

FUNDRAISING INSTITUTE AUSTRALIA

**Inquiry by the Parliamentary Joint Committee on Corporations and Financial Services
into whistleblower protections in the corporate, public and not-for-profit sectors.**

SUBMISSION COVER SHEET

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SUBMISSION

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ABOUT FIA

With over 1700 members, Fundraising Institute Australia is the largest representative body for the \$12.5 billion¹ charitable fundraising sector which is supported by some 14.9 million Australians. FIA members include charities operating domestically and internationally, as well as the organisations and professionals that provide services to them.

FIA advocates for the interests of the sector, administers a self-regulatory Code, educates fundraising practitioners, promotes research and creates forums for the exchange of knowledge and ideas.

SUBMISSION

FIA welcomes the opportunity to provide comments in response to the Inquiry by the Parliamentary Joint Committee on Corporations and Financial Services into whistleblower protections in the corporate, public and not-for-profit sectors.

Our submission covers matters that may be considered under the Inquiry terms of reference about the following area:

- a. the development and implementation in the corporate, public and **not-for-profit sectors** of whistleblower protections, taking into account the substance and detail of that contained in the Registered Organisation Commission (ROC) legislation passed by the Parliament in November 2016;

¹ Source: Giving Australia 2016

Sector self-regulation

FIA's self-regulatory Code was developed in 2006 in consultation with government, members and other industry stakeholders². Its aim is to improve public trust and confidence in, accountability for, and transparency of professional fundraising. FIA members are required to comply with the Code as a condition of membership. Non-members in the sector can also choose to observe the FIA Code on a voluntary basis.

Alignment with other sectoral codes

In the interest of effective self-regulation across the sector, FIA considers it important that its Code be closely aligned with other relevant codes. We note, in particular, that The Australian Council for International Development (ACFID) Code has recently undergone a comprehensive review of its Code. That ACFID Code, while dealing more broadly with conduct by international NGO's, contains specific measures relating to the conduct of fundraising by overseas charities. It also addresses matters related to whistleblower protection in some detail.

FIA endorses the following comments in the ACFID submission to the Inquiry:

- ...that any future legislative efforts to protect whistle-blowers by the Parliament should:
- a) note and respect existing self-regulatory good practice maintained by NFP bodies and seek to support and compliment it; and not
 - b) undermine self-regulatory efforts; and
 - c) consult in early stages with stakeholders on development of any legislative regimens in order to help achieve a) & b) above.

FIA complaint handling and whistleblower protection

Under the current system of self-regulation, anyone can bring a complaint against an FIA member.

The principles that the Complaints Process seeks to apply are:

Fairness - the process should be fair to all parties

² In its report on disclosure regimes for charities and nonprofit organisations in 2008 (p.40), the Senate Economics Committee recognised the role of FIA's Principles and Standards in addressing issues of transparency to maintain Australian charities' high reputation with the public.
http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Completed_inquiries/2008-10/charities_08/index

Accountability - the process should report outcomes of hearings and gives reasons for its decisions

Accessible - the process should be available to members and the public, in plain language, at no cost

Efficiency - the process should be conducted in a timely manner with adequate assistance provided to complainants to help them prepare a complaint

Effectiveness - the process should provide sanctions appropriate to an offence committed and provide an opportunity to monitor

Professional integrity - the process should be adequately resourced and ensure sanctions are seen to be effective and enforceable

Responsible Data collection - the process should provide for collection and analysis of complaint data

Process review - the process should be reviewed periodically to ensure the FIA Principles and Standards of Fundraising Practice are effective and Complaints are handled efficiently

FIA's complaint handling process does not currently provide for 'anonymous' reporting of breaches of the Code. Instead, a complainant is expected to participate in any hearing of the matter:

3.26 The Ethics Committee may adopt specific procedures for the review in order to provide a fair hearing. When the Ethics Committee reviews the Complaint, the Complainant and the Subject Member will have an opportunity to be heard and make submissions to the Ethics Committee.

3.27 The Ethics Committee and the Subject Member will have an opportunity to ask questions of the Complainant. The Ethics Committee will also have an opportunity to ask questions of the Subject Member.

3.28 The review is not subject to formal rules of evidence and a transcript will not be made of the review. Parties have no right to legal representation at the review. However, the Ethics Committee may, at its absolute discretion, permit the parties to be legally represented provided that the parties agree to bear their own costs of such legal representation.

If the Ethics Committee finds that there has been a breach of the Code, resulting in a finding of either Unsatisfactory Conduct or Professional Misconduct, the Complainant and Subject Member will be given an opportunity to make submissions as to the appropriate penalty to the Ethics Committee within a reasonable time before that issue is determined by the Ethics Committee.

The current review of self-regulation is examining whether this approach to complaints handling provides whistleblowers with adequate protection.

Penalties for breach

Where the Ethics Committee makes a finding of unsatisfactory conduct against a member, it may impose on the Subject Member as it sees fit one or more of the following penalties:

- require a written undertaking to the Ethics Committee by the Member to attend at the Member's expense an FIA seminar, appropriate counseling or some other undertaking as determined by the Ethics Committee sufficient to resolve the Complaint;
- issue a letter of reprimand to the Member;
- issue a letter of censure to the Member; and/or
- prohibit the Member from holding office in FIA.

Conclusion

FIA appreciates the opportunity to participate in the current Inquiry into whistleblower protections in the NFP and other sectors. This submission has sought to demonstrate that a robust system of self-regulation already exists in the fundraising sector. This system is currently under review, including the mechanisms for complaints handling. It is timely to consider measures to protect whistleblowers as part of the current review and in line with other NGO's in the fundraising sector, including ACFID.

End of Submission