



Analysis of consultation responses

Draft fundraising guidance - 'