |
| Review and incorporate (where appropriate) any elements of the framework which are not currently used/addressed by your organisation. | <p>Use the framework as background information to each element of the project cycle. Use the framework to:</p> <ul style="list-style-type: none"> • Appraise project proposals against; • Guide and inform the planning and review of partnerships and programs, both informally and in formal program designs and evaluations; and • Assess the effectiveness of projects and activities in monitoring visits and evaluations. |

Use the framework as a tool for ongoing (every 2-3 years) organisational learning and reflection.

Ask staff and boards to consider the following:

- How well does your agency articulate your values and principles and how well are they understood by your stakeholders?
- Is your agency guided by clearly articulated program policies?
- How well does your agency perform against the program strategies?
- How well do current program management tools incorporate the standards of engagement?

Use the framework as a basis for accountability and peer learning with other Australian agencies.

- Use evaluation funds to participate in peer evaluation with other agency/ies;
- Develop case studies and anecdotes that demonstrate your experience of applying the framework; and
- Participate in peer learning opportunities (contribute your case studies) through ACFID that will contribute to the evolution of the framework.

Code of Conduct clause 7.2

Organisations which are signatories to this Code will also be informed by the following codes and standards where they are relevant to the work of the Organisation:

- ***The Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief (Appendix 4); and***
- ***Sphere Humanitarian Charter and Minimum Standards in Disaster Response (Appendix 5).***

References to these Codes have been formalised in order to provide guidance on the expectations of standards that signatories should meet when undertaking humanitarian response activities in the field. The requirement that Code signatories are informed by these codes means that at a minimum, signatory conduct should not contradict the standards and requirements they outline, and good practice would be the adoption of procedures and standards wherever appropriate and possible.

Information Documents

- Appendix 4 — The Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief;
- Appendix 5 — Sphere Humanitarian Charter and Minimum Standards in Disaster Response; and
- Appendix 6 — The ACFID NGO Effectiveness Framework, June 2004.

Complaints

Introduction

The Code of Conduct offers a mechanism to address concerns relating to signatories conduct. Every effort is made to ensure that natural justice is safeguarded by allowing the signatory against whom the complaint is made to respond to the complaint and to the findings of an investigation.

Outlined in the following section is the procedure for having an issue addressed by the Code of Conduct Committee.

Notes on the Complaints Handling Process

- The person or organisation making the complaint is referred to as the 'Complainant'.
- The organisation against which the complaint is made is referred to as the 'Signatory'.
- The 'Chairperson' means the current Chairperson of the Code of Conduct Committee.
- All complaints received will be handled through this process.
- Anonymous complaints will not be investigated by the Code of Conduct Committee.
- At any time during the Complaint Process, the Chairperson may employ people with particular skill or expertise to provide advice as needed on the complaint being investigated.
- The Appeal Officer is appointed for a three year term by the ACFID Executive Committee from nominations recommended by the Code of Conduct Committee. The Appeal Officer is responsible for the management of all appeals. In the event that the Chairperson of the Code of Conduct has a conflict of interest with a particular complaint, the Appeal Officer will undertake the role of the Chairperson for that particular complaint. ACFID will ensure that appropriate insurances are in place to limit any liability of the Appeals Officer for decisions made in connection with the Code of Conduct Complaints Procedure Appeals Process.
- To protect the reputation of signatories to the Code, the investigation of an alleged complaint is treated as strictly confidential unless and until the complaint has been determined to be a notifiable breach by the Code of Conduct Committee and the appeal process has been exhausted. The investigation of complaints will take account of the following key principles from the *Privacy Act*:
 - information will only be collected in so far as it is necessary and lawful,
 - information will only be used for the purposes for which it is collected unless consent is obtained from the organisation under investigation,
 - information will only be disclosed with the agreement of the organisation under investigation or where necessary to enforce the provisions of the ACFID Code of Conduct.
- The investigation of complaints under the Code of Conduct is not a process involving Australian Law. The complainant, and the signatory against which the complaint is made, are not entitled to legal representation in the complaint handling process.
- Complaints relating to alleged breaches of Australian law, such as laws relating to the employment of staff, tax law, or the provisions of legislation relating to charities in each state will not be investigated by the Code of Conduct Committee as there are other more appropriate mechanisms available to deal with such issues. The Complainant will be advised to consider taking the matter to a more appropriate government body.
- The Code of Conduct Committee will make all efforts to ensure that complaints received are responded to and investigated as promptly as possible. Some complaints may require more time than others to be investigated and may depend on the scheduled meeting dates of the Code of Conduct Committee.

- Communication between the secretariat and both the signatory agency or complainant will happen only through the secretariat or Chairperson. Investigating officers will not directly contact complainants or signatory agencies involved in a complaint.
- The Code of Conduct Committee reserves the right to refer to the ACFID Executive for consideration any issues raised through this process that they believe have sector wide significance. If the Code of Conduct Committee decides to refer an issue to the ACFID Executive no individual agency will be identified.
- Members of the Code of Conduct Committee are advised on taking office that they are required to inform the Committee of any potential conflict of interest that may arise as a result of receiving a complaint. If a conflict of interest is identified, the Committee member will stand aside from all Committee procedures and deliberations regarding the complaint.

How to make a complaint

Complaints against a signatory under the ACFID Code of Conduct must:

- be in writing
- include all available evidence
- include the name and contact details of the complainant
- must specify which section of the Code is alleged to be in breach

Any complaints received that do not meet the above criteria will not be investigated. Complainants will be contacted and asked to provide any information not submitted.

Complaints should be marked “confidential” and addressed to:

The Secretary
ACFID Code of Conduct Committee
C/- ACFID
Private Bag 3
Deakin ACT 2600

Complaints Handling Process

1 Complaint received

The complaint must:

- be in writing
- include the name and contact details of the Complainant
- specify which section of the Code is alleged to be in breach
- include available evidence.

Any complaints received that do not meet the above criteria will not be investigated. Complainants will be contacted and asked to provide any information not submitted.

2 Preliminary response

2.1 Receipt letter sent to Complainant

3 Chairperson review of complaint

3.1 The Chairperson (in consultation with one member of the Code of Conduct Committee) conducts an initial review of the complaint and makes a decision on whether :

- a) to dismiss the complaint
 - decision sent to the Code of Conduct Committee for ratification.
- b) to refer the Complainant to a more appropriate body
 - decision sent to the Code of Conduct Committee for ratification.
- c) the complaint is valid and appoints an Investigating Officer to review the complaint further
 - go to step 4

4 Investigating officer review of complaint

4.1 The Chairperson appoints a member of the Code of Conduct Committee as an Investigating Officer. If deemed necessary an investigation team may be appointed. At least one member of the investigation team is to be a member of the Code of Conduct Committee, others will normally have specialist expertise related to the nature of the complaint.

4.2 The Signatory is informed in writing of the complaint and invited to respond in writing.

4.3 The Complainant is informed in writing of the decision to investigate further and any expected timeframes. The Complainant will be notified in writing of any changes to expected timeframes.

4.4 The Investigating Officer (or team) reviews the complaint and any response submitted by the Signatory, prepares a draft report and makes a recommendation on whether to:

- a) dismiss the complaint
- b) refer the Complainant to a more appropriate body
- c) find the Signatory in breach of the Code.

4
Cont.

- 4.5 A copy of the draft report (without recommendations) is given to the Signatory for the opportunity to correct any matters of fact.
- 4.6 The Investigating Officer (or team) reviews any response to the draft report made by the Signatory and prepares a final report (with recommendations) for the Code of Conduct Committee.
- 4.7 The final report of the Investigating Officer (or team) and the initial response of the Signatory agency to the draft is submitted to the Code of Conduct Committee for a final determination.

Determination by Code of Conduct Committee

- 5.1 The Code of Conduct Committee considers the, complaint received, the report of the Investigating Officer (or team) , any response by the Signatory and any other complaint related information considered relevant. A determination is made (by simple majority of those present and eligible to vote) as to whether there is:

- No breach
 - **complaint dismissed—go to step 7**
- Breach identified
 - **go to step 5.2**

Note: The Investigating Officer (or Team), of the complaint being considered, may not participate in the Committee decision.

- 5.2 Where a breach is identified the Code of Conduct Committee (in consultation with the signatory agency where appropriate) will decide on action in response to the Code breach. The Committee's decision is final.

Actions could include (but are not limited to) one or more of the following:

- resolution sought through a conciliation process
- information to donors
- action targeted at addressing the particular complaint issue
- withdrawal of signatory status with the Code

Within thirty days of a decision by the Code of Conduct Committee that a Signatory is in breach of the Code, the following minimum action will be undertaken:

- a letter will be sent to the signatory outlining the Committees decision and any required action by the Signatory
- The Complainant will be notified
- The ACFID Executive Committee will be notified
- AusAID will be notified - (if the Signatory is an accredited agency)
- The name of the Signatory and nature of breach will be made public on the ACFID website.

5

6 Complaint Closed

- Complainant informed of final determination in writing (receipt will be confirmed by phone)
- Signatory informed of final determination in writing (receipt will be confirmed by phone)

7 Appeal Process

Appeals may be submitted by Complainants or Signatories.
The determination by the Appeal Officer is final.

7.1 Appeals against a determination of the Code of Conduct Committee must be:

- in writing
- sent to the ACFID Code of Conduct Committee Appeals Officer
- received within 30 days of the determination by the Code of Conduct Committee
- include the grounds on which the appeal is made

An appeal may only be made on the grounds of a significant breach of procedure provided it can be demonstrated that such a breach may have affected the outcome of the complaint. Appeals against the outcome will not be investigated.

7.2 The Appeal Officer considers the appeal and prepares a draft report.

7.3 The draft report is given to the Chairperson for the opportunity to correct any matters of fact.

7.4 The Appeals Officer considers any response to the draft report made by the Chairperson and makes a determination to:

- Dismiss the appeal
 - Appeal and complaint closed
- Uphold the appeal
 - The Appeal Officer will determine whether the error in process had an impact on the outcome of the investigation or not:
 - If yes, the Appeals Officer may authorise the re-opening of the complaint.
 - If not, the appeal officer may close the appeal and recommend further action which could include (but is not limited to) a change in the process.

7.5 The Signatory, Complainant and Code of Conduct Committee are informed of the determination of the Appeal Officer in writing.

