

**Scottish
Fundraising
Standards
Panel**



MEMORANDUM OF UNDERSTANDING

THE INDEPENDENT FUNDRAISING STANDARDS & ADJUDICATION PANEL FOR SCOTLAND

AND

THE FUNDRAISING REGULATOR

This Memorandum of Understanding is not legally binding on either party.

Section 1 - Purpose of Memorandum

1. This Memorandum sets out the co-regulatory framework between the Independent Fundraising Standards & Adjudication Panel for Scotland, known as the Scottish Fundraising Standards Panel (the Panel) and the Fundraising Regulator to assist in their respective regulatory functions in the following ways:
 - to promote a common understanding of the Panel and Fundraising Regulator responsibilities, working procedures and constraints;
 - to promote co-operation between the Panel and the Fundraising Regulator staff at a strategic and operational level;
 - to facilitate effective investigation and the disclosure of information relevant to the effective assessment and analysis of research and information on fundraising issues; and
 - to ensure appropriate consultation on matters of relevant and significant policy initiatives to ensure that charities comply fully with their legal obligations and adopt best practice in fundraising.

Section 2 - The Role and Functions of the Panel

2. The Panel was established in December 2016 for the purposes of overseeing enhanced self-regulation of charitable fundraising undertaken by charities registered in Scotland.
3. The objectives of the Panel:
 - to oversee fundraising standards in Scotland; and
 - to oversee fundraising complaints made about Scottish charities

Section 3 - The Role and Function of the Fundraising Regulator

4. The Fundraising Regulator was established in January 2016 as the voluntary regulatory body for all charitable fundraising undertaken by charities registered in England and Wales.
5. The mission of the Fundraising Regulator is to carry out its independent and non-statutory regulatory role in a way that –
 - protects the public, donors and potential donors, not least those who may be vulnerable, from unacceptable fundraising practices.
 - sustains and enhances public confidence in the charitable sector.
 - supports the sector to understand and carry out its responsibilities in engaging with the public, creating a positive donor experience.
 - promotes consistent fundraising standards across the UK.

6. The Fundraising Regulator's general functions are:
 - owning and, where necessary, updating the Code of Fundraising Practice and the Rulebooks on Street Fundraising and Door-to-door Fundraising.
 - investigating and taking action in cases where fundraising practices have led to significant public concern.
 - adjudicating complaints from the public about fundraising practice, where these cannot be resolved by the charities themselves.
 - operating a fundraising preference service to enable individuals to opt out of further contact from charities.
 - providing support and advice to the sector on good practice in relation to fundraising.

Section 4 – Areas of operation

7. The Fundraising Regulator and the Panel operate a lead regulator model regarding complaints, based on the country in which a charity is primarily registered.
8. The Fundraising Regulator will deal with fundraising complaints about charities registered in England and Wales in line with the Regulator's published complaints policy: <https://www.fundraisingregulator.org.uk/make-a-complaint/complaints-procedure/>
9. The Panel will deal with all fundraising complaints about charities registered only in Scotland in line with its published complaints policy: <https://www.goodfundraising.scot/how-we-assess-your-complaint/>
10. Appendix B outlines in more detail how the lead regulator model works.
11. The Fundraising Regulator owns and will keep regularly updated the Code of Fundraising Practice and the Face to Face Rulebooks. The Code and Rulebooks cover all fundraising activities across England, Wales, Scotland and Northern Ireland.
12. The Fundraising Regulator operates a fundraising registration scheme for charities registered in England and Wales, and for commercial fundraising organisations who act on behalf of those charities. To register, organisations agree to the Fundraising Regulator's Fundraising Promise and to use the 'registered with' badge when fundraising. The Panel does not operate a registration scheme for charities registered in Scotland, but does ask charities falling within its remit to sign up to its own Fundraising Guarantee.
13. The Fundraising Regulator will operate a Fundraising Preference Service that allows donors to stop receiving communications from charities they no longer wish to support. The Fundraising Preference Service will be available to

donors throughout the UK but will only apply to charities registered in England and Wales.

Section 5 – Representation on the Panel and Committees

14. A Panel member observer will:

- attend meetings of the Fundraising Regulator's Adjudication Committee when it is considering an adjudication on a complaint from a Scottish donor, or fundraising practices taking place in Scotland. The role of the observer will be to provide background and context about fundraising in Scotland.
- attend meetings of the Board of the Fundraising Regulator where issues are relevant or of concern to Scotland.

