The untapped potential of planned giving (part 3)

In a series of articles for *F&P*, Lawrence Jackson explores the potential for far greater investment in planned giving in Australia and how to shift current practices in this critically important area.

Let's take a look at the areas I believe hold the greatest potential for planned giving growth in Australia, focusing on how the sector could unlock some of these opportunities and the likely challenges and barriers that will need to be overcome.

In part two of this four-part series, I referred to the term 'planned giving' as having originated in North America and its inclusion of fundraising practices involving certain types of gifts made from diverse asset classes such as cash, shares and property or a combination of these, often as part of an estate planning process, with gifts in wills (bequests or legacies) being the most common type.

The origin of planned giving in the US was largely tax driven, resulting in the creation of unique and often complex deferred giving vehicles such as:

- Charitable gift annuities (donation of assets for a partial tax deduction and future stream of income)
- Charitable remainder trusts (donation of assets to a trust that pays a fixed income to the donor each year with any funds remaining transferred to the charity on death)
- Pooled income funds (charitable mutual funds which pay dividends to both the charity and donor).

This in turn has led to other countries such as Canada, the UK and Australia approaching this in a variety of ways depending on their respective legislative, economic and cultural situations.

KEY GROWTH OPPORTUNITIES

The five key planned giving vehicles that I have previously highlighted for local focus and experimentation with a view to tapping the growth potential were gifts in wills, individual investment giving funds, remainder trusts, superannuation fund-related annuity giving vehicles and leftover superannuation.

Let's consider the local context, how to go about activating these vehicles and some expected challenges.

1 GIFTS IN WILLS

We already know a fair amount about bequest gifting behaviour in Australia due to great, if somewhat dated, research by Dr Christopher Baker and Michael Gilding that suggests the following based on a 2006 study of Victorian probate files:

- 7% of 'final estates' in Australia, that is with a will and without a surviving spouse, will include a charitable bequest
- Estates 'without a surviving child' are far more likely to include a charitable bequest, yet 40% of final estates without children did not include a charitable bequest
- 47% of bequests were to a single beneficiary with the remaining 53% sharing between multiple beneficiaries
- Human welfare charities received most charitable bequests, with 61% of inclusions and 56% of dollars bequeathed; education, arts, the environment and others fared poorly
- The median value of residual bequests (what remained after all debts and gifts were distributed) was dramatically higher than specified dollar-value bequests, with median values of $200,000 and $7,000 respectively.

We also have some deep insights into the long-term gifts in wills outlook over the next two decades based on the recent FIA commissioned *Legacy Foresight* analysis of Australian bequest trends, as part of the Include a Charity initiative. The key insight was that, despite rising wealth levels, there is a *worrying pattern* which could *discern no upward trend*, suggesting that Australians' appetite for bequests is static despite the efforts of Include a Charity and its members.

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How to unlock the potential

Suggestions on exactly how to unlock the vast potential in this area could be the subject of an entire article. There are a multitude of strategies and tactics in two broad categories, namely push and pull fundraising. The major challenge I believe is the short-sightedness of charity/NGO sector leadership, which I will briefly expand on in the challenges and barriers section below.

The key difference between push and pull fundraising relates to the way in which prospective planned giving donors are engaged and approached. Push fundraising is proactive and campaign-oriented, with appeals and approaches to donors designed to evoke a response or action. Pull fundraising, on the other hand, aims to establish deep and loyal relationships with donors which draw them towards the charity at a pivotal point in time.

It seems to me that the more dominant approach in Australia is the former, namely push legacy fundraising, oriented around direct marketing communications, surveys, newsletter stories and advertisements highlighting the opportunity and benefit of leaving a bequest to a charity.

Pull activities, such as general values-based engagement with high potential planned giving prospects, in person and via their trusted advisors and intermediaries, seems much less common but holds great potential. A combined approach will almost certainly generate the optimal result.

Expected challenges and barriers

There are many barriers in this area but the chief one, in my view, is the failure of the charity/NGO sector leadership to take a long-term view and invest in this proven area to the extent required.

The irony here is that UK data and experience has shown the bequest gestation period to be significantly shorter than most sector leaders and fundraisers seem to believe. This is little known in Australia and requires much greater education to increase awareness.

The most common response we hear from leaders, especially those from the oldest and largest charities, when they are asked why there isn't a greater focus and investment in planned giving activities – the highest returning type of fundraising – is that they need the funds now and not in the future, and they don't have the time or resources to wait the long planned giving gestation period. This is a bit like spending all your funds in the present and not saving and investing for the future.

Our modern retirement system, which came into being in 1991 with the introduction of the compulsory Superannuation Guarantee, literally forced Australians to provide for their future. Perhaps there are some learnings for the charity sector in this analogy.

2 INDIVIDUAL INVESTMENT GIVING FUNDS

Individual investment giving funds are like personal 'giving accounts' in a broader public philanthropic entity such as a community foundation, trustee company or wealth management firm.

Sub-funds can be a great option for individuals to structure their giving and are much quicker to set up, have a far lower cost and are much simpler to manage than the private ancillary fund (PAF) alternative.

Until recently, there was little data available on the nature and size of sub-funds in Australia, so an excellent survey undertaken by Krystian Seibert at the Centre for Social Impact at Swinburne University, Vic, sourced from 18 sub-fund providers and published in March 2019, was welcome and revealed some encouraging details:

- Approximately 2,000 sub-funds have been established already
- They collectively hold approximately $1 billion in assets
- They have made 6,304 grants distributing $57 million to date
- Philanthropic contributions to sub-funds in the 2017/2018 financial year were approximately $123 million
- There are already more sub-funds than PAFs in Australia (1,653 PAFs at June 2018).