APPEAL CLOSED

Definitions

The definitions listed below relate to the non financial aspects of the Guidance Document. For definitions relating directly to the Code of Conduct Summary Financial Report see **page 39**.

| | |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ACFID Code of Conduct | The standards and requirements set out in this Code to which signatories to the Code are bound and against which complaints and compliance is assessed. |
| Aid and development | For the purposes of the ACFID Code of Conduct, aid and development refers to activities undertaken in order to reduce poverty and address global justice issues via direct engagement through community projects, humanitarian relief and/or community education and public policy campaigns. |
| Annual report | <p>The annual report is one of the principal windows of organisational performance, activity and accountability. It should be both reflective of the pursuits, issues and achievements for the period being reported and be predictive on future directions and activity. It shall contain, as a minimum:</p> <ul style="list-style-type: none"> • a statement of the organisation's goals or purposes; • a summary of overall program activities by country or region; • the names, qualifications and experience of current members of the governing body as well as those who served at any time during the period being reported on; • financial reports using the Code of Conduct Summary Financial Report Format; and • an audit opinion on the financial statements, clearly identifying the auditor (name, company, address and signature). |
| Code of Conduct Summary Financial Report | Summary Financial Report derived from full financial report as detailed in the Guidance Document to the Code of Conduct. |
| Denigrate | To sully, defame or attack the good name or reputation of. (<i>Macquarie Dictionary</i>) |
| Full Financial report | Organisations full financial report (inclusive of statements, notes and auditors report) as approved by the organisations governing body and presented to members. |
| Governing body | The governing body is the authority ultimately responsible for governance over all aspects of the organisation and is the responsible for the organisation's signature to and compliance with this Code of Conduct. The governing body must be elected or appointed by members from within the membership or support base of the organisation. |
| Guidance document | The guidance document to the ACFID Code provides guidelines on how signatories maintain adherence to the ACFID Code of Conduct. It includes the Code of Conduct Summary Financial Report Format, the Complaints Handling Process, explanatory notes and other documents which the Code of Conduct Committee recommend as useful to inform and guide the application of the ACFID Code to the work of signatories. |

| | |
|-------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Non Government Development Organisation (NGDO)</p> | <p>NGDOs are voluntary, not for profit, non-governmental organisations. They undertake activities in order to reduce poverty and address global justice issues via direct engagement through community projects, humanitarian relief and/or community education and public policy campaigns.</p> |
| <p>Non Government Humanitarian Agencies (NGHAs)</p> | <p>As appears in Appendix 4, Non Governmental Humanitarian Agencies (NGHAs) has been coined to encompass the components of the International Red Cross and Red Crescent Movement - The International Committee of the Red Cross, The International Federation of Red Cross and Red Crescent Societies and its member National Societies - and the NGOs. As defined at: www.ifrc.org/publicat/conduct/defs.asp</p> |
| <p>Signatory</p> | <p>An organisation which the Code of Conduct Committee has accepted as a signatory to the ACFID Code of Conduct and which:</p> <ul style="list-style-type: none"> • has not resigned as a signatory • has not been removed as a signatory has paid all signatory fees. |

Appendix 1 - Contents List ACFID Staff Terms and Conditions

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Appendix 2 **ACFID Staff Code of Conduct** **[Adopted by ACFID Executive 6 December 2002]**

ACFID seeks to provide a work environment that is fair, safe, free of any form of harassment and to meet the obligations and responsibilities that are contained in the ACFID Terms and Conditions of Employment including the procedures to resolve any grievances.

As a member of the ACFID staff I agree:

1. To be familiar with and to uphold the ethical principles and requirements of the ACFID Code of Conduct including the following:
 - In all activities and particularly in communications to the public, to accord due respect to the dignity, values, history, religion, and culture of the people with whom we work consistent with principles of basic human rights;
 - To oppose and not be a willing party to wrongdoing, corruption, bribery, or other financial impropriety in any activity;
 - To not make misleading or false public statements regarding other agencies nor to conduct activities in ways that may denigrate other agencies;
2. To contribute to a work environment that is fair, equitable and free of any form of harassment and to act with honesty and good faith, treating all members of staff and volunteers with respect and dignity;
3. To work in a professional and cooperative manner with other staff and volunteers;
4. To be familiar with my responsibilities under the ACFID Terms and Conditions of Employment and of other ACFID policies guiding the work of staff and volunteers;
5. To comply with Occupational Health and Safety requirements in the workplace;
6. To abide by the expectations and requirements of personnel representing ACFID overseas as detailed in the Guidelines for ACFID Delegations Overseas;
7. To contribute to, and take ownership of, decisions that contribute toward the achievement of the mission and objectives of ACFID;
8. To respect the role and decisions of the ACFID Council, Executive Committee and ACFID management in guiding the work of ACFID;
9. To acknowledge and provide constructive feedback as appropriate on the contribution of peers and managers;
10. To maintain an appropriate level of confidentiality as necessary to the performance of duties.

Signed: _____ **Date** _____

Name: _____

This Code is to be signed by all staff at the commencement of their service with ACFID and its interpretation and application will be discussed at least annually in an appropriate staff forum.

Appendix 3 ACFID Commitment to Gender Equity, Diversity and Flexibility

ACFID acknowledges the positive contribution of a diverse workforce and is committed to promoting and supporting the principles of gender equity, diversity and flexibility in the workplace.

ACFID strives to create a work environment sensitive to gender equity and diversity and working conditions that enable both women and men to achieve a balance between work and other aspects of life.

Equity is generally regarded as a state of fairness and justice. It requires that the specific needs of particular groups are considered separately and acted upon accordingly. The concept of gender equity recognises that women and men have different life experiences, different needs, different levels of power and access to decision making in our society and differing expectations by others. Gender equity strategies recognise that gender leads to different social, economic and political opportunities for women and men.

The principle of equity or fairness holds that each individual has a basic right to compete for employment as one of the opportunities and rewards of our society, subject only to the limits of his or her ability. Gender equity approaches recognise that there are historical and social disadvantages which prevent one sex, often women, from benefiting fully from society's resources including employment.

The concept recognises that women and men have different needs and power structures and that these differences should be identified and addressed by employers in a manner that rectifies imbalance between the sexes. Gender equity strategies seek to achieve fairness and justice in the distribution of benefits and responsibilities between women and men, and recognise that different approaches may be required to produce equitable outcomes.

