THE AUSTRALIAN

Philanthropists tire of bureaucratic tangles

STIRLING LARKIN THE AUSTRALIAN FEBRUARY 27, 2016 12:00AM

Philanthropy in Australia is facing a very sad state of affairs, not because of any lack of individual support but rather the perennial issue of government and "peak bodies" unnecessarily getting in the way of the private sector.

Worse, these interventions seem to be for appearance's sake and are not motivated to deliver better outcomes for philanthropists or societies.

Australian ultra high net worth families — who are often not represented by these interests — are pushing their own direct agendas and solution sets to redress the challenges faced within Australian society and beyond, regionally and internationally.

A perfect example of mountains being made out of bureaucratic molehills is Treasury's hotly debated Private and Public Ancillary Fund Amendment Guidelines 2015 review, currently under way.

Private ancillary funds (PAFs) and public ancillary funds (PuAFs) are special purpose tax vehicles for philanthropic activity.

This is referred to as an "amending guidelines" review, in the best spirits of a *Yes Minister* episode, and is tabled to be set in motion by July 1.

With so much hair-splitting regarding philanthropic fund minimum annual distribution thresholds, portability across recognised structures and bureaucratic oversight — now being split and shared by both the Australian Taxation Office and Australian Charities and Not-for-profits Commission — the forest has once again been lost from the trees.

Taking a step back and acknowledging that there has been an agreed emphasis for private sector philanthropy to replace many of the current layers of corporate and governmental charitable and philanthropic funding channels, the devil has, unsurprisingly, become the details.

With valuable political capital being squandered over an argument surrounding the minimum ancillary fund annual distribution threshold — currently set at 5 per cent of net assets for PAFs and 4 per cent for PuAFs — far more pressing and important conversations are not being had, with direct negative consequences to Australian philanthropic outcomes.

With a recent Asia-Pacific survey showing that issue-based philanthropy is practised by 55 per cent of family foundations in Australia, Asia and the region, as an aggregate, the following are current areas of priority:

• Education and training (50 per cent of family foundations).

• Poverty prevention (40 per cent).

• Health (19 per cent).

• Children and youth (15 per cent).

• Religiously affiliated programs (14 per cent).

• Arts and culture (13 per cent).

• Environmental (11 per cent).

Interestingly, across all of these, about a third of family foundations use community foundation donor-advised funds or give directly to community foundations. But this snapshot circles back to the issues of government and peak bodies complicating the flight path of family foundations from mandate to meaningful engagement.

Oceania — a euphemism for Australia and New Zealand in this context — represents the least supportive philanthropic architectures against global comparisons, despite the high levels of intermediarisation and bureaucracy.

This hotly contested public debate is missing the point in several key areas:

• All agree the guidelines are meant to set minimum standards for the governance and conduct of ancillary funds and their trustees but, like any grouping where there are a few outliers and bad apples, the vast majority of PAFs and PuAFs operate and contribute higher than minimum thresholds.

• The emphasis to incorporate a specific treatment of social impact investments for the purposes of calculating annual distributions is, in itself, contentious as there still does not exist an agreed or accountable definition of what constitutes the highly subjective social impact subcategorisation.

• With so many AF trustees, intermediaries and foundation employees travelling to New York or New England on exploratory missions in recent times, the basic fact North American charitable lead and charitable remainder trusts are vastly different and not comparable to Australian philanthropic structures should raise concerns about accountability and questions around the public benefit to Australians.

• Amending 2009 and 2011 guidelines on the basis that the minimum annual distribution rate is being amended to provide greater flexibility in unexpected economic conditions becomes a slippery slope, as it provides a nexus between for-profit and not-for-profit outcomes.

Rather than delaying altruistic endeavours and support for contemporary causes, there has been an informal coalition of Australian UHNW philanthropists who have sidestepped this public rancour and found direct ways of supporting what they believe are timely and worthy causes in need of their patronage.

The primary debate should be turned towards allowing Australian philanthropic funds to directly support non-Australian-dollar-funded, internationally worthy causes. Until then, all we are doing is helping ourselves and not others.

Larkin Group is an ultra high net worth wealth adviser focusing on high-yielding global investments.

www.larkingroup.com.au