

Legacy Lunch

Inspiring and Securing Charitable Gifts in Wills

Thursday, October 10, 2024
National Portrait Gallery, Canberra

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The Professional Body for Australian Fundraising

Welcome To Country with Selina Walker



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Katherine Raskob

CEO, Fundraising Institute Australia

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Andrew Atkinson, Detective Inspector (retired)

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My story

Detective Inspector Andrew Atkinson (retired)

- 28 years Victoria Police
- 2001 East Timor
- 2004 Iraq
- 2006 East Timor



Morgan Koegel

Managing Director, Bequest Assist

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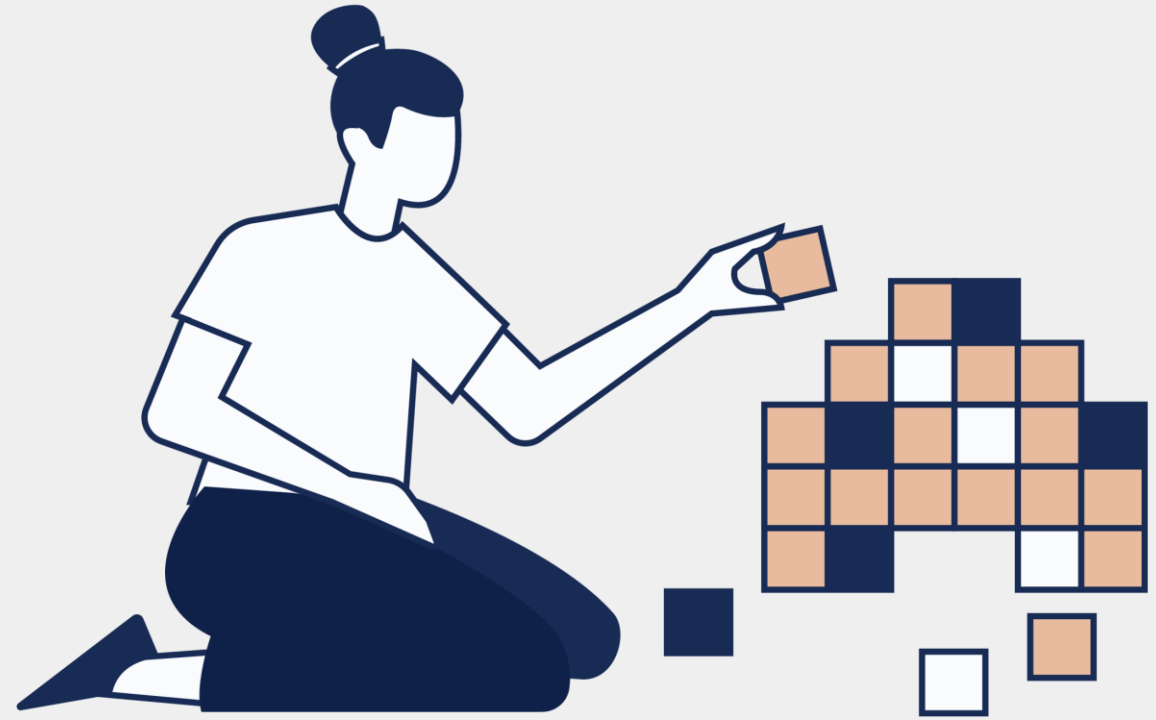
Have you ever wondered what happened to a promised gift in will?

