

Complaints, investigation and remedies policy

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Part A: General information

Introduction

1. The Fundraising Regulator is the body that enforces (and where appropriate) revises the Code of Fundraising Practice (the Code) across the UK. We make rulings under the Code in response to complaints about fundraising practice. The Code applies to all fundraising carried out by charities and other organisations with a social purpose (fundraising organisations)¹.
2. As an independent non-statutory body, we seek to resolve and adjudicate on issues that may arise between members of the public and fundraising organisations without the need for statutory intervention. The Government has, however, made clear that it may invoke reserve powers to introduce statutory regulation in the event that non-statutory methods prove unsuccessful. We proceed on the basis of co-operation by fundraising organisations with its processes.
3. Fundraising organisations are invited to register with us as a sign of their commitment to good practice. Irrespective however of whether the organisation is registered with it or not, we are able to seek information from and adjudicate on the actions of any fundraising organisation relevant to a complaint it receives and take appropriate remedial action with the organisation where poor practice is found to have taken place.
4. People may have concerns about some aspect of the way an organisation fundraises and will need to know where to take those concerns. This policy sets out how we shall respond to concerns and this document outlines the procedures which we follow when handling complaints about fundraising.

The complaints we deal with

5. The types of fundraising complaint we deal with include complaints about:
 - **How a fundraising organisation collects or solicits property, money or the promise of money from people.** This may include, misleading or excessive requests by post, over the telephone, face-to-face on the street or at the door.
 - **A fundraising organisation's relationship with donors.** This may include disrespectful, misleading or otherwise unreasonable engagement once a charity has gained an individual's support.

¹ For further information on who we regulate please see www.fundraisingregulator.org.uk.

- **How a charity or other fundraising organisation works with others to raise money.** This may include instances where the relationship (operational or financial) between a third party working on a fundraising organisation's behalf and the fundraising organisation is not made sufficiently clear.
- **A fundraising organisation's complaints-handling process.** For example, a complainant may not have been treated with due courtesy or respect, or not received a response to a fundraising concern within four weeks of the complaint being made.
- Issues related to **the management of an individual's contact preferences with fundraising organisations.** This may include instances where an individual has been contacted by a particular fundraising organisation despite their express wish that this should not happen.

6. We shall not ordinarily consider complaints that relate to:

- **Matters affecting a fundraising organisation that do not relate to fundraising.** This may include, for example, issues relating to employment or other contractual issues.
- **Where a fundraising organisation does not meet the legal requirement to be a charity** (the legal requirement includes having charitable purposes and providing public benefit). This is usually a matter for the Charity Commission in England and Wales, the Charity Commission for Northern Ireland or the Office of Scottish Charity Regulation in Scotland. We may offer guidance to these bodies where the issue relates to fundraising.
- **Where a fundraising organisation may purport itself to be a charity when it is not.** This is usually a matter for the Charity Commission for England and Wales, the Charity Commission for Northern Ireland or the Office of the Scottish Charity Regulator.
- **Where there is serious or sustained misconduct by those in management and control of a fundraising organisation.** These are usually matters for the Charity Commission in England and Wales, the Charity Commission for Northern Ireland or the Office of the Scottish Charity Regulator. If criminal activity is suspected, the matter will generally be referred to the police.

Who can complain?

7. Subject to the above, we shall consider a complaint from anyone directly affected by fundraising (or an authorised representative). We shall also consider complaints from representative groups, where the alleged breach of the Code is significant and there is a public interest in our doing so.
8. Where an individual may otherwise be considered vulnerable or unable to make a complaint, it may be possible to accept a complaint made on their behalf, such as by a relative or carer (subject at all times to establishing their authority to represent the complainant).
9. If we receive multiple complaints about the same issue or charity we shall usually identify a lead complaint(s) to investigate. If a complainant is unclear about whether they are able to make a complaint to us, they can contact us for advice.
10. If an individual faces difficulties in pursuing their complaint or otherwise making use of our services because of a disability we shall do our best to make reasonable adjustments as necessary to our procedures in order to accommodate their needs. We shall let the complainant know how we propose to accommodate their needs; if we are unable to meet their request fully, we shall explain why.
11. Our staff should be accessible and courteous to everyone who comes into contact with us. We understand that in some cases complainants will contact us who are distressed and may need support and assistance.

