

**FIA and PFRA
Submission
Voluntary Code to Improve the Transparency of Charitable Donations
during Natural Disasters
13 August 2021**

Introduction

Fundraising Institute Australia (FIA) and the Public Fundraising Regulatory Association (PFRA) welcome the opportunity to make a submission on the proposed **Voluntary code to improve the transparency of charitable donations during natural disasters** and, most importantly, its potential impact on charities that already respond so effectively and efficiently to natural disasters.

FIA and the PFRA do not believe that the proposal put forward by the Government has a strong basis in terms of evidence of need, nor is it necessary, primarily given the existence of a strong and robust self-regulatory system being in place already. The proposal is a duplication of existing codes and if enacted, will result in additional and unnecessary red tape and cost charities additional time and resource - in turn leaving fewer funds for the beneficiaries of fundraising support at critical times.

Executive Summary

The most significant issues of the proposal are:

- 1. Charities already support communities quickly, effectively and in a transparent manner; donors trust charities to use donated funds wisely.** The disbursement of appeal funds by Australian charities is already timely, while also meeting their legal and governance requirements and there is no evidence of lack of transparency or trust on the part of donors in Australia.
- 2. Charities have access to the FIA Code and Practice Note/guidance on fundraising during natural disasters as well as the ACFID Code both of which are mature Codes with strong compliance.** It will be confusing to have two codes operating in the sector; it will duplicate existing efforts and is wasteful.

3. Smaller charities may attempt to comply without resources to do so and incur additional unnecessary costs. At a critical time, smaller charities may not be able to comply or may need to incur costs at the expense of their beneficiaries.

4. Donors are already protected by Australian Consumer Law (ACL)

Charities are already subject to the Australian Consumer Law, which prohibits deceptive or misleading conduct. They also adhere to a stringent self-regulatory system.

Key Points

1. Charities already support communities quickly, effectively and in a transparent manner and donors trust charities to use funds wisely.

The nature of fundraising for natural disasters is varied, which follows given all disasters are different. The impact of a bushfire will be different to that of a flood or drought. And most importantly, the communities will be different and therefore have different needs, which will change as times goes by. Recovery from natural disasters can take anywhere from 2 years to 11 years. For example, full recovery from the 2009 Victorian bushfires in has taken 11 years; the Australian Red Cross and St Vincent DePaul Society are still working to apply funds to those in affected communities who still need them.

In 2020, the Australian Charities and Not-for-Profits Commission (ACNC) did their own investigation of charities that fundraised for the 2020 east coast bushfire emergency. It stated: *“ACNC reviewed the actual and planned expenditure of the charities and found that they have allocated the donations in-line with their legal obligations, and that all funded programs relate to the bushfire response.”*

Further, a voluntary code such as proposed by the Federal Government was not in the list of important and salient recommendations from the Government’s own Royal Commission into Natural Disaster Arrangements report.

The government’s proposal would harm local communities by forcing charities to potentially over commit resources at the start of a disaster before its full impact is known, and leave charities unable to help people whose needs emerge later in the recovery process due to the reporting requirements. This position is supported by the findings of the Royal Commission into Natural Disaster Arrangements, which stated:

We heard from major charities that the distribution of donated funds must be balanced between the provision of immediate assistance, while ensuring that sufficient funding is available to support

people across their longer-term recovery. They noted that it was common for individuals to only seek support weeks or months after a disaster, rather than immediately after the disaster. Distributing all funding as quickly as possible would mean that individuals could miss out on needed recovery assistance or that there is insufficient funding to meet the needs of a broader community as it rebuilds.

Case Study 1: ACNC Report

The Australian Red Cross has allocated all donations it received for the bushfires to bushfire-related activities, including the administration costs required to deliver the activities. It disbursed the great majority of its funds by December 2020 and it will continue to spend funds on a range of programs, from response to recovery, over three years.

Between July 2019 and July 2020, Red Cross received \$232 million in donations to the Disaster Relief Recovery Fund. As at 31 July 2020, the Red Cross had spent or disbursed \$167 million (72%).

Charities raising funds for natural disasters don't impose financial targets for disaster appeals, and there are not necessarily formal close dates due to the length and impact of a natural disaster being unknown. The spending of appeal funds may be a combination of enhanced or accelerated spending via existing programmes, or establishment of new programmes that meet the needs of local communities. It is impossible to determine hypothetically in advance what that might be as each disaster is different and each community is different. Therefore, reporting frameworks are very problematic and not comparable from charity to charity.