15. A Fundraising Regulator observer will attend quarterly meetings of the Panel.

16. The role of the observer will be to:

- provide knowledge and context on the regulation of fundraising in England and Wales.
- advise on areas where more effective collaboration between the two regulatory systems may improve the experience of donors in Scotland.

17. An observer from the Panel will attend each meeting of the Fundraising Regulator's Standards Committee. The role of the observer will be to:

- provide contextual knowledge for developments to the Code of Fundraising Practice and the Face-to-Face rulebooks in relation to Scotland.
- provide knowledge and make representations to the Standards Committee to ensure that the Code and Rulebooks continue to reflect the latest law and practice in Scotland related to fundraising.
- advise on areas where more effective collaboration between the two regulatory systems may improve the experience of donors in England & Wales.

18. Where there are consultations on proposed changes to the Code, the Fundraising Regulator shall consult the Panel on such proposals in good time before engaging in any wider consultation and shall then also include the Panel in such wider consultation. The Fundraising Regulator shall give due consideration to any representations made by the Panel.

19. The Fundraising Regulator shall give the Panel ten business days' notice of any proposed changes to the Code prior to publication of such proposals, unless exceptional circumstances require shorter notice.

Section 6 - Disclosure of Information between the two parties

20. Where the Panel is able to share information in the context of its functions and operational activities and with due regard to legal protections, including but not limited to those protections that exist under the laws relating to confidence, data protection, human rights and legal professional privilege it will do so. For example, the Panel is able to:
- Provide information in response to a specific request from the Fundraising Regulator about ongoing cases in the Panel's complaints process where it will assist in a Fundraising Regulator investigation and, is in the public interest to disclose such information.
 - Where the outcome of a case is to be made public, the Panel shall provide to the Fundraising Regulator, where appropriate, notification of the outcome of a case before it is made public.
 - Provide regular updates to the Fundraising Regulator on key themes or new trends in complaints and on the numbers of individual complaints received that related to charities working in England.
21. Where the Fundraising Regulator is able to share information in the context of its regulatory functions and with due regard to legal protections, including but not limited to those protections that exist under the laws relating to confidence, data protection, human rights and legal professional privilege it will do so. For example, the Fundraising Regulator is able to:
- Provide information in response to a specific request from the Panel about ongoing cases in the Fundraising Regulator complaints process where it will assist in a Panel investigation and, is in the public interest to disclose such information.
 - The Fundraising Regulator is to, where appropriate, notify the Panel of the outcome of a case a minimum of three business days before it is made public on those cases that go before the Adjudication Committee; and
 - Provide timeous and regular updates to the Panel on key themes or new trends in complaints and on the numbers of individual complaints received that related to charities working in Scotland.
22. The Panel and the Fundraising Regulator agree that there will be no further dissemination of disclosed information without the prior express written consent of the party that disclosed the information.

Section 7 - Information Disclosure Process

23. Requests for information should be sent via each party's Single Point of Contact ("SPoC") (Appendix A). SPoCs will also be able to provide general advice, such as both party's regulatory position, organisation and procedures.
24. The SPoCs will aim to ensure that:

- the disclosure of information and referral of individual cases are screened and processed with appropriate speed;
- any general information, intelligence, announcement or warning that either the Panel or Fundraising Regulator considers will impact directly on the other must be brought to the attention of the other.

Section 8 - Data protection

25. For the purposes of the Data Protection Act 1998 (“the DPA”) and, where applicable, the General Data Protection Regulation (“GDPR”), the Fundraising Regulator is the data controller for all personal data it holds in order to fulfil its own functions. The Fundraising Regulator will become the data controller for the personal data it receives from the Panel as part of any information disclosure.
26. For the purposes of the Data Protection Act 1998 (“the DPA”) and, where applicable, the General Data Protection Regulation (“GDPR”), the Panel is the data controller for all personal data it holds in order to fulfil its own functions. The Panel will become the data controller for the personal data it receives from the Fundraising Regulator as part of any information disclosures.
27. The Fundraising Regulator and the Panel will ensure that the personal data held by them and shared with each other will only be processed (including internally) in accordance with the DPA or the GDPR (whichever is in force at the time).
28. It is important that any information received by the other is not disseminated to any other third party without the prior written permission of the originating party. Information passed between the parties is to be used only for the purposes that it was shared. If the originating party gives written permission for the information to be disclosed to a third party, the origin of the information should be made clear to the third party, in order that they can take appropriate action on flagging the origin of the information on their own internal systems.
29. It is recognised that personal data provided to the Panel or the Fundraising Regulator may be lawfully shared by the other with law enforcement agencies, the Scottish Charity Regulator (OSCR), the Charity Commission for England and Wales (CCEW), the Information Commissioner’s Office (ICO), and the Gambling Commission, without the need for prior consent from the originating party.

