



FUNDRAISING REGULATOR

Code of Fundraising Practice Autumn 2018 Consultation Report

About the Fundraising Regulator

We are the independent regulator of all fundraising carried out by or on behalf of charitable, philanthropic and benevolent organisations in England, Wales and Northern Ireland. We also regulate fundraising in Scotland carried out by charities registered in England, Wales and Northern Ireland. We do this by:

- setting and promoting the standards for fundraising (in the Code of Fundraising Practice) through consultation;
- investigating complaints from the public about fundraising where these cannot be resolved by charities themselves;
- investigating fundraising that has caused significant public concern;
- enabling people to manage their contact with charities using our Fundraising Preference Service; and
- publishing a public directory of all organisations that have registered with us to demonstrate their commitment to best practice fundraising.

About the consultation

We launched a nine week consultation on 10 September 2018 that asked for views on the style, presentation, clarity and accessibility of the code. The decision to consult on these aspects of the code came after feedback from the first consultation we opened in February 2017. We also took into consideration feedback from roundtable sessions with smaller charities, conversations with other regulators and sector bodies, and queries and comments from members of the public.

The consultation asked for views on a new draft of the code, including:

- a new table of contents and a simpler ordering of the code's content;
- a 'Plain English' review of language used in the code;
- a new code introduction;
- a glossary of key terms used;
- a table of those standards proposed for deletion or amendment; and
- incorporation of the face-to-face fundraising rulebooks

Who responded

We received 114 responses from charities, sector representative bodies, legal organisations, third party fundraising organisations and individuals. A full list of those who responded can be found in Appendix A on pages 12-13.

Q1. Do you agree with the proposed approach set out in this consultation?

	Yes	No	Did not respond to this question
Total	90	11	13
Percentage of respondents who answered this question	89%	11%	

Respondents told us the current code is difficult to navigate and disengaging for new fundraisers and smaller charities with limited fundraising expertise. A significant number of organisations said that they welcomed any move to address these issues, with many expressing that this is long overdue.

Respondents were in favour of changes to the structure and language of the code. We heard that the language used in the current code was unnecessarily complex in places, and did not always clearly state the requirements of a standard. The existing structure was seen to make the code 'impenetrable' to some audiences. Many respondents thought that splitting standards across the main code, legal appendices and rulebooks made it more likely that users would miss relevant standards.

Deletion of unnecessary repetition and standards which are not directly related to fundraising and merging standards with similar content was seen to further clarify the code, making it more accessible by reducing the number of standards. The addition of a glossary and introduction were also welcomed as measures to clarify the use of the code and to better define technical terms.

The newly designed website for the code was seen to be a positive step in making the code more accessible and user-friendly.

A minority of respondents did not agree with the focus of the consultation on the code's accessibility on the grounds that there was a more pressing need for a review of the substance of the standards.

Some objected to the review process only including one formal consultation, taking the view that a follow-up consultation was necessary on standards that have changed meaning or scope because of changes in language arising from the 'Plain English' review or owing to the relocation of standards.

Q2. What is your view on each of the proposed changes?

a. The new contents page and reordering of standards

The majority of respondents were supportive of the work to simplify the structure of the code, reorder the standards and provide a clear contents page.

Respondents thought these changes would make it easier to find the standards relevant to specific types of fundraising. The order of the contents and standards was commonly seen to be clearer and more logical than the current code structure, and the removal of duplication made the code easier to navigate. The three sections of the code proposed were seen to make it easier to distinguish where standards apply across multiple fundraising methods and where they are specific to a type of fundraising.

A1. Segmentation of the code: contents page, standard referencing system and section headings

Many organisations thought the length of the new contents section could be a barrier to engagement for those not familiar with the code.

Some organisations found it misleading to say that the proposed code is split into two parts because the draft had three distinct sections. However, many respondents were supportive of this proposed structure. Several respondents were confused by the two referencing systems (FM and WO) contained within 'Part 2'.