There are continuing traditions of stereotypes and conceptions of what it means to be a woman or a man which are embedded in systems and practices. Discriminatory practices have resulted in the systematic devaluation of attitudes, activities and abilities ascribed to women. For men, this discrimination has contributed to devaluation of feminised characteristics in males and reinforced the prevalent male stereotype. The equity approach attempts to recognise these differences and address the underlying reasons for these differences.

Equal Employment Opportunity principles remain a legislative requirement ensuring the elimination of discrimination against women, Aboriginal & Torres Strait Islanders, people from non-english speaking backgrounds and people with disabilities. Workplace diversity extends beyond EEO taking on a broader focus where the differences inherent in every employee are valued. Workplace Diversity focuses on the positive contributions all staff can make to a high performing workplace.

Diversity in the workplace has many dimensions. It encompasses age, gender, physical and mental abilities, educational level, working style, socio-economic background, family and personal responsibilities, language, ethnicity, religion, cultural background and sexual orientation. It is a recognition that people bring to the workplace a variety of personal attributes and experiences that can add value to the work of an organisation.

ACFID recognises that people – with their diverse abilities, skills, languages, cultures and backgrounds - are our greatest asset. A focus on diversity encourages us to tap into this resource so that we can best meet ACFID's objectives.

The need for people to rest, to engage in cultural and recreational activities, to take time

with their families and to undertake personal development is considered to be an intrinsic part of the employment relationship. Additionally it must be acknowledged that employees have a variety of personal responsibilities beyond the workplace which in turn impact upon their lives at work. Changing workforce dynamics, together with the transforming nature of work and technology now mean that issues such as family responsibilities and further study can no longer be ignored.

It is well recognised that flexibility and responsiveness are fundamental to an organisation's longer term success. A crucial element in this success lies in recognising the valuable contribution employees make toward its achievement.

ACFID believes that the advantages and cost benefits in providing flexible work practices include improved retention of skilled employees, reductions in recruitment and training costs through lower employee turnover, a decrease in absenteeism, improved employee morale and reduced stress. These all lead to greater productivity.

In keeping with our commitment to workplace diversity, ACFID aims to promote a workplace culture that:

- values and supports individual differences and perspectives;
- incorporates diversity principles across all of our people policies and services – from recruitment and selection through to performance appraisal and career development;
- promotes flexible and responsive work practices;
- is free from discrimination and harassment; and provides all staff with the opportunity to reach their full potential.

Gender Equity and Diversity

Key points

- Responsibility for the development of a gender equity and diversity culture in the ACFID rests with all staff
- The diverse backgrounds, skills, talents and views of staff are recognised, encouraged and valued by supervisors and managers.
- Staff are encouraged to recognise and use their life skills and experiences to maximise their individual effectiveness in the workplace and to enhance the quality of their decision making.
- Staff are not subject to direct or indirect discrimination, unfair treatment in the workplace, or to workplace harassment.
- ACFID aims to ensure that workplace practices provide flexibility for staff to balance their work and personal commitments.
- ACFID is committed to remedying any employment related disadvantage of current and potential employees in designated groups.
- Staff and those seeking employment with ACFID receive fair and equitable treatment in staff selection processes and career development opportunities. Employment decisions are based on merit.
- Supervisors are encouraged to focus on the diverse backgrounds and skills of their staff and to draw on and develop these qualities in the workplace.
- Staff are encouraged to acknowledge and draw on their diverse backgrounds, skills and talents.

It is hoped that through ACFID's workplace policies delivered through a process of consultation and cooperation, these arrangements will extensively assist in the career development of employees and provide a model that will assist in the promotion of similar positive working arrangements in the NGO sector.

Appendix 4 The Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief.

**CODE OF CONDUCT
FOR
THE INTERNATIONAL RED CROSS AND RED
CRESCENT MOVEMENT AND
NON-GOVERNMENTAL ORGANISATIONS IN
DISASTER RELIEF**

www.ifrc.org

The Code of Conduct

Principles of Conduct for The International Red Cross and Red Crescent Movement and NGOs in Disaster Response Programmes.

1 The Humanitarian imperative comes first

The right to receive humanitarian assistance, and to offer it, is a fundamental humanitarian principle which should be enjoyed by all citizens of all countries. As members of the international community, we recognise our obligation to provide humanitarian assistance wherever it is needed. Hence the need for unimpeded access to affected populations, is of fundamental importance in exercising that responsibility. The prime motivation of our response to disaster is to alleviate human suffering amongst those least able to withstand the stress caused by disaster. When we give humanitarian aid it is not a partisan or political act and should not be viewed as such.

2 Aid is given regardless of the race, creed or nationality of the recipients and without adverse distinction of any kind. Aid priorities are calculated on the basis of need alone.

Wherever possible, we will base the provision of relief aid upon a thorough assessment of the needs of the disaster victims and the local capacities already in place to meet those needs. Within the entirety of our programmes, we will reflect considerations of proportionality. Human suffering must be alleviated whenever it is found; life is as precious in one part of a country as another. Thus, our provision of aid will reflect the degree of suffering it seeks to alleviate. In implementing this approach, we recognise the crucial role played by women in disaster prone communities and will ensure that this role is supported, not diminished, by our aid programmes. The implementation of such a universal, impartial and independent policy, can only be effective if we and our partners have access to the necessary resources to provide for such equitable relief, and have equal access to all disaster victims.

