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IAC WEBINAR SERIES

INCLUDE A CHARITY: LEGAL ENGAGEMENT TOOLKIT

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GIFTS IN WILLS MANAGER
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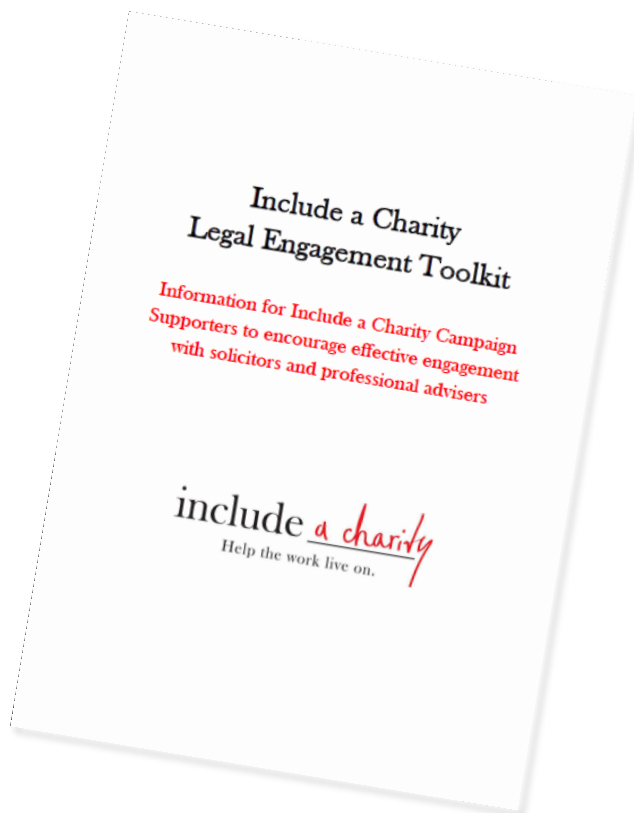


Fundraising Institute Australia

IaC's Legal Engagement Campaign

- Raise awareness and support of IaC within legal community.
- Encourage Will-writing solicitors to explore their clients' charitable support.
- Support IaC Campaign Supporters to have effective engagement with legal and advisory community.
- Promote FIA's ***Standards of Bequest Fundraising Practice***.
- Share knowledge and experience to increase our capabilities and confidence in handling legal issues relating to gifts in Wills.

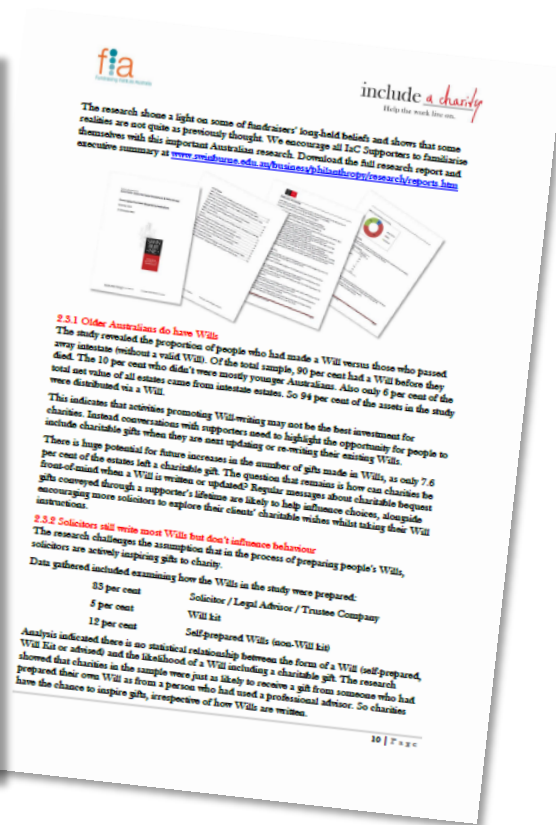
Include a Charity's Legal Engagement Toolkit



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Include a Charity's Legal Engagement Toolkit

- What is it all about?
- Insights from legal-related research
- Include a Charity's direct marketing solicitor campaign
- Communicating with solicitors
- Making your website legal-friendly
- Estate administration – some observations
- Family Provision Claims & contested estates
- Answering some of the most frequently asked questions
- Useful resources & references
- Using Include a Charity's supporter network
- Your Questions & Suggestions

Massive Disclaimer – This is NOT Legal Advice

Disclaimer

N.B. This guide is not intended to be interpreted as correct legal advice.

This document is provided to Include a Charity Supporters for their **general information only**.

No reader should act upon any matter without first obtaining appropriate professional advice.

This toolkit is intended to provide some general practical guidance for issues associated with estate administration and communication between charities and legal professionals. The document itself is a collection of some of the key legal information and borrows heavily from other materials currently available to the Australian public either online or offline.

There are some significant differences that exist between the relevant legislation governing probate, Gifts in Wills, estate administration and family provision claims in individual States and Territories. This guide does not cover these differences in detail. If in doubt, please check the legislation and regulations that operate for your specific circumstance.