Many respondents said that the formatting of the sections made it difficult to pick them out within the contents page and in the text. So, it was sometimes difficult to see where one section ends and another begins.

A range of opinions were expressed about the new standard referencing system, where standard references are prefixed with the initials of the section they belong to (GR, WO and FM). Several respondents found the new system helpful and clear, although some did acknowledge that this (combined with the format of sectional headings) made the numbering more complex. Others found the new system confusing and unhelpful. Some suggested a numbering system similar to that used in the current code.

Our response

The contents page and segmentation of the code needs to be easy to engage with but also comprehensive enough that fundraisers can find the specific areas that are relevant to their fundraising. We have:

- replaced the standard references (GR, WO and FM) with numbering (for example, 1.1, 1.2);
- structured the standards in three sections; and
- resolved the accessibility issues relating to the contents page through the design of the final code.

A2. Linking between sections

Many organisations suggested that more linking between the code sections is needed, both in the online version and the document. This was seen to be particularly important between Parts 1 and 2 to make sure that fundraisers who only read the section relating to the activity they are carrying out still see all relevant standards.

A couple of organisations suggested that cross-referencing within the code should be linked to a numbered standard, a range of numbered standards or a page number, rather than to a section or sub-section. It was also suggested that we include standard ranges in the contents along with page numbers.

Our response

We have taken comments on links between sections into account when designing the PDF of the code and the online version.

We have changed the way standards are referenced, with one aim being to improve how cross-references and internal links are presented. However, we have tried to strike the right balance when linking different parts of the code as too much linking may cause confusion.

We will carry out some user testing before launching the online version of the code to ensure cross-referencing functions as intended.

A3. Use of boxes

Many respondents observed that boxes were used inconsistently throughout the code to separate out legal requirements, guidance, commentary and examples. It was also noted that some boxes have information relating to just one standard and others covered whole groups of standards or sections.

In addition, a couple of these respondents felt that certain standards didn't make sense without the information in the box before or after it, meaning they could not stand alone as standards. It was suggested that the standards are expanded to avoid confusion.

Our response

We have carried out a thorough review of the way information is presented throughout the code to ensure that guidance and signposting is displayed clearly and consistently as part of the PDF and website designs. We have also reduced the number of text boxes, consolidating information at the end of sections wherever possible.

A4. Audience testing

Several organisations sought assurance that the final version of the new layout and structure would be user-tested with identified audiences to ensure it is fit-for-purpose, particularly with regard to the online version.

Our response

We have built user-testing into the process for developing the new code on the website to inform how it is presented.

b. ‘Plain English’ review of language

The majority of respondents who commented on this point were supportive of the proposal to make the code easier to read with less technical language.

The draft code was thought to be clearer for the reader, with more clarity having reduced jargon and technical, legal terminology. Many organisations felt that this change would be particularly helpful when explaining the code to volunteers and for smaller organisations with less fundraising expertise. The move from passive to active verbs was also seen to make the code more engaging to the reader.

B1. Use of ‘you’

There were a range of views expressed about the use of ‘you’ as a direct form of address for standards in the code. Many organisations liked this form of address, saying that it makes it clearer who the code is addressing and, therefore, who it applies to. It was also felt that this change removes the lack of consistency between terms such as ‘collector’, ‘organisation’ and ‘fundraisers’, which were used interchangeably in the current code. However, there were some concerns about the consistency of how this is applied, and how the meaning of ‘you’ is communicated from section to section, including where a new definition of ‘you’ begins and ends. Rather than simplifying, it was felt that in many places there was more ambiguity and therefore more onus on the reader to carefully consult the prefaces to sections.

A couple of organisations felt that the use of ‘you’ means that in many cases standards could not stand alone without the associated guidance as to who ‘you’ refers to. This is particularly apparent in sections where ‘you’ is redefined and it would not be possible to read and understand standards outside of the context of the section.