In their fundraising appeals charities are clear in their communications regarding the cause for which they are raising funds, but there is always a range of spending phases – short, medium and long-term. The immediate or short-term phase of cash grants differs substantially from the needs of longer-term infrastructure (both physical and human) which require significant planning and longer delivery phases, often many years. The ACNC report refers to this matter: *“Donors need to understand that charities may have legal and practical limitations, and they should not make assumptions about how a charity will spend funds”.*

Each year charities produce an annual report and financial report detailing what expenditure has occurred and each charity produces regular updates for donors on their activities. There is simply no need for a new government mandated information request that will only add to the administrative burden of charities and provide no extra benefit. This would increase, rather than decrease red tape which is the opposite of the stated intention of the NSW Government's red tape reduction plan.

Further, there is no evidence of a lack of confidence or trust in Australian charities with regard to fundraising or funds disbursement. In its January 2020 research into public attitudes to bushfire fundraising, (reference More Strategic and FIA) 86% of respondents said they were confident the organisation they supported will use donations wisely. The study, conducted between 16-20 January 2020 was completed by a representative sample of Australians through Qualtrics XM and compiled for the report Public Attitudes to Bushfire Fundraising.¹



2. Charities have access to the FIA Code and Practice Note/guidance on fundraising during natural disasters. It will be confusing to have two codes operating in the sector

Charities also already adhere to a stringent self-regulatory system called the FIA Code. Indeed, the Code itself, in its current format, is the result of Government and sector collaboration in 2017 to provide guidance, training and education for fundraising organisations to achieve ethical, best-practice in order to retain the trust of donors and the expectations of the community. The FIA Code has strong compliance and checks are in place to ensure continued adherence through compliance measures such as mystery shopping.

¹[Australian Bushfire Fundraising Report 2019-2020 - Fundraising Institute Australia \(fia.org.au\)](https://www.fia.org.au/Australian-Bushfire-Fundraising-Report-2019-2020)

The Code requires fundraisers to provide information about the charitable cause and how donated funds are used including:

FIA Code Clause 4.4:

- a) *its objects and how it intends to use the Donated funds;*
- b) *its capacity to use Donations effectively for their intended purposes;*
- c) *its most recent annual report and/or financial statements;*
- d) *its governing Board; and*
- e) *whether funds are being raised by volunteers, employees or Suppliers.*

And in Clause 4.11 of the FIA Code, ensuring that fundraising promotional materials:

- a) *are not false, misleading or likely to deceive;*
- b) *do not claim or imply that professional fundraising activities are carried out at no cost;*
- c) *are not knowingly sent to a Child without the consent of the Child's parent or guardian;*
- d) *do not contain depictions that are demeaning, discriminatory, pornographic or unduly violent towards a person or group.*
- e) *do not disparage others; and*
- f) *do not infringe on the intellectual property rights of others.*

A recommendation of the Royal Commission into National Natural Disaster Arrangements by the Federal Government published in October 2020 (see section 21.63 of the report) suggested that more transparent communication to donors and the wider public about the collection and distribution of donated funds be considered; the Royal Commission suggested that Fundraising Institute Australia (FIA) could provide additional guidance to members and the broader sector through the current self-regulatory approach via the FIA Code. As a result, FIA developed new **guidance on Fundraising and National Disasters** including around Communications (section 5.) and Reporting (section 6.) of the Practice Note as part of the FIA Code including:

5. In all communications, members will ensure that:

5.1 Materials including printed, verbal and other, accurately and truthfully describe the organisation and its work.

5.2 Materials accurately and clearly describe the specific purpose for which the funds the organisation is raising.

5.3 Materials accurately and clearly describe the impact - including the beneficiaries - of the funds raised.

5.4 Communications are accurate and respectful and protect privacy and dignity (see FIA Code 5. Conduct towards beneficiaries and FIA Code Practice Note: Promotional Materials).

5.5 Materials accurately describe the nature and timeline of delivery of funds to intended beneficiaries.

6. Guidelines for reporting:

6.1 Report progress of fundraising activities regularly.

6.2 Reframe how you communicate results by showing a mid to long-term timeline, ideally with confidence intervals.

6.3 Report in terms of 'impact' not just revenue using illustrations and case studies wherever possible.

6.4 Avoid promotional claims such as "100% of your donation goes to service delivery". Clause 4.11b of the FIA Code requires members to ensure their promotional materials do not claim or imply that professional fundraising activities are carried out at no cost. The intent of this clause is to encourage members to be open and transparent about the fact that fundraising incurs a cost.