Unreasonable behaviour

12. We reserve the right to reject complaints which are abusive or characterised by unreasonable behaviour whether in terms of the nature of the complaint or the manner in which it is pursued.
13. We reserve the right to take appropriate action in cases where a complainant behaves unacceptably. This may involve restricting the manner in which the complainant may communicate with our staff.

Complaints about us

14. We aim to provide a consistently high level of service. We understand that there may be occasions when a complainant may not be happy with the service they have received and we would ask that they let us know. If a complainant is unhappy about the service we have provided, we shall try to address their concerns, learn from our mistakes and improve the service that we offer.
15. Where a concern relates to decisions by our Adjudication Committee, the complainant may be directed to our external review process where the matter meets particular criteria (see Part D of this policy). If a complainant is unhappy about any other aspect of the service they have received from us, they can contact us and we shall consider how we might help. Complaints about our service should be made in writing to the Chief Executive.
16. We shall address complaints about our service if they are made within four weeks of notification of a decision by us, or the last substantive contact with a member of our staff, or the date of the incident about which the complainant has concerns. We shall not generally accept complaints raised later than this.
17. When a complainant contacts us, they should make clear why they are unhappy and the respects in which they say we have failed. They should also let us know how they believe we can resolve those problems (please note that we cannot offer financial compensation).
18. We shall generally acknowledge receipt of a complaint about our service within one week. If we are able to, we shall address the complaint and put right anything we have done wrong as quickly as possible. In normal circumstances a complainant can expect a reply within four weeks. If we are unable to respond within that time, we shall let them know.
19. If we believe that the complaint about the service received is justified, we shall let the complainant know what action we intend to take to remedy the problem.

Receipt of complaints

20. In order to deal with a complaint about a fundraising organisation we need the complainant to let us know (usually) in writing:
 - the name of the fundraising organisation about whom they are complaining;
 - when the incident giving rise to the complaint took place;
 - a summary of what happened;
 - their name and how they would like to be contacted; and
 - consent for us to contact the charity on their behalf.

21. Where the complaint refers to particular fundraising material, the complainant should, where possible, send us a copy of the material in question (for complaints about on-line material, the complainant should obtain a screen shot of the page or pages that relate to the complaint), or a note of where and when it appeared. If we do not receive a copy of the fundraising material itself and are unable to locate a copy from the information provided, or if the content of the fundraising material has changed since the complainant saw it, we may not be able to proceed.
22. Where the complaint refers to a direct approach or incident involving a particular fundraiser in person, they should provide a description of the relevant individual to enable us to identify them in conjunction with the fundraising organisation they represent.
23. Our service comes free of charge to the complainant. We cannot however reimburse any fees or expenses a complainant may incur in connection with their complaint.
24. Unreasonable complainants may adversely impact our ability effectively to serve all of our stakeholders. We may decline to proceed with particular complaints in such circumstances.

Disclosure of evidence

25. To ensure that the fundraising organisation which is complained about has a fair opportunity to respond to the case being made against it, complainants who provide evidence to us in support of their complaints and wish to rely on all or part of it will be asked to agree to it being shared with the fundraising organisation concerned. If complainants are not willing to consent to this, if and when it is requested, we may not take this information into account when making a ruling. In such circumstances it may not be possible for us to proceed with the complaint.
26. We shall ask all parties to the complaint (including fundraising organisations, complainants, regulators and other parties contacted during an investigation) to keep confidential all material submitted and correspondence entered into in relation to the case that is not already in the public domain. When draft findings are sent to the relevant parties they must be treated as confidential until the decision is finalised (and when relevant published).