One respondent noted that where standards reference other standards or sections of the code, if ‘you’ applies to different audiences in the two sections, the standards do not make sense together. For example, the box following standard WO25 (referring to charitable organisations and third-party fundraisers), directed people to a section where ‘you’ refers to online fundraising platforms.

Two sector representative bodies also noted that the use of ‘you’ can give a sense of personal liability where it is an organisational liability that needs to be conveyed.

Our response

The use of ‘you’ to address the audience in the code is a significant change. We intend to continue to use the word ‘you’ in the code, but we have added explanation of who ‘you’ is and put these within the code on a section-by-section basis for clarity.

We agree that it is potentially confusing to cross-reference between sections where ‘you’ has a different audience, and we have addressed this issue (see A2).

We have also worked with the Plain English Campaign and taken legal advice on the use of ‘you’ to ensure that it is applied accurately, consistently and clearly.

B2. Use of asterisks

A number of organisations commented on the continued use of an asterisk to denote a legal requirement in the new code. Many respondents found this distinction difficult and potentially easy to miss, and a range of suggestions were put forward as alternatives. A couple of organisations also suggested that it would be useful to hyperlink legal requirements to the relevant law so that this can also be consulted if necessary.

Several organisations also noted that the explanation of must/must not with and without an asterisk is only shown in the introduction. It was put forward that this should be explained at the start of each section or at intervals throughout the code.

Our response

We have considered options to address the use of the asterisk in the code. We have removed the use of the asterisk in the code, but maintained a way for readers to identify between regulatory standards and those that have a basis in law. This distinction has been made using **must** and **must not** (bold) for standards based on the law, and must and must not (not bold) for regulatory requirements.

B3. Change of standard meanings

Several organisations were concerned that the substantial meaning of some standards may have changed as the result of the changes in language arising from the Plain English process. A number of standards were identified as examples.

Our response

These examples, along with all other standards, have been reviewed individually to make sure that any inadvertent substantial changes of meaning were rectified.

c. Code introduction

The majority of respondents who commented on this point supported the addition of a more comprehensive introduction.

Respondents commented that would clarify who the code applies to and its purpose. We heard that the introduction is effective in contextualising the code and clarifying our role.

C1. Length

Several respondents said that the proposed introduction was too long and needed to be more concise. Although they thought the introduction is helpful, these respondents felt that if it remained at its current length, users were more likely to bypass it.

Our response

It is important that the right balance is struck between providing the necessary introductory information to users without it becoming so lengthy that users do not read it. In response to these comments, we have reconsidered the introduction, making the information more concise.

C2. To whom the code applies

A number of organisations raised points about who the code applies to in practice. Several organisations thought that since the introduction stated that it applies to charities and voluntary organisations with philanthropic aims, it is not sufficiently clear whether it applies to Community Interest Companies, social enterprises or third parties who are not registered but with which organisations work. One legal body also questioned how (or if) it applies to ‘unauthorised fundraisers’. A few organisations also noted that it would be useful to add some detail on how the code applies across the UK, as well as to online platforms and crowdfunding.

A sector representative body highlighted the importance of ensuring that those who do not identify as fundraisers know they need to engage with the code. It suggested highlighting that if they engage in certain types of activity, the code applies to them.

One regulator noted some confusion around referring to non-charities as ‘charitable organisations’. They argued it would be best to refer to a ‘charity’ (as defined in the relevant legislation) and to an ‘organisation’ as bodies carrying out fundraising who are not charities as defined in law. In addition to this differentiation, it was noted that the distinction between registered and unregistered charities does not apply in Scotland. A sector representative body also requested clarity on who the code refers to by ‘voluntary organisations established for purposes which may not be strictly charitable’. A legal advisory body suggested that the term ‘charity’ or any of its derivatives defined in statute should not be used in a way that departs from that definition, and that ‘philanthropic organisations’ was a suitable term to reinforce the distinction between charities and other organisations.