6.5 The Australian Competition and Consumer Commission (ACCC) has published "A guide to the Australian Consumer Law for fundraising and other activities of charities, not-for-profits and fundraisers." The Guide provides examples of conduct the ACCC considers misleading or deceptive and in breach of the Australian Consumer Law, such as when a fundraiser fails to disclose they are being paid a fee or commission.

The additional guidance was published in late 2020.²

As noted above, mystery shopping is a compliance tool used by FIA to ensure member compliance of the FIA Code and Practice Notes. In January 2021, FIA conducted mystery shopping of its members who activated a fundraising appeal for three national disasters: Western Australia Bushfires (February 2021); East Coast floods (March 2021); and Cyclone Seroja (April 2021). Mystery shopping resulted in 100% compliance rate

²Available at https://fia.org.au/wp-content/uploads/2020/10/Fundraising-for-and-during-National-Disasters-Practice-Note.pdf?dm_i=6CUM,2Y9O,1DMS7Z,9M5Y,1

for charities who had started an appeal. All charities were consistent with their communications and appeal objectives.

The Australian Council for International Development also operate a voluntary code for its members fundraising and distributing during international disasters.³

These codes are well established and highly regarded and respected by the sector and adhered to by hundreds of charities in their fundraising efforts, currently accounting for approximately 80% of total regular annual funds raised in Australia. Charities undertake training in these Codes, including over 5,000 fundraisers, CEOs and Board directors having registered or undergone training in the Code and Practice Notes via FIA's professional development program.⁴

The proposed development of an *additional* voluntary code for fundraising during natural disasters would lead to confusion for charities and for the sector as well as incur additional costs in compliance and reporting.

3. Smaller charities may attempt to comply without resources to do so and incur additional unnecessary costs.

Smaller charities involved in general fundraising but whom may wish to respond to requests for assistance during natural disasters as a one off, may find they do not have the resources to provide the required reporting and in any time frame that is required; thus it will be difficult for them to achieve. Smaller charities may feel under pressure to meet every aspect of the proposed code (given it is issued by the Commonwealth Government), and which given the scale of their activities and fundraising would be disproportionate.

The 2020 east coast bushfire emergency provided another example of how small charities can sometimes struggle when they receive significant but unexpected support and for which they were not able to plan or foresee. In these cases, the existing voluntary codes, including the FIA Code, provide specific guidance as part of an overall ethical best-practice approach for all charities at all times. This is a flexible and adaptive

³Available at <https://acfid.asn.au/code-of-conduct>

⁴[Professional Development - Fundraising Institute Australia \(FIA\)](#)

approach, not a one size fits all approach, which can be highly inappropriate for small charities.

4. Donors are already protected by Australian Consumer Law (ACL) and additional codes are not needed

The ACL already provides extensive protection to donors via the prohibition on misleading or deceptive conduct. Any charity that was identified via complaints or investigation as failing to meet this standard can be issued with an Infringement Notice along with a fine of \$11,100 for each failure. As the ACL is implemented under the jurisdiction of each state, the NSW Office of Fair Trading has the power to investigate and fine charities it deems to be misleading donors. We are not aware of any such investigations or fines.

For street, door-to-door and shopping centre fundraising (public fundraising), the PFRA also conducts a significant amount of quality assurance checks on fundraisers and also has the power to impose fines on its members for any breaches of its Standard. In 2020, PFRA conducted 522 such checks (10 a week). In addition, PFRA also operates the Fundraiser Register for public fundraisers, which allows for the ability to 'deregister' fundraiser for serious misconduct – thereby prohibiting from working for any other PFRA members in future. Combined with the ACFID Code, the FIA Code and mystery shopping activity, it is fair to say that charity fundraising has one of the most extensive and rigorous self-regulatory systems of any sector in Australia.

Conclusion

FIA and the PFRA do not support the proposal put forward by the Government, which we believe is duplicative, wasteful and will result in additional and onerous red tape which will cost charities additional time and resource, in turn leaving fewer funds for the beneficiaries of fundraising support at a critical times. There is also not demonstrated need or evidence to support the rationale for one.

As noted, voluntary codes exist already and *can potentially be adapted to* incorporate opportunities for even greater transparency for donors if desired, though evidence does not support this requirement.

Further, Government could provide funding to a sector-led group that can develop additional resources for all charities (FIA/PFRA/ACFID members or not), on this topic; FIA already have the education and training infrastructure in place to deliver additional materials and guidance. The result would be a truly holistic and sector-led approach which more clearly reflects a collaborative process and is more proportionate to this idea, as opposed to moving to developing a new code that risks a lack of buy-in from the broader sector and therefore adherence, voluntary or not.