This data is very encouraging and suggests considerable further growth potential in this area, similar to what occurred in the US with its sub-fund equivalent (donor-advised funds) the assets of which, according to the Swinburne paper, surpassed $100 billion in 2017.

How to unlock the potential

The key learnings from the North American experience may be the starting point to understanding how we may go about unlocking this growth in Australia.

It is not clear if the experience was advisor-driven or donor-driven or a combination of both in the US. Under certain conditions people respond to incentives and it seems that the adoption and astute promotion by financial intermediaries, especially by key wealth management firms led by Fidelity, Charles Schwab and Vanguard, may have been the critical catalyst that made all the difference.

The question then is what can the Australian charitable sector do to better understand this and how can it build partnerships with commercial financial intermediaries to develop a local equivalent of this giving vehicle?

Expected challenges and barriers

The likely barrier to this seems to be the relative lack of awareness by donors of the availability of this option and the benefit of this giving structure. Is the professional education of the sector sufficient and is the product naming and marketing optimal? These structures have become new signifiers of character and status for donors and, as Seibert commented, "sub-funds are not a very attractive name" and can surely benefit from some clever rebranding.

3 REMAINDER TRUSTS

The opportunity here is to establish a local adaptation of the North American charitable remainder trust concept. This is a structure that allows donations of assets to a trust, which pays a fixed income to the donor each year, with any funds remaining transferred to the charity on the death of the donor.

The design of a local version will need to consider the significantly increasing life expectancy and the opportunity to access Australia's vast pool of accumulated investment and retirement assets, that is superannuation, property, shares etc.

How to unlock the potential

Philanthropy Australia has already undertaken some thought leadership and advocacy for what has been termed the Living Legacy Trust Structure, although ultimate success in this area is likely to require a much louder voice and far wider sector involvement and advocacy, as was the case with the game changing PPF/PAF initiative.

Success will require effective advocacy on behalf of the entire sector to persuade the government of the day of the social policy benefits of such a scheme.

As Philanthropy Australia stated in their 2019 election policy priorities, this initiative, with an effective social policy setting, will allow >

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Australia to *take advantage of the record intergenerational wealth transfer in coming years to benefit the community.*

Expected challenges and barriers

The barriers in this area are unfortunately rather significant due to the complexity of the legal and political ramifications. At the heart of this will be the fear of the government of the day of the loss of taxation revenue. A solution will require clever design and effective advocacy to win the political leadership required to usher this through Parliament.

4 SUPERANNUATION FUND-RELATED ANNUITY GIVING VEHICLES

This idea is in line with the US charitable gift annuity structure which facilitates donations of assets for a partial tax deduction and future stream of income. One way of doing this in Australia is by establishing a future fund structure, which provides an initial tax deduction as well as regular annuity payments to overcome the fear of running out of money over an individual's lifetime.

How to unlock the potential

Under Australia's accumulation investment system, if you make your donations before you die and then run out of money you have a major problem. An initiative like this would benefit the donor and provide a giving option we currently don't have. This will require a well thought out model which, according to charity law expert John King, could be "a mirror image of the future fund, which provides this donor with an annuity style guaranteed income stream." Certainly, food for thought.

Expected challenges and barriers

Like the challenge of establishing a charity remainder trust initiative, the chief barrier is likely to be the sector-wide funding and facilitation of the expert design of an effective legal and financial structure and revenue-neutral vehicle.

The chief risk is the gamble that Australians will take this up without the strong tax saving incentives that the US system offers due to its heavy inheritance taxes and death duties but which are almost entirely absent in Australia (with the exception of tax on leftover superannuation at the time of death).

5 LEFTOVER SUPERANNUATION

The opportunity here is to remove the current taxation related barriers to allowing retirees to donate some or all of their unspent superannuation. At present this is taxed at 15%, which is a disincentive to leaving this to charity as a type of a bequest. These balances in many cases can be rather substantial.

How to unlock the potential

Philanthropy Australia has almost singlehandedly led the way on this and while unlikely to be a philanthropy game-changer, it is a very worthy initiative deserving of far greater sector-wide attention and support.

Expected challenges and barriers

The chief challenge will be the effort required to lobby governments to remove the current barriers to donating the not insignificant residual superannuation balances to charity. The other challenge will be to educate the charitable sector, lawyers and financial intermediaries about this little known and discussed opportunity.

THE POTENTIAL PAYOFF

It is important to recognise and distinguish between the macro and micro sector issues at play, that is the individual actions that charities can take independently as well as a sector-wide response that requires more complex legal and taxation considerations and co-design elements, not to mention considerable advocacy and government liaison.

Success in this endeavour will also require strong and decisive leadership from boards, CEOs, fundraising directors and the sector at large, as well as considerable deepening and widening of specialist 'planned giving' fundraising skills.

Much can be learned from other more advanced nations that have come before us, such as the US, Canada and UK. But we will need to integrate some of this with our unique Australian context and our legal and cultural situation. Notwithstanding this, the potential payoff in this area appears to be vast and is deserving of much greater organisational focus, investment and leadership. F&P

Lawrence Jackson

Lawrence is a long-time fundraising and philanthropy practitioner, consultant and commentator. He established fundraising and philanthropy consultancy Catalyst Management in 2006. Since then Lawrence has undertaken more than 80 bespoke projects and assignments for a wide spectrum of organisations ranging in size, age and area of focus.

Lawrence acknowledges conversations with: Professor Russel James, Texas Tech University; John King, Prolegis Lawyers; David Knowles, Koda Capital; Helen Merrick, Include a Charity/Fundraising Institute Australia; Juliana Payne, Catalyst Management; Claire Routley, Legacy Fundraising; Krystian Seibert, Swinburne University of Technology; Dave Smith, Heaton Smith Group; and Danielle Mawer, Bates Wells.