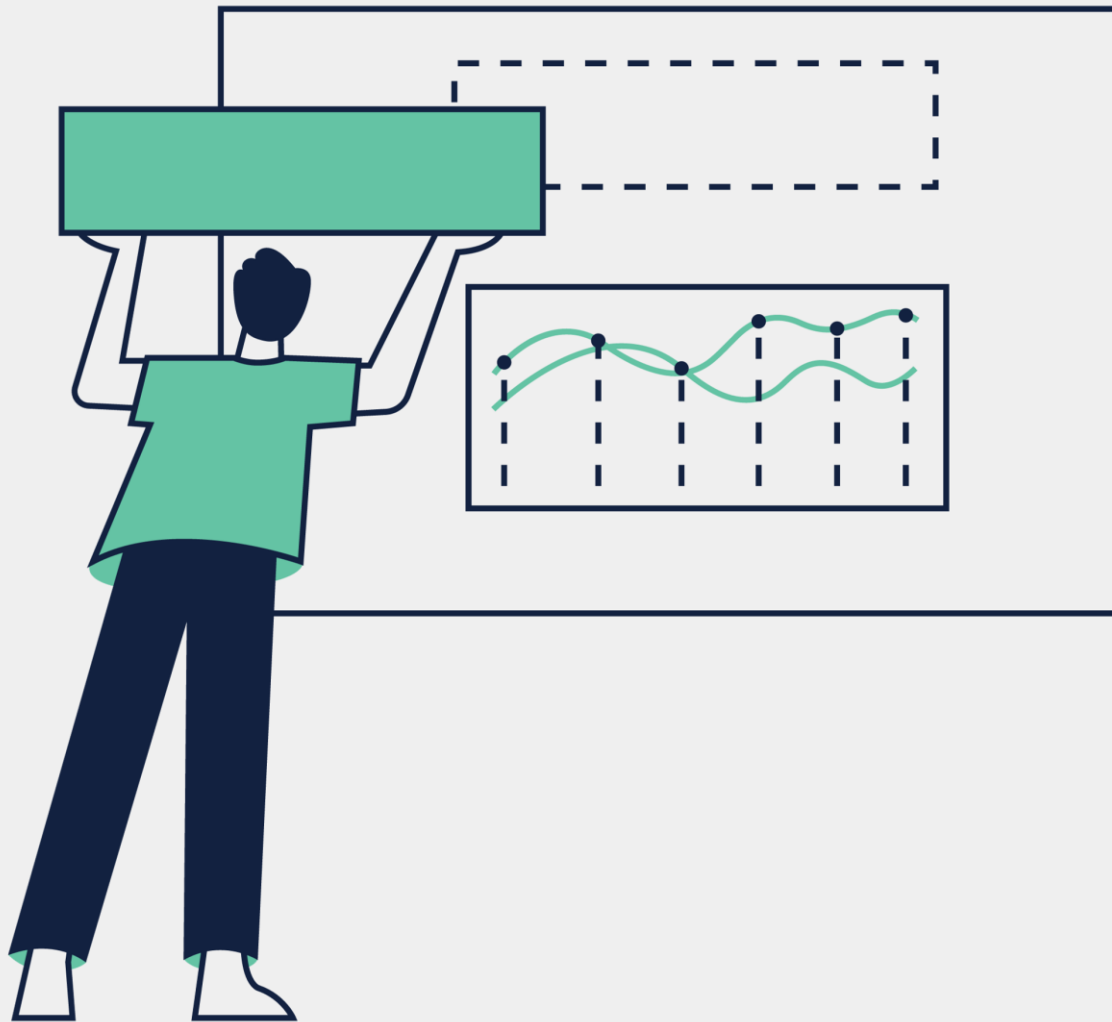
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- Research into confirmed bequests that have never materialised
- Gifts in Wills worth approx. \$1.6 billion annually to Australian charities
- Can charities rely on their “confirmed bequestor” pipeline?
- How big of a problem are missing gifts?





Missing gifts

- The will is misread, and one or more charities are missed
- The will is destroyed/lost, resulting in the deceased being found intestate
- The solicitor or executor does not pay some or all beneficiaries
- The solicitor or executor posts a cheque and it is lost

- Pilot project in Victoria
- Individuals deceased between 2016–2021
- Contacting solicitors, purchasing probate documents
- Initial results are in



- Majority of bequests were denied (went to family, friends, other charities, etc)
- Where the bequest was in the Will, some had been paid, gone to a sister organisation or there was discretion
- 1% of promised bequests checked were missing gifts

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\$16,000,000

missing per year

What about the 2/3rds we don't know about?