Section 9 – Liaison at Strategic Level

30. Representatives of the Panel and the Fundraising Regulator will hold strategic meetings at least once a year. The aims of these meetings will be to:
 - discuss common policies and strategies;
 - identify problem areas and developing trends in charity fundraising;
 - update or consult on development of relevant law, policy and practice; and
 - review the provisions of the Memorandum and the overall effectiveness of the

liaison and collaboration between the agencies.

31. The Memorandum shall be formally reviewed in one year, and at regular intervals after that.

Section 10 - General

32. Whilst it is intended that the arrangements in this Memorandum should apply generally, it is recognised that some circumstances will require special handling. Nothing in this Memorandum prevents the making of arrangements to meet specific exceptional needs.

Signed


On behalf of the Fundraising Regulator


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Date..... 14/8/17

Stephen Dunmore
Chief Executive

On behalf of the Panel


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Date: 17/8/17

Alison Elliot
Chair

APPENDIX A CONTACT DETAILS AND ESCALATION PROTOCOL

The SPoC for the Fundraising Regulator is Sarah Fox Head of Complaints and Adjudication.

Tel: 0300 999 3416
Email: sarah.fox@fundraisingregulator.org.uk

The SPoC for the Panel is Gillian Mackay, Secretariat.

Tel: 07380 312387
Email: fundraisingsecretariat@outlook.com

Escalation Protocol

There may be occasions when each party to this MoU encounter difficulties. This should be resolved locally by the listed SPoCs in the first instance; however, if this is not possible then the following protocol must be followed:

The Fundraising Regulator

Level 1
Head of Policy and Communications

Level 2
Chief Executive

The Panel

Level 1
Valerie Surgenor – Panel Member

Level 2
Alison Elliot - Chair

APPENDIX B LEAD REGULATOR MODEL

The Fundraising Regulator and the Panel operate a lead regulator model regarding complaints, based on **the country in which a charity is primarily registered**.

The Fundraising Regulator will deal with complaints about charities whose principal regulator is the Charity Commission of England and Wales (CCEW). These charities may also be registered with the Scottish Charity Regulator (OSCR), and may be raising money in Scotland as well as England and Wales. However, their main headquarters will be in England and Wales, and their lead regulator will be CCEW.

The Fundraising Regulator will also deal with complaints about professional fundraising organisations headquartered in England and Wales.

The Panel will deal with complaints about charities whose principal regulator is OSCR. These charities may also be registered with CCEW and they may fundraise in England and Wales as well as Scotland. However, their lead regulator will be OSCR.

The Panel will not deal with complaints about professional fundraising organisations.

How the Fundraising Regulator deals with complaints

Where the Fundraising Regulator receives a complaint about a **fundraising organisation headquartered in England or Wales**, it will assess the complaint to determine the level of risk. The Fundraising Regulator will usually ask the complainant to first take up their concern with the fundraising organisation direct, unless the initial assessment reveals wider issues that require immediate escalation of the complaint (for example, evidence of potential criminal activity or risk of significant harm). In such cases the Fundraising Regulator may investigate and adjudicate.

Where the Fundraising Regulator receives a complaint about **fundraising by a charity only registered in Scotland**, it will direct the complainant to the Panel's website, www.goodfundraising.scot.

Further information on the Fundraising Regulator's complaints process can be found on its website www.fundraisingregulator.org.uk

How the Panel deals with complaints

Where the Panel receives a complaint about **fundraising by a charity registered only in Scotland**, it will ask the complainant to first take up their concern with the charity directly. You can find contact details for all the charities registered in Scotland on the [Scottish Charity Register](http://www.scottishcharityregister.org). If the

complaint cannot be resolved by the charity, the Panel may investigate and adjudicate.

Where the Panel receives a complaint about a **fundraising organisation headquartered in England and Wales**, it will direct the complainant to the Fundraising Regulator complaints team (<https://www.fundraisingregulator.org.uk/make-a-complaint/complaints/>) or the FR helpline (0300 999 3407).

Further information on fundraising complaints process in Scotland can be found at www.goodfundraising.scot