3 Aid will not be used to further a particular political or religious standpoint

Humanitarian aid will be given according to the need of individuals, families and communities. Notwithstanding the right of NGOs to espouse particular political or

religious opinions, we affirm that assistance will not be dependent on the adherence of the recipients to those opinions. We will not tie the promise, delivery or distribution of assistance to the embracing or acceptance of a particular political or religious creed.

4 We shall endeavour not to act as instruments of government foreign policy

NGHAs are agencies which act independently from governments. We therefore formulate our own policies and implementation strategies and do not seek to implement the policy of any government, except in so far as it coincides with our own independent policy. We will never knowingly - or through negligence - allow ourselves, or our employees, to be used to gather information of a political, military or economically sensitive nature for governments or other bodies that may serve purposes other than those which are strictly humanitarian, nor will we act as instruments of foreign policy of donor governments. We will use the assistance we receive to respond to needs and this assistance should not be driven by the need to dispose of donor commodity surpluses, nor by the political interest of any particular donor. We value and promote the voluntary giving of labour and finances by concerned individuals to support our work and recognise the independence of action promoted by such voluntary motivation. In order to protect our independence we will seek to avoid dependence upon a single funding source.

5 We shall respect culture and custom

We will endeavour to respect the culture, structures and customs of the communities and countries we are working in.

6 We shall attempt to build disaster response on local capacities

All people and communities - even in disaster - possess capacities as well as vulnerabilities. Where possible, we will strengthen these capacities by employing local staff, purchasing local materials and trading with local companies. Where possible, we will work through local NGHAs as partners in planning and implementation, and co-operate with local government structures where appropriate. We will place a high priority on the proper co-ordination of our emergency responses. This is best done within the countries concerned by those most directly involved in the relief operations, and should include representatives of the relevant UN bodies.

7 Ways shall be found to involve programme beneficiaries in the management of relief aid

Disaster response assistance should never be imposed upon the beneficiaries. Effective relief and lasting rehabilitation can best be achieved where the intended beneficiaries are involved in the design, management and implementation of the assistance programme. We will strive to achieve full community participation in our relief and rehabilitation programmes.

8 Relief aid must strive to reduce future vulnerabilities to disaster as well as meeting basic needs

All relief actions affect the prospects for long term development, either in a positive or a negative fashion. Recognising this, we will strive to implement relief programmes which actively reduce the beneficiaries' vulnerability to future disasters and help create sustainable lifestyles. We will pay particular attention to environmental concerns in the design and management of relief programmes. We will also endeavour to minimise the negative impact of humanitarian assistance, seeking to avoid long term beneficiary dependence upon external aid.

9 We hold ourselves accountable to both those we seek to assist and those from whom we accept resources

We often act as an institutional link in the partnership between those who wish to assist and those who need assistance during disasters. We therefore hold ourselves accountable to both constituencies. All our dealings with donors and beneficiaries shall reflect an attitude of openness and transparency. We recognise the need to report on our activities, both from a financial perspective and the perspective of effectiveness. We recognise the obligation to ensure appropriate monitoring of aid distributions and to carry out regular assessments of the impact of disaster assistance. We will also seek to report, in an open fashion, upon the impact of our work, and the factors limiting or enhancing that impact. Our programmes will be based upon high standards of professionalism and expertise in order to minimise the wasting of valuable resources.

10 In our information, publicity and advertising activities, we shall recognise disaster victims as dignified humans, not hopeless objects

Respect for the disaster victim as an equal partner in action should never be lost. In our public information we shall portray an objective image of the disaster situation where the capacities and aspirations of disaster victims are highlighted, and not just their vulnerabilities and fears. While we will co-operate with the media in order to enhance public response, we will not allow external or internal demands for publicity to take precedence over the principle of maximising overall relief assistance. We will avoid competing with other disaster response agencies for media coverage in situations where such coverage may be to the detriment of the service provided to the beneficiaries or to the security of our staff or the beneficiaries.

The Working Environment

Having agreed unilaterally to strive to abide by the Code laid out above, we present below some indicative guidelines which describe the working environment we would like to see created by donor governments, host governments and the inter-governmental organisations - principally the agencies of the United Nations - in order to facilitate the effective participation of NGHAs in disaster response.

These guidelines are presented for guidance. They are not legally binding, nor do we expect governments and IGOs to indicate their acceptance of the guidelines through the signature of any document, although this may be a goal to work to in the future. They are presented in a spirit of openness and co-operation so that our partners will become aware of the ideal relationship we would seek with them.

Annex I

Recommendations to the governments of disaster affected countries

1: Governments should recognise and respect the independent, humanitarian and impartial actions of NGHAs

NGHAs are independent, bodies. This independence and impartiality should be respected by host governments.

2: Host governments should facilitate rapid access to disaster victims for NGHAs

If NGHAs are to act in full compliance with their humanitarian principles, they should be granted rapid and impartial access to disaster victims, for the purpose of delivering humanitarian assistance. It is the duty of the host government, as part of the exercising of sovereign responsibility, not to block such assistance, and to accept the impartial and apolitical action of NGHAs. Host governments should facilitate the rapid entry of relief staff, particularly by waiving requirements for transit, entry and exit visas, or arranging that these are rapidly granted. Governments should grant over-flight permission and landing rights for aircraft transporting international relief supplies and personnel, for the duration of the emergency relief phase.

3: Governments should facilitate the timely flow of relief goods and information during disasters

Relief supplies and equipment are brought into a country solely for the purpose of alleviating human suffering, not for commercial benefit or gain. Such supplies should normally be allowed free and unrestricted passage and should not be subject to requirements for consular certificates of origin or invoices, import and/or export licences or other restrictions, or to importation taxation, landing fees or port charges.