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Recommendations to charities

- Improve bequestor record keeping
- Consider donor data cleaning
- Develop a procedure for tracking promised gifts



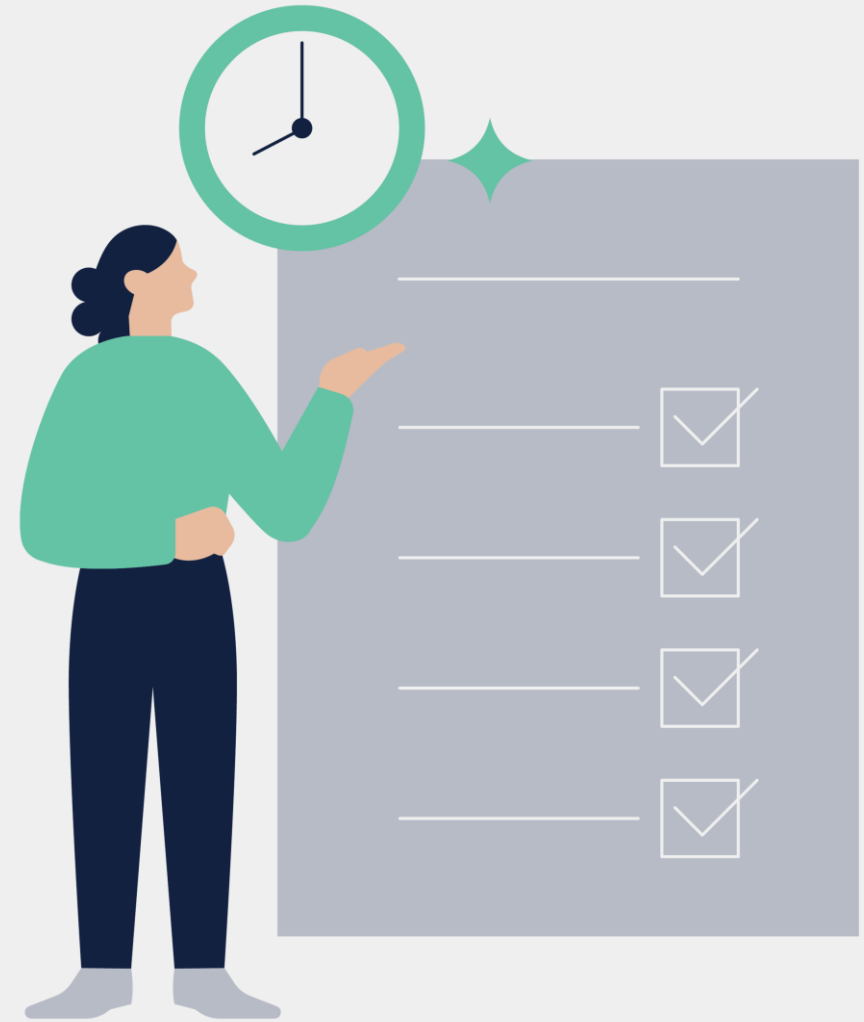
Recommendations for policy makers

- Increase transparency of the probate process with more accessible wills
- Consider opportunities for safe will storage



Next steps

- Full report available in November
- Progress recommendations for probate reform
- Educate the Gifts In Wills sector



Questions?