The contents of this document are not a substitute for any member of the Include a Charity campaign seeking their own appropriate legal advice when the need arises.

Members of Include a Charity's Legal Engagement Committee:

Ross Anderson, Gifts in Wills Manager @ National Stroke Foundation

Frances Cinelli, Head of Fundraising @ Redkite

Fiona Jessiman, Gifts in Wills Manager @ Vision Australia

Lara Killingley, Planned Giving Specialist @ The Fred Hollows Foundation

Sharne Nicholls, Gifts in Wills Officer @ National Breast Cancer Foundation

Insights from legal-related research

- IaC's Solicitor Research – we're moving in the right direction.
- Still not many Australians include charities in their Wills.
- Solicitors write most Wills, but aren't influencing behaviour.
- Direct marketing by individual charities has limited impact.
- Solicitors definitely have the ability to change behaviour.
- The UK is kicking some great goals in this area.
- Will-making & estate contestation is a complex area – get advice.

laC's direct marketing solicitor campaign

- Focus of laC's legal engagement.
- Change both public demand and solicitor prompting.
- Getting information into the hands of solicitors' clients.
- Leaflet reinforced with editorial and awareness.
- Big push around laC Week.
- Phone contact for both acquisition and engagement.
- Pro Bono service from Apple Marketing Group



Apple Marketing Group
The fundraising specialists

- Over 4,000 solicitors now stocking our leaflets for their clients.

Engaging with solicitors

- Clear and accessible information with point of contact.
- Downloadable wording / correct name for your charity / ABN.
- Develop response letters for use with regular issues.
- Have information prepared specifically for solicitors, don't just use material that you've developed for your supporters.
- Record enquiries you receive from solicitors.
- Track visits to webpages.

Making your website legal-friendly

- Easy navigation to find Gifts in Wills information –
 - Ways to Donate / Help / Support / Give Back etc.
 - How to include a gift in your Will
- Separate section for solicitors and executors.
- Clear reference to legal name, ABN and registered address.
- Highlight your charity's income tax exempt / DGR status.
- Explain legal terminology to your supporters or avoid it entirely and use easy English.

Estate administration – some observations

- This is **not** an exhaustive guide to estate administration.
- Legislation varies from State to State – mainly in terms of timings and processes.
- If you're receiving gifts from around the country you should familiarize yourself with the main differences and your rights.
- Commons issues we might encounter along the way:
 - Access to Will / Statement of Assets & Liabilities
 - Life interest
 - Capital Gains Tax
 - Transfer of shares in specie
 - Franking / Imputation Credits
 - Executor's commission
 - Requests for signing releases and indemnities



Family Provision Claims & contested estates

- Claims vary from State to State – and they change over time.
- We should seek to protect our entitlement and uphold the wishes of the testator whenever they are reasonable.
- Be proactive and seek information to help you make an informed decision.
- Explore a range of alternative solutions and consider early settlement– don't wait for costly legal proceedings.
- Collaborate and unite with other charities where there is common interest.
- Share the costs of legal representation.
- Recommend effective solicitors and mediators to others.
- Encourage your supporters to discuss their wishes with their families in advance.

Answering some of our most frequently asked questions

- Requesting copy of Will / Statement of Assets & Liabilities?
- Executor's Commission – What's fair for 'pains & troubles'?
- Solicitor Executors - 'Rule 10' must advise client in writing
- Signing Release and Indemnity – what are your rights?
[See Appendix 1 - *Plimsoll v Drake*]
- Restricted / Specific Gifts – what do you **have** to do?
- Time for executor to obtain probate?
- Time limits to bring a claim for further provision?

Useful resources & references

- Specialist publications / latest case law.
- Keep your eye on changes in legislation / consultation.
- Tax effective charitable bequests.
- Links to all Law Societies & Institutes.
- Links to all Public Trustees.
- Outlines of some typical letters.

Using Include a Charity's supporter network

- Reach out to Gifts in Wills staff in over 100 campaign supporter charities – www.includeacharity.com.au
- IaC supporters handle many '000's of different legal issues and have sought advice about many different issues.
- Some charities have specialist positions handling estate administration and legal issues.
- In-house legal experts.
- Sharing helps to grow all of our knowledge and capabilities.
- Recommendations for others that you can speak to / knowledge that IaC can share with you in the future.

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ANY QUESTIONS?

EMAIL SUGGESTIONS FOR TOOLKIT CONTENT TO
RANDERSON@STROKEFOUNDATION.COM.AU

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NEXT IAC WEBINAR: 16 DECEMBER
INCLUDE A CHARITY: MARKETING TO PEOPLE OVER 60
AMANDA O'BRIEN, MANAGING DIRECTOR, SOUTHERN LIGHTS MARKETING

FOR MORE INFORMATION AND TO REGISTER VISIT WWW.FIA.ORG.AU/IAC

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