The temporary importation of necessary relief equipment, including vehicles, light aircraft and telecommunications equipment, should be facilitated by the receiving host government through the temporary waving of license or registration restrictions. Equally, governments should not restrict the re-exportation of relief equipment at the end of a relief operation.

To facilitate disaster communications, host governments are encouraged to designate certain radio frequencies, which relief organisations may use in-country and for international communications for the purpose of disaster communications, and to make such frequencies known to the disaster response community prior to the disaster. They should authorise relief personnel to utilise all means of communication required for their relief operations.

4: Governments should seek to provide a co-ordinated disaster information and planning service

The overall planning and co-ordination of relief efforts is ultimately the responsibility of the host government. Planning and co-ordination can be greatly enhanced if NGHAs are provided with information on relief needs and government systems for planning and implementing relief efforts as well as information on potential security risks they may encounter. Governments are urged to provide such information to NGHAs.

To facilitate effective co-ordination and the efficient utilisation of relief efforts, host governments are urged to designate, prior to disaster, a single point-of-contact for incoming NGHAs to liaise with the national authorities.

5: Disaster relief in the event of armed conflict

In the event of armed conflict, relief actions are governed by the relevant provisions of international humanitarian law.

Annex II

Recommendations to donor governments

1: Donor governments should recognise and respect the independent, humanitarian and impartial actions of NGHAs

NGHAs are independent bodies whose independence and impartiality should be respected by donor governments. Donor governments should not use NGHAs to further any political or ideological aim.

2: Donor governments should provide funding with a guarantee of operational independence NGHAs accept funding and material assistance from donor governments in the same spirit as they render it to disaster victims; one of humanity and independence of action. The implementation of relief actions is ultimately the responsibility of the NGHA and will be carried out according to the policies of that NGHA.

3: Donor governments should use their good offices to assist NGHAs in obtaining access to disaster victims

Donor governments should recognise the importance of accepting a level of responsibility for the security and freedom of access of NGHA staff to disaster sites. They should be prepared to exercise diplomacy with host governments on such issues if necessary.

Annex III

Recommendations to intergovernmental organisations

1: IGOs should recognise NGHAs, local and foreign, as valuable partners

NGHAs are willing to work with UN and other intergovernmental agencies to effect better disaster response. They do so in a spirit of partnership which respects the integrity and independence of all partners. Intergovernmental agencies must respect the independence and impartiality of the NGHAs. NGHAs should be consulted by UN agencies in the preparation of relief plans.

2: IGOs should assist host governments in providing an overall co-ordinating framework for international and local disaster relief

NGHAs do not usually have the mandate to provide the overall co-ordinating framework for disasters which require an international response. This responsibility falls to the host government and the relevant United Nations authorities. They are urged to provide this service in a timely and effective manner to serve the affected state and the national and international disaster response community. In any case, NGHAs should make all efforts to ensure the effective co-ordination of their own services.

In the event of armed conflict, relief actions are governed by the relevant provisions of international humanitarian law.

3: IGOs should extend security protection provided for UN organisations, to NGHAs

Where security services are provided for intergovernmental organisations, this service should be extended to their operational NGHAs partners where it is so requested.

4: IGOs should provide NGHAs with the same access to relevant information as is granted to UN organisations

IGOs are urged to share all information, pertinent to the implementation of effective disaster response, with their operational NGHAs partners.

Appendix 5 Sphere Humanitarian Charter and Minimum Standards in Disaster Response

THE SPHERE PROJECT

Humanitarian Charter and Minimum standards in Disaster Response

www.sphereproject.org

Background

The Sphere Project was launched in 1997 by NGOs to develop a set of universal minimum standards in core areas of humanitarian assistance. It is managed by the Steering Committee for Humanitarian Response which is a coordinating body representing various international NGO networks. The aim of the project is to improve the quality of assistance provided to people affected by disasters and to enhance the accountability of the humanitarian system in disaster response.

Introduction

“Meeting essential needs and restoring life with dignity are the core principles that should inform all humanitarian action.”

The purpose of the Humanitarian Charter and Minimum Standards is to increase the effectiveness of humanitarian assistance and to make humanitarian agencies more accountable. It is based on two core beliefs:

- That all possible steps should be taken to alleviate human suffering that arises out of conflict and calamity.
- That those affected by a disaster have a right to life with dignity and therefore a right to assistance.

Humanitarian Charter

“Humanitarian agencies committed to this Charter and to the Minimum Standards will aim to achieve defined levels of service for people affected by calamity or armed conflict, and to promote the observance of fundamental humanitarian principles.”

The cornerstone of the Sphere Project is the Humanitarian Charter. Based on the principles and provisions of international humanitarian law, international human rights law, refugee law, and the *Code of Conduct for the International Red Cross and Red Crescent Movement and (NGOs) in Disaster Relief*, the Charter describes the core principles that govern humanitarian action and asserts the right of populations to protection and assistance.

The Charter defines the legal responsibilities of states and parties to guarantee the right to assistance and protection. When States are unable to respond, they are obliged to allow the intervention of humanitarian organisations.

The Minimum Standards

The Minimum Standards cover disaster assistance in five sectors:

- Water supply and sanitation
- Nutrition
- Food aid
- Shelter and site planning
- Health services

Most of the standards, and the indicators that accompany them, consolidate and adapt existing knowledge and practice. They represent a remarkable consensus across a broad spectrum of agencies and mark a new determination to ensure that humanitarian principles are realised in practice.