Time limits

27. If a person has a concern about a fundraising organisation they must, before coming to us, first take up their concern with the fundraising organisation direct. We shall generally not investigate a complaint if this has not been done, unless our assessment reveals wider issues that require immediate escalation of the complaint. Where it is not clear who the fundraising organisation responsible is we shall work with the complainant to identify the appropriate contact for handling their complaint.

28. A complaint must be made to the fundraising organisation concerned within 12 weeks of the fundraising incident or communication of which the complaint is made. In exceptional circumstances, complaints about older incidents may be considered by us, although this is entirely at our discretion, and the complainant is still expected to raise their concern with the fundraising organisation first.
29. If after four weeks following the complaint, the matter has not been addressed or the complainant does not feel that their concerns have been resolved satisfactorily by the fundraising organisation, they can refer their complaint to us. They should raise their concerns with us within eight weeks.
30. In some cases, the charity may need more than four weeks to investigate and resolve the complaint. In these circumstances, they should set out the reason for the delay and provide a deadline for resolution. We may still decide to intervene, depending on the nature of the issue and whether we are satisfied that the time taken is justified.

Acknowledging complaints

31. We shall acknowledge each complaint we receive where contact details have been supplied to us and we shall give the complainant a reference number. We aim to acknowledge complaints within one week of receiving them. An exception may be when we have received a very high volume of complaints about a particular incident or area of fundraising practice. In this situation we shall post a notice on our website indicating that we are already investigating and will be proceeding to select a lead complainant for a class of complainants.

Anonymity and identity disclosure

32. We shall not disclose a complainant's identity without their consent. More likely than not, we shall need to seek the complainant's consent in order to allow the fundraising organisation to respond to the case against it. If the complainant does not consent to disclosure of their identity, this may affect whether we can deal with the complaint.

Legal Action

33. We are not a court and we do not offer legal advice and support. If a complaint is the subject of actual or pending court proceedings, we shall not be able to consider it.

Whistleblowing

34. Any fundraiser that feels they are being pressured to act in a way that is not in line with the Code and would like confidentially to register their concerns or seek advice can call us on 0300 999 3407 between 9am and 4.30pm or through the complaints form at www.fundraisingregulator.org.uk.
35. Individuals raising concerns have some protection in law under the Public Interest (Disclosure) Act (the Act) from detrimental treatment or victimisation if, in the public interest, they report concerns about serious wrongdoing at their fundraising organisation to us, provided that the concerns they report meet the conditions in the Act for a 'protected disclosure'².

Confidentiality

36. We shall, on request, treat in confidence any private material supplied (by a whistleblower for example), except where disclosure is required by law. However, we may send confidential evidence to external consultants or relevant regulatory organisations, but only where they give confidentiality undertakings. We shall inform the person providing the evidence before doing so.
37. Where private material is, provided to us as part of a complaint, we shall, as already stated, seek consent to disclose that material to the fundraising organisation concerned in order to deal with the complaint.

Investigations initiated by us

38. We may ourselves initiate an investigation on the basis of information we receive or issues we identify through our course of business.

² A concern from a fundraising must relate to at least one of the following matters to qualify for legal protection from detrimental treatment or victimisation from their employer:

- a criminal offence;
- the breach of a legal obligation;
- a miscarriage of justice;
- a danger to the health and safety of any individual;
- damage to the environment;
- deliberate concealment of information tending to show any of the above five matters.

The employee must:

- reasonably believe that the relevant failure relates to the proper administration of charities and funds given, or held, for charitable purposes; and/or
- reasonably believe that the information disclosed and any allegation contained in it are substantially true.