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Rohani Bixler

Principal Lawyer, Olivetree Legal

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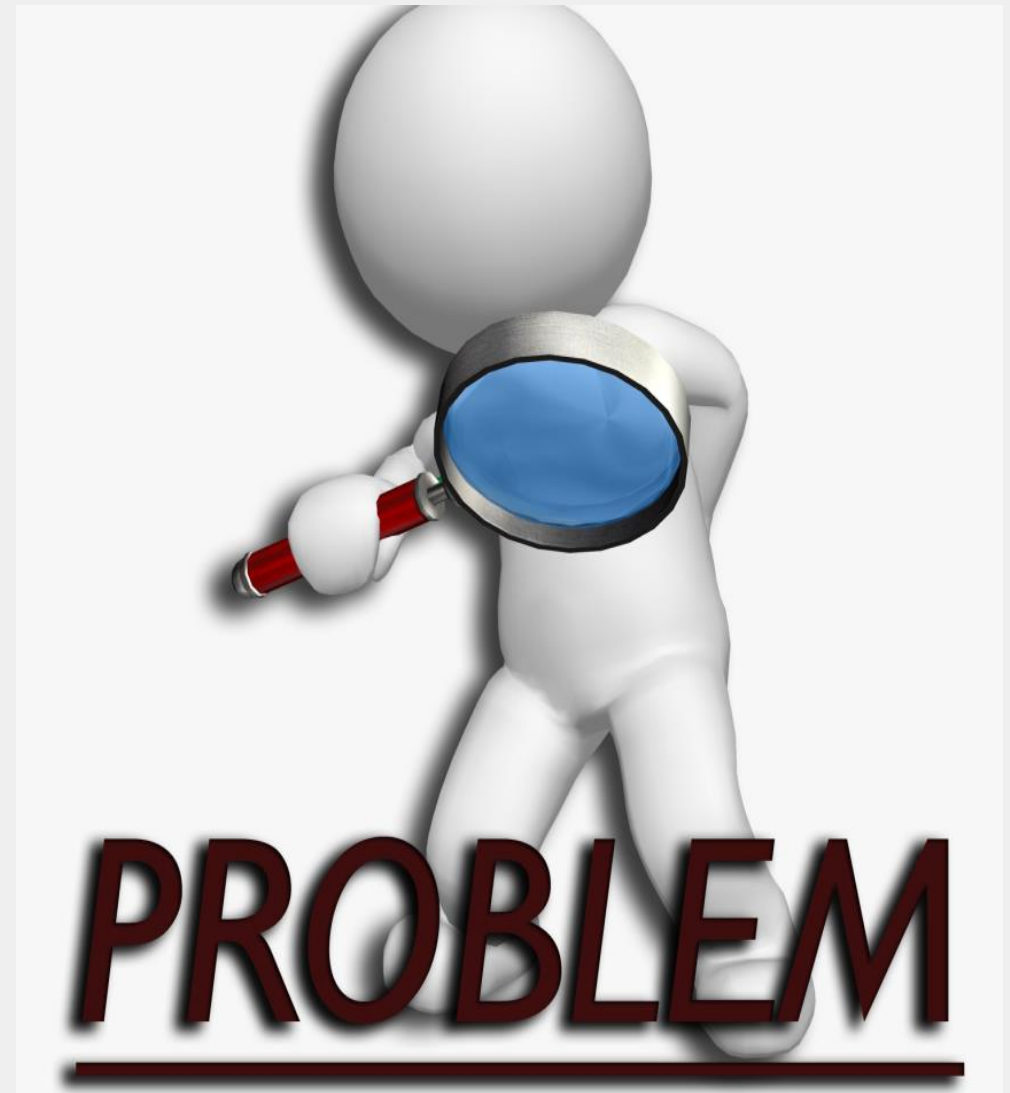


Executors Behaving Badly

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- Long delays in administering an Estate
- Deciding not to fulfil the bequests in Wills without informing the charity
- Selling CGT assets (incurring avoidable tax)





- Study of *36,000 Wills made online between 1 Nov 2020 – 31 Oct 2023*
- Of these Australian online Wills, 19% included a charitable gift – compared with approximately 9% of wills submitted for Probate in Australia
- Consistent with anecdotal evidence of Estates not being administered

True Stories ...

- A charity accidentally discovered it was a beneficiary under a Will 3 years after the executor had spent the \$3 million that had been bequested to the charity. The funds could not be recovered.
- An executor decided not to distribute the gifts identified in a Will to the intended charitable beneficiaries on the assumption that the charities would not find out.



Time is Money

- A charity was first informed of a \$25m estate comprised mainly of publicly listed shares 18 months after probate was granted and after the Executor had realised all the shares, triggering an avoidable CGT liability.
- An Executor waited over 10 years to apply for probate of a simple estate (comprising only 1 bank account). A significant asset had been gifted to the Executor 6 months prior to the death. Had the charity been aware of the bequest, it could have taken steps to secure the funds more quickly, and to investigate the validity of the gift.





The power of being informed

- The case of Donkey Love

Practical:

Encourage donors to report directly to charity

Policy:

Require Executors to inform beneficiaries

Expressly allow solicitors to provide beneficiaries with copy of a Will without Executor approval

Questions?

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Maree Sidey

CEO, Philanthropy Australia

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Bequest Assist



**INCLUDE
A CHARITY**



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