Scope and Limitations of the Humanitarian Charter and Minimum Standards

The ability of NGOs to achieve the Minimum Standards will depend on a range of factors, some of which are within their control, while others such as political and security factors, lie outside their control. Of particular importance will be the extent to which agencies have access to the affected population, whether they have the consent and cooperation of the authorities in charge, and whether they can operate in conditions of reasonable security. The availability of sufficient financial, human and material resources is also essential.

The Minimum Standards do not attempt to deal with the whole spectrum of humanitarian concerns of actions. They do not cover all the possible forms of appropriate humanitarian assistance, and more importantly, they do not deal with the larger issues of humanitarian protection.

Humanitarian agencies are frequently faced with situations where human acts or obstruction threaten the fundamental well-being or security of whole communities or sectors of a population – such as to constitute violations of international law. This may take the form of direct threats to people's well being, to their means of survival or to their safety. In the context of armed conflict, the paramount humanitarian concern will be to protect people against such threats.

It is important to stress that the form of relief assistance and the way in which it is provided can have a significant impact (positive or negative) on the affected populations security. The Humanitarian Charter recognises that the attempt to provide assistance in situations of conflict 'may potentially render civilians more vulnerable to attack, or bring unintended advantage to one or more of the warring parties', and it commits agencies to minimising such adverse effects of their interventions as far as possible.

The Humanitarian Charter and Minimum Standards offer a tool for humanitarian agencies to enhance the effectiveness and quality of their assistance and thus to make a significant difference to the lives of people affected by disaster.

Further Information

The Sphere Manual including the Humanitarian Charter and Minimum Standards (322 pages) is available on the Sphere website at: <http://www.sphereproject.org> and from the Australian Council for International Development Ph: 02 6285 1816.

**Appendix 6 People In Aid Code of Good Practice
in the management and support of aid personnel**

<http://www.peopleinaid.org/code/default.aspx>

Appendix 7 NGO Effectiveness Framework — June 2004

Defining the Sector

According to the ACFID Code of Conduct, Australian NGOs are non government development organisations that are formed voluntarily and operate on a not-for-profit basis. Australian NGOs chose to specifically define themselves as values-based organisations that are part of Australian civil society.

In addition to being part of a sector within the aid industry, each Australian NGO is an autonomous organisation, with a philosophy and values that are unique to that organisation. While many of these values overlap or are shared with other organisations, each Australian NGO can point to its own unique contribution to development based upon its philosophy and values and the manner in which it operationalises that philosophy.

NGO Effectiveness

Effectiveness is defined prompting sustainable change that addresses the causes as well as the symptoms of poverty and marginalisation – i.e. reduces poverty and builds capacity within communities, civil society and government to address their own development priorities.

Principles

All Australian NGOs have principles that flow from their values and philosophy. Some of these are unique to each organisation.

The sector also has shared principles, as detailed in the ACFID Code of Conduct:

Organisations which are signatories to this Code aim to build creative and trusting relationships with the people of the developing countries and to meet program standards which:

- *Give priority to the needs and interests of the people they serve;*
- *Encourage self help and self-reliance among beneficiaries and thus avoid creating dependency;*
- *Involve beneficiary groups to the maximum extent possible in the design, implementation and evaluation of projects and programs;*
- *Respect and foster internationally recognised human rights, both socio-economic and civil-political;*
- *Seek to enhance gender equity; and*
- *Are based on an understanding of the history and culture of the people served.*

(taken from ACFID Code of Conduct)

Australian NGOs particularly endorsed the principles related to human rights and gender analysis. In addition, Australian NGOs have identified a further common principle:

Australian NGOs shall identify their values, communicate them to all key stakeholders and reflect them in their work.

Policies

Each Australian NGO has its own set of organisational policies that govern the work and approach of the agency. Some of these are sector wide, as reflected in the ACFID Code of Conduct. Some of these are peculiar to each organisation and will reflect the different management practices, resources and internal processes of each NGO.

Program Strategies

Every Australian NGO has a program strategy to operationalise their philosophy, values and principles. In other words, each organisation has its own way of 'doing things' to contribute to development. This diversity within the industry is valued, as it allows a wide range of possible responses to the complex issues of development.

At the same time Australian NGO programs are characterised by certain common qualities that contribute to effectiveness. These include:

- ***High quality relationships***

One of the critical features of Australian NGO work is that apart from humanitarian response, most Australian NGOs do not implement directly. Instead, reflecting a commitment to building local capacity and self-reliance, most Australian NGOs choose to work through local implementing organisations. For this process to work effectively, Australian NGOs place a high value on the quality of the relationship between themselves and their implementing partner.

Good relationships evolve over time, based upon trust, mutual learning, accountability and acceptance of difference. The purpose of good relationships is to build capacity of implementing partners and increase the process of self-reliance and/or local ownership.

- ***Long term engagement***

Development situations are usually complex and most often require engagement that go beyond short-term project and program cycles. Australian NGOs seek to work in ways that allow for long term engagement in locations, in sectors and with people, for the purpose of more effective and sustainable solutions to development problems.

- ***Learning***

Given the dynamic nature of development, Australian NGOs and their implementing partners seek to undertake ongoing reflection about their work and the context of that work, for the purpose of improvement.

- ***Adaptation***

As above, Australian NGOs work in situations of change and new information. They seek to adapt to information and try to be responsive to changing circumstances.

- ***Working together***

In many situations Australian NGOs are able to bring about increased impact and effectiveness by working together, either in the field or in coalitions within Australia.

Through the ongoing work on quality and effectiveness the NGO community is focusing and placing greater emphasis on the value and importance of working collaboratively and in cooperation.

Working in difficult contexts is by definition harder and more complex than working in less complex contexts. Working together with other NGOs can only be of benefit.