Our response

We have clarified the applicability of the code in the revised introduction. In doing so, we have also clarified who ‘you’ and ‘your’ refers to throughout the code. The code has undergone a full legal review to ensure that the standards within the code and the way in which ‘you’ is applied is consistent with what entities the code applies to.

The terminology we have chosen to use for different organisations covered by the code has been reviewed by our lawyers to ensure it is clear, while remaining legally sound. Amendments have been made to terminology and glossary definitions in light of this feedback.

C3. Fundraising Promise

A couple of organisations asked for clarity about the relationship between the Fundraising Promise and the code and whether complaints would be investigated against the promise as well as the code.

Our response

There is a distinction between the Fundraising Promise, which outlines the principles-based commitment made by fundraising organisations who register with the Fundraising Regulator, and the standards for fundraising, which are set out in the Code of Fundraising Practice and are the criteria against which complaints are investigated. Although the Fundraising Promise reflects the values of the code, the Fundraising Regulator investigates complaints only against the code.

We have made this distinction clear in the revised introduction to the code.

d. Glossary of key terms

The addition of the glossary was largely welcomed as a positive step in simplifying the code and making it more accessible for charities and fundraisers. It was seen as a way to ensure that new fundraisers and charities with less fundraising experience in their team were able to understand the code’s requirements more quickly. Respondents also felt that it helps to explain legal terminology.

D1. Location and awareness of glossary

Several organisations thought that the glossary should be referenced more in the introduction, or appear at the front of the code near the introduction to raise people's awareness.

Our response

The glossary is referenced in the introduction. We have not moved the glossary to the beginning of the code because, alongside the contents and introduction, this could result in 12–15 pages of information before a user reaches the core content of the code. To ensure that users are aware of the glossary, we will provide additional referencing where words defined in the glossary appear in the code online, such as pop-ups showing the definition.

e. Standards proposed for deletion or amendment

Respondents agreed with the approach taken to reduce repetition by merging standards where there was duplication of content, and removing superfluous information contained within the code that was either out of date or not of direct relevance to fundraising. These steps were seen to streamline the code and the reduction in the number of standards makes the code easier to navigate.

E1. Suggested further changes

Several organisations suggested additional deletions and amendments to further reduce the code. Some of the points raised were seen to be repetitions within the code, where others related to perceived doubling up with guidance from other regulators.

Our response

We have looked at each suggestion and incorporated them if the suggestion was consistent with the purpose of the consultation and there were no legal implications or unintended issues arising from doing so.

E2. Cross-referencing with the old code

Several organisations suggested that we should compile a 'destinations table' to show where existing code references appear in the new code. It was thought that this would aid organisations in implementing the new code.

Our response

We will produce a mapping resource during the familiarisation period to assist organisations in amending their internal documents and training resources.

f. Incorporation of fundraising rulebooks in the code

The incorporation of the fundraising rulebooks into the main body of the code was strongly supported by the sector, although there were a few organisations who felt that they should remain separate. Having all standards in one place rather than spread across multiple documents was seen as a positive step in ensuring that standards are not missed by fundraisers.

F1. Keep the rulebooks separate

Several organisations thought that combining the rulebooks with the code made it less clear as to which standards to follow. They said that having them separated made it easier to know the exact standards relevant to a specific funding stream. They felt that adding the more prescriptive rulebooks to the code did not necessarily sit well. Additionally, the possibility of organisations creating their own versions of the rulebooks for different areas of fundraising was raised. Finally, it was queried how incorporating the rulebooks would work alongside the Institute of Fundraising's compliance and mystery shopping programmes.

Our response

We appreciate that organisations may wish to create their own internal documents and materials relating to their areas of fundraising. However, the central theme to this consultation was to improve the accessibility of the code. A key element of this was to ensure that all of the standards that organisations are expected to adhere to are contained within one document, rather than being spread across the code, legal appendices and rulebooks. On that basis, and in light of the strong support for that approach, we have incorporated the rulebooks into the code.