Part B: The complaints process

Stage 1 - Initial consideration

39. An initial consideration of the complaint shall be made after the complaint has been lodged.
40. A case officer shall be allocated the case and shall act as the point of contact with the complainant and the relevant fundraising organisation. We may in some circumstances, (for instance, where there is a large number of complaints), use a form of wider communication with complainants to keep them informed of case progress. We shall assess the complaint to establish whether:
- it is within our jurisdiction;
 - it was made to us within the time limit;
 - there are implications more widely for the fundraising sector;
 - there is a risk to the public or to the charity sector, and to public; confidence in the integrity of charities and charitable fundraising more generally; and
 - the complaint should be dealt with by another regulator, inspectorate or public body.
41. We may carry out our own enquiries to make sure that any information provided to us is correct. Where we have reasonable grounds to believe there may be criminal activity, we shall work with the police.
42. We shall usually advise a complainant within four weeks whether we shall proceed with their complaint. If we are unable to respond within that time, we shall let them know. We do not act on behalf of individuals or organisations that make complaints to us but act independently.

Stage 2 – Resolution

43. We shall strive at all times to help complainants resolve their complaint by agreement with the relevant fundraising organisation. Complaints resolved by agreement will be taken into account when assessing an organisation's overall compliance record.
44. We shall usually ask the complainant to first take up the complaint with the fundraising organisation direct unless our assessment reveals wider issues that we consider require immediate escalation of your complaint. If the complainant is unsure how to contact the organisation we shall do what we can to help.
45. If after four weeks the matter has not been resolved satisfactorily the complainant can refer the complaint to us and we shall consider whether we should investigate it.

46. If we think the organisation has adequately responded to the complaint we will contact the parties to explain why and whether we have identified any breaches of the Code. We aim to do this within four weeks of receipt.

Stage 3 - Investigations

47. If a complainant remains unhappy with the response from the charity then they can contact us and we shall consider opening an investigation. In doing so we shall take into account the original substantive complaint and the charity's response.

48. As part of our investigation we will agree the scope of the complaint and share with the complainant and the fundraising organisation complained about.

49. We shall also explain which part of the Code is thought relevant and, where appropriate, ask for further information or raise issues beyond those raised by the complainant.

50. The fundraising organisation should normally respond to us within two weeks; however more time may be allowed in complicated cases. The grounds for an extension of time should be set out in writing. An extension is unlikely to be for longer than one week and repeated requests for extensions are likely to be refused.

51. The case officer may also send a summary of the complaint to other relevant parties, including, where relevant, third party providers working on behalf of a fundraising organisation, and regulatory stakeholders, who may be invited to provide input, where appropriate.

52. Once the evidence has been gathered we shall usually share our draft decision with the parties to the complaint, allowing two weeks for comment before finalising our report and any recommendations.

53. The time taken to investigate will depend on the complexity of the case, however, we aim to complete investigations within 13 weeks of receipt.

Stage 4 – Adjudication

54. At any stages (one to three) a case can be escalated to the Adjudication Committee for a decision. This may occur, for example, where we have received multiple complaints about the same issue and/or charity; where we have identified wider or systemic issues within the complaint, or where we consider there is a risk to public safety. If we decide to escalate a complaint to this stage of our process we shall write to the organisations involved and the complainant to let them know of our decision and the reasons for it.

55. The process for investigating the complaint remains as set out in paragraphs 47 to 52 save that the case is determined by our Adjudication Committee. The membership of this committee is listed on our website.

56. The case officer will send the Adjudication Committee's decision and a letter of notification (the Letter of Notification) to the fundraising organisation and to the complainant. That letter will set out the Adjudication Committee's decision. The letter will also seek comments on the draft report within two weeks.
57. All draft decisions are shared with organisations and complainants in confidence.
58. The accompanying Letter of Notification will explain a summary of any breaches we have identified and the action we are recommending the organisation take in order to put that right.
59. Once comments have been received on the draft decision the adjudication will be finalised and published on our website.
60. Our target for completing adjudications is within 24 weeks, however, we aim to complete them as quickly as we can.

