



Fundraising Preference Service

Board decision on proposal for development

Purpose of this paper

This paper sets out the final decision taken by the Board of the Fundraising Regulator for the development and introduction of the Fundraising Preference Service (FPS), one of the key recommendations made in the Cross-Party Review of fundraising regulation 'Regulating Fundraising for the Future: Trust in Charities, Confidence in Fundraising Regulation', published in September 2015¹.

The proposals follow consideration of the final recommendations made by the Fundraising Preference Service Working Group to the Board of the Fundraising Regulator and the paper published by the Board on 24 August 2016 inviting final feedback by 30 September 2016. Both the Working Group's report and the Board's response are still available for reference only on the Fundraising Regulator's website.

The Fundraising Regulator

Role

The Fundraising Regulator is a company limited by guarantee without share capital (registered company number 10016446). It aims to ensure that fundraising is respectful, open, honest and accountable to the public. Its role as regulator is to:

- **Set and promote standards of fundraising practice** (the Code of Fundraising Practice and associated Rule Books) in the charitable sector in consultation with the public, fundraising stakeholders and legislators.
- **Investigate cases** where fundraising practices have led to significant public concern.
- **Adjudicate complaints** from the public about fundraising practice, where these cannot be resolved by the charities themselves.
- Operate a Fundraising Preference Service to **enable individuals to manage their contact with charities**.
- Where poor fundraising practice is judged to have taken place, **recommend best practice guidance** and take proportionate **remedial action**.

¹ Published by NCVO, available on its website www.ncvo.org.uk

Governance

The Fundraising Regulator is governed by a non-executive Board of Directors, drawn from both inside and outside the fundraising sector, including members with extensive experience of regulation and codes of practice. The Directors are responsible for the overall control and strategic direction of the company. The Board is chaired by Lord Grade.

Geographic remit

The Fundraising Regulator is the voluntary, independent regulator for charitable fundraising in England and Wales. It also regulates charities with headquarters in England and Wales which fundraise in Scotland, following a lead regulator model as used by the Office of the Scottish Charity Regulator (OSCR) and the Charity Commission.

Charities with headquarters in Scotland have committed to a separate system of self-regulation for fundraising, overseen by an Independent Panel linked to OSCR.

Decisions on arrangements for fundraising regulation in Northern Ireland are expected to be taken in the first quarter of 2017.

Further information

More information about the Fundraising Regulator is available on its website at www.fundraisingregulator.org.uk

The Fundraising Preference Service

Background

1. One of the main recommendations made in the Review of Fundraising Regulation was the creation of a Fundraising Preference Service (FPS), to be established by the Fundraising Regulator. The purpose was to enable members of the public to register if they no longer want to be contacted by charities for fundraising purposes, by re-setting their fundraising preferences.
2. Following publication of the FPS Working Group report and the Board's initial response, 131 feedback responses were received by the deadline of 30 September. A summary of responses is set out at Annex A, including the list of respondents.
3. The Board considered the responses and, in the light of its own further thinking, has now reached a decision about the content and scope of the FPS.
4. The original proposal in the Cross-Party Review envisaged a system which would enable members of the public to opt out of further contact of any kind from all charities. This was with a view to protecting individuals, particularly people who are vulnerable, from what were perceived as pressurised fundraising tactics.
5. The Working Group proposal was for an approach that was much more nuanced to try to take account of what were seen as the unintended consequences that a total opt out would have for charities and their income, in particular a disproportionate impact on their ability to raise funds. The Working Group proposed a two-stage approach which firstly would allow someone to name specific charities they did not want to hear from any longer and secondly the suppression of communications where the main purpose is fundraising from the largest 2100 or so charities, defined by their fundraising expenditure (and these would be the same charities as those paying the Fundraising Regulator's levy).
6. As well as seeking further feedback, the advantages and disadvantages of the Working Group's proposals have been considered alongside developments in the year since the Cross-Party Review was published. Much more is understood now about data protection requirements and issues of consent, and in particular about the General Data Protection Regulation which will pass into law on 25 May 2018 (or equivalent proposals will come into UK law). In addition, in the light of a number of cases of malpractice since summer 2015, the Code of Fundraising Practice has been amended to prohibit data selling and limit data sharing, again with a view to reducing the risk that individuals will receive fundraising requests they do not want.
7. In that context, the Board has concluded that a development of the first part of the Working Group's proposals will deliver the most effective implementation of the FPS. This will allow individuals to block all contact from specified charities, providing a more straightforward and user-friendly way for the public to manage their contacts with

charities, alongside increased compliance by charities seeking affirmative consent for contact on a regular basis from donors and supporters.

8. The Board noted that the approach identified by the Working Group would not cover all types of charity and communication and would carry the risk that donors would not be clear about what the system offers. Seeking to define a communication with the 'core purpose of fundraising' would be difficult and might lead to inadvertent inconsistencies in judgement about what is or is not covered. The '28 day' proposal, enabling charities to check by letter where someone they believe to be a committed supporter has opted out, could well mean that donors, including vulnerable people, would receive a large volume of correspondence in a short period - the opposite effect to that intended.

The Board's decision

9. The Board has decided to develop FPS on the following basis (in summary):
 - Individuals will be able to specify the charities they no longer want to hear from.
 - The opt-out will cover all charities and all forms of communication with a named individual (e mail, text, telephone and addressed mail).
 - The process will be IT based but with a telephone service available to support those who might be vulnerable, or without IT.
 - The Fundraising Regulator will ensure charities are notified of suppressions (those people opting out) and that they comply, through a largely automated process.
 - Signposting to the Telephone and Mail Preference Services would be available.
 - Accompanying guidance for the public will explain how best to manage contact with charities and what the FPS will and will not do.
 - FPS will apply to charities based in England and Wales.
10. Opt out from specified charities will have the statutory force of a Data Protection Act Section 11 notice to cease direct marketing.
11. The advantages of this approach will include:
 - Avoidance of the potentially difficult 28-day contact regime for charities finding that donors had opted out.
 - The Fundraising Regulator will be able to manage contact with registrants without facing difficulty over consent and will be able to do so for the most part on an automated basis.
 - Costs could be covered through the levy. Even if the levy had to be increased to cover costs, charities would not be faced with additional invoicing and fees to access suppression lists. The Board will keep charges under review, including whether some charge would be made to fundraising charities outside the levy.

12. The Board believes that a Fundraising Preference Service on these lines, together with the move towards affirmative consent, will secure much more support from donors and charities. As with any new system, once implemented it will be closely reviewed – including usage, value for money and donor feedback - and, if over the first year of operation significant issues arise, it will be possible to adapt the system as necessary.
13. The Regulator’s intention is that the FPS will come into operation in the spring or early summer 2017. Discussions are already underway with potential suppliers about the procurement of the database and telephone service through a tendering process. In moving to implementation and deciding on a supplier or suppliers, key considerations will be value for money and affordability.
14. The Board believes that the chosen approach is the most effective way to put in place a straightforward and user-friendly system to protect the interests of donors where they wish to opt out, whilst recognising the real concerns that charities have about the impact of a FPS on their fundraising.

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FPS final decision paper

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