Q3. Are there any points not covered by this consultation that you think should be considered to improve the style, presentation, clarity and accessibility of the code?

Transition and implementation

Several organisations asked for more information about the implementation process for the new code, including:

- how much time organisations would be given to familiarise themselves with the material in its new layout and update internal documentation;
- training and fundraising processes;
- when we would begin to investigate complaints against the new code; and
- whether there would be a 'bedding in' period where both the new and the old codes were used side-by-side in complaints investigations to ensure that the reworded standards could be interpreted in the same way moving forward.

Our response

We recognise the need for the sector to have adequate time to familiarise itself with the new code. At the same time, the work we have undertaken has not sought to address gaps in standards or new fundraising issues. Changes have only been made to the standards where there is a conflict with the core objectives of accessibility and clarity, the removal of duplication and legal accuracy.

Therefore, we consider four months to be an appropriate period of familiarisation between publication of the revised code and investigation of complaints against it. During the familiarisation period, the current code will remain in force. Complaints will continue to be considered against the version of the code in effect at the time of the incident. This means the new code will be used as the basis for making decisions about any incidents that take place from October onwards.

During the four-month period between publication and implementation we will support fundraising organisations to familiarise themselves with the code through webinars, blogs and other forms of training support.

Requests for a second consultation and ‘unforeseen consequences’ of the code changes

Several organisations suggested that a second period of consultation should take place following the incorporation of changes arising from this one. Such a consultation was seen to be of particular importance if there were any substantial changes to the standards as a result of this consultation.

One legal organisation suggested that any inadvertent changes should be reviewed on an ongoing basis following implementation of the new code. They recommend a ‘fast track’ process so that any issues of this nature could be quickly brought to our attention and rectified in good time.

Our response

This consultation did not seek to make substantive changes to the standards, except where there was:

- an unnecessary repetition or contradiction of a standard elsewhere in the code;
- the meaning was unclear; or
- a standard was inaccurate in relation to UK law.

We do not plan to hold a second consultation on these changes. However, where potentially unforeseen consequences from such changes have been highlighted, we have considered these on a case-by-case basis. We will continue to work with stakeholders to ensure the new code works as intended.

Jurisdictional points

Many organisations noted that there is currently a lack of clarity regarding the application of standards in different jurisdictions, and that it is not always possible to ascertain when a section with national differences begins and ends. Some organisations suggested the use of design/creative elements to emphasise these differences.

A sector representative body suggested that the digital version of the code could allow organisations to pull out the relevant standards using filters. A regulator suggested distinguishing the relevant standards by formatting the code to highlight: UK wide legal requirements; England and Wales only legal requirements; Scotland only legal requirements; Northern Ireland only legal requirements; best practice; and professional standards.

It was also noted by one organisation that standards are not always given for all jurisdictions. In such cases it was suggested that would be useful to highlight the position elsewhere, even if only to say that there are no equivalent laws in a given part of the UK.

Our response

We agree that it is important for any standards that reflect the law in specific countries to do so clearly. Our work to address this point has included:

- conducting a thorough legal review to ensure that we are clear about which standards apply to which jurisdictions; and
- implementing ways to aid the accessibility of standards that are specific to individual countries on the website and in the PDF.

Frequency of revision

One charity commented on the frequency of changes to the code. It was requested that updates take place on a less frequent basis moving forward to minimise overheads in amending materials and staff training.

Our response

One of the key challenges in maintaining the code is ensuring it adapts to changes in fundraising practice over time. However, as part of our planning processes, we are considering ways to ensure we continue to focus on the areas of highest priority, that the number of changes required over time is minimised and that an adequate notice period is given for any new standards introduced.

4. Other comments

Comments on substance of standards

Many organisations raised points regarding the substance of standards which have not changed during the code review, but which are seen to require amendment. Although substantial changes to standards was not within the scope of this consultation, we will review and amend where there is clear inaccuracy or a legal basis for doing so.