Part C: Recommendations and Remedies

61. We may make recommendations where a breach of the Code is found to have taken place. Recommendations may include (but is not limited to) one or more of the following measures (all or some of which may be announced publicly):

- recommending that fundraisers undergo relevant training or directing the fundraising organisation(s) to online guidance to improve their approach;
- seeking evidence from the fundraising organisation as to how it has / will remedy the issue in future campaigns and / or publish a public apology;
- recommending that the organisation suspends fundraising or submit to its Board clear future fundraising campaigns for a stated period and report back to us. In some cases, we may ask the Trustees/Board to conduct an independent external audit of their fundraising;
- publication of adjudication findings highlighting issues via the published register and possible changes to the Code;
- referral to the Charity Commission or other statutory regulator or relevant body;
- removal from our register and suspension of the use of our registration badge.

62. In cases where we make recommendations we shall do so taking into account considerations such as the level of risk, harm and detriment posed by an instance of poor practice.

Part D: Review Process

Review criteria

63. There is no process to appeal our decision. However, parties to the complaint may request a review if they can demonstrate that one or more of the following criteria are met:

- where we have rejected a request to re-open an investigation in response to the submission of material new evidence (an explanation of why it was not made available previously will be required);
- where there was a material defect in the process by which our decision was made; and /or
- where it is alleged that our decision is manifestly unreasonable in the sense that it was not one we could sensibly make having regard to all the relevant facts.

Review process

64. Requests for a review should be put to the Vice Chair of the Fundraising Regulator's Board and addressed to the Fundraising Regulator, CAN Mezzanine, 49-51 East Rd, London N1 6AH.

65. Requests for a review can only be made by the complainant or the fundraising organisation. Those from a fundraising organisation should be signed by the Chair or the Chief Executive.

66. Requests for a review should be made in writing and contain a full statement of the grounds for the review request referring to which of the criteria outlined in paragraph 63 are relevant. The request should also provide any additional evidence being relied upon.

67. The request for a review must be made within four weeks of our decision – although the time limit may be waived in exceptional circumstances.

68. The Vice Chair will consider the request for review and may either:

- seek further information from the Head of Casework and Adjudications and/or the Adjudications Committee;
- determine that there are no grounds for review; or
- refer the case to the external reviewer.

Further information is required to determine whether a review is warranted

69. In some cases further information may be required from the Head of Casework and Adjudications and/or the Adjudication Committee in order to enable the Vice Chair to make a decision. In such cases they may request additional information from the Head of Casework and Adjudications and/or the Adjudication Committee before taking a decision.

70. In the event that the Vice Chair identifies material new evidence has been submitted and/or a flaw in the decision making process without the need for an external review, they may refer the case back to the Head of Casework and Adjudications and/or the Adjudication Committee with directions and or recommendations for them to consider and put matters right.

No grounds for review

71. In those cases where the Vice Chair determines that there are no grounds for review, they will respond to the party requesting the review explaining the decision.

72. If the complainant is not satisfied with the response received they may write directly to the External Reviewer who will consider, independently, whether there are grounds for review in line with the review criteria.

External review

73. In those cases where the Vice Chair considers an external review is necessary the External Reviewer will be provided with access to all of the information obtained as part of our consideration of the complaint as well as the request for a review in full. The External Reviewer may request further information from the parties involved, including the complainant, the fundraising organisation and us, at their discretion.

74. The External Reviewer will provide an analysis outlining their views as to the robustness of the decision. This will be sent by the Vice Chair to the parties involved in the complaint together with details of what action if any is being taken in response.

75. If the External Reviewer identifies minor factual errors they may recommend those changes are made and we will implement them.

76. If the External Reviewer identifies that our decision (either in whole or in part) merits reconsideration by us, they can recommend that we take further action to put matters right including directing us to reconsider the complaint.

77. If the External Reviewer determines that our decision was manifestly unreasonable, they can recommend that we take further action to put matters right including directing us to reconsider the complaint.

78. Any decisions that are amended following an External Review will be published on our website www.fundraisingregulator.org.uk.

79. The External Reviewer will provide a report of their activities to be included in our Annual Report.