- ***Risk taking***

Australian NGOs will often choose to work in situations where outcomes are less certain, in order to meet the needs of people otherwise poorly served by other aid delivery mechanisms.

- ***Quality of staff and volunteers***

It appears that the quality of people employed by Australian NGOs is one element of their effectiveness.

While program strategies will be unique to organisations, they will be coherent within the agency philosophy and will reflect the shared principles and the above characteristics of the Australian NGO sector. In addition, it is important that the activities or areas of engagement of the NGO are coherent with the stated agency program strategy.

Standards of engagement

Most Australian NGOs have established standards that guide the development and implementation of their activities. In addition to these the NGO Effectiveness Conference, participants proposed the following sector wide standards to be reflected within all Australian NGO engagement;

- *Australian NGO activities aim to provide appropriate solutions to the root causes of poverty and marginalisation, addressing specific protection needs of the most vulnerable (including women, children, disabled, elderly, indigenous) and respecting all peoples' dignity;*
- *Australian NGO activities reflect high quality gender practice. That is, engagement reflects an understanding of different male and female roles within communities and should work to bring about greater equality of opportunity, taking into account the cultural and other contextual features of the situation;*
- *Australian NGO activities are based upon and are coherent with an analysis and understanding of situation and context. This includes attention to diversity in communities and groups and to the links between micro and macro conditions;*
- *Australian NGO activities have an appropriate design that identifies people-centred outcomes, and the means and processes required to achieve these. The designs are flexible, to enable adaptation to the dynamic situation of implementation;*
- *Australian NGO engagement aims for wider impact through various means, including empowerment and capacity building of partners and communities, and by taking a programmatic approach to activities;*
- *Australian NGOs, together with their implementing partners, undertake monitoring and evaluation of their work, in order to identify areas of success, areas requiring improvement and in order to implement timely and appropriate change;*
- *Australian NGOs are able to demonstrate that costs associated with their engagement are appropriate to the context and the nature of the intervention and reasonable in relation to the proposed outcomes and benefits;*
- *Australian NGO activities have sustainability strategies that take into account the wider context and give attention to long-term impact;*
- *Australian NGOs assess and manage risk during their activities;*
- *Australian NGOs work in ways that include clear and transparent accountability mechanisms to all key stakeholders;*
- *Australian NGOs provide appropriate quality technical input, as necessary, in their engagement with others. This input is cost effective, maximises local input and capacity and utilises appropriate technology;*
- *Australian NGO activities are implemented with an informed understanding of the environmental impact of the activity; and*
- *Australian NGOs work towards the participation and increased control by people of their development situation. This includes genuine participation of people at all stages of the program cycle and is reflected in the way engagement is undertaken.*

Working in Emergencies

Being able to respond to an emergency is an important element of development. There is a growing need for development agencies to respond to increasing vulnerabilities and protection needs of specific groups (women, children, disabled, elderly) and to promote the human security concerns of the people in communities that they are working in.

The 'unique' aspect of working in emergencies is that the protection needs, the time frames, the demands on staff and partners, the need for good relationships and coordination, the scrutiny by media, the public and donors and the need to understand what laws and rights govern the local rule of law all become more 'intense'. In other words, the demands that are required for good emergency response practice are the same as for good development practice but far more 'intense' pressures come into force.

Advocacy work

Program work is about effective engagement that changes people's lives but is also about building constituencies to do effective advocacy. If policy change is to lead to practice change that effects people's lives there needs to be a strengthening of constituency and their capacity, plus an increase in political space for local organisations to take policy change and make it real. Therefore, the program and advocacy link is very important. This is not just work for large agencies but something that could be divided amongst agencies. Small agencies also play a key role especially in building capacity of local organisations.

In addition to the elements described above, a key feature of effective advocacy is legitimacy. This includes the following:

- Information arising from strong field relationships and practice
- High quality research;
- Enabling partners to speak for themselves; and
- Independence from Government or others

Meeting the standards

Participating NGOs agreed that not all the work of their organisations necessarily reflected all of these standards. Indeed in some situations there might be some need to prioritise some standards over others, or to significantly improve areas of engagement in order to reflect these standards. To this extent the standards are aspirational. In addition, people noted that these standards required further definition and examples, in order to work towards meaningful assessment of how any particular area of engagement reflected a particular standard.

However there has been agreement about these standards should be reflected in Australian NGO work. There is further agreement that Australian NGOs should embark on the process of improving their work according to these standards.

Appendix 11: How to Choose a Charity

Here are some questions to consider when you are choosing a charity



What cause are you interested in supporting?

Are you passionate about animals, human rights, the environment, the arts, scientific research, education, welfare, health, sports, poverty or international affairs?

How can you help?

Decide whether you would like to support your charity financially or by donating your time and skills. Find out how you can get involved in your charity.

Is the charity making a difference?

How is your charity working to achieve its mission? Check its annual report to see what your charity has achieved in the past year. What goals is your charity intending to achieve and how is it planning to do so?

You should have confidence in your charity.

Does your charity comply with FIA's Principles and Standards of Fundraising Practice?
Are you comfortable with how your charity is achieving its mission?

What makes your charity different?

What differentiates your chosen charity from others with similar missions?

Is your charity a deductible gift recipient (DGR)?

If so, your gift will be tax deductible.

Once you've chosen your charity, give and give as generously as you can. Help your charity to reduce their administrative costs by giving generously, without being asked.

When you are satisfied with the answers you get from your charity, you will be able to donate generously, with confidence that your donation will be used effectively and efficiently to aid the cause that you are most passionate about.