Our response

Although these suggestions fall outside of the scope of this consultation, it is helpful to be alerted to changes the sector may wish us to address. We will take this into account when planning future code consultations.

Appendix A

The following is a list of organisations who formally responded to the consultation. In addition to the organisations below, there were 22 who responded as individuals.

Organisation	
Abelour Childcare Trust	International Glaucoma Association
Acorns Children's Hospice	IoF
Action Medical Research	Jewish Care
ActionAid UK	KEDA Consulting
Age Concern Luton	King's College London
Alice House Hospice	Lawyers in Charities
Amnesty International UK	Leonard Cheshire
Barnardos	Lotteries Council
Battersea	Macmillan Cancer Support
Blue Cross	MAF UK
Bournemouth hospital charity	Marie Curie
Brandon Trust	Monmouthshire County Citizens Advice
British Heart Foundation	Muscular Dystrophy UK
British Red Cross	National Deaf Children's Society
Bury Hospice	National Museums Liverpool
BWB	National Trust
Cancer Research UK	Natural History Museum
CBSO	NCVO
Charity Law Association	NICVA
Charity Link	Northern Ireland Hospice
Charity Times	NTT Fundraising
Child Poverty Action Group	Oak Tree Animals' Charity
Christian Aid	OSCR
City, University of London	Oxfam
CLAN Cancer Support	PDSA
CLIC Sargent	Rainbow Trust Children's Charity
Clothes Aid (Services) Ltd	RSPCA
Concern Worldwide	Save the Children
Diverse Abilities	Scottish Book Trust
DSC	Scottish Fundraising Standards Panel
Exeter Royal Academy for Deaf Education	Sense
Friends of the Earth	Shelter
GOSH	Tearfund
GuildHE	The Bright Ideas Partnership
Haig Housing Trust	The Brooke Hospital for Animals
Help for Heroes	The Courtyard Trust
Herefordshire Wildlife Trust	The Foundation for Social Improvement
HOME Fundraising	The Royal Marsden Cancer Charity
Hospice Lotteries Association	The Royal National Theatre
IDPE	The Travel Foundation

Organisation	
Treloar Trust	Water Aid
Turcan Connell	WG Consulting
UK Youth	Woodland Trust
Versus Arthritis	WWF UK
Volunteer Now	Wycliffe UK

Appendix B

The following is a list of key events at which members of the Fundraising Regulator team have engaged with the sector on the consultation.

Bishop Fleming Accountants

12-13 November 2018 – Bristol and Exeter charity clients event

Chief Officers 3rd Sector (CO3) Northern Ireland

18 October 2018 – AGM

Fundraising Compliance Managers Forum

7 September 2018 – Compliance managers' forum, London

Institute of Fundraising (IoF)

30 August 2018 – Webinar

24 September 2018 – IoF Fundraising Standards Advisory Board

11 September 2018 – Northern Ireland Fundraising Workshop

3 October 2018 – IoF Scotland Conference

23 October 2018 – IoF Small Charities Summit and workshops

8 November 2018 – IoF Northern Ireland Conference

National Council of Voluntary Organisations (NCVO)

26 September 2018 – NCVO Consultation Webinar

Northern Ireland Council for Voluntary Action (NICVA)

4 October 2018 – NICVA Consultation Event

Scotland Fundraising Standards Panel

3 September 2018 – Scotland Fundraising Standards Panel, Glasgow

24 October 2018 – Scotland Fundraising Standards Panel Consultation Event, Glasgow

25 October 2018 – Scotland Fundraising Standards Panel Consultation Event, Dundee

Wales Council for Voluntary Action (WCVA)

8 October 2018 – WCVA Consultation Webinar

Womble Bond Dickinson

1 October 2018 – Charity Workshop: London, Bristol and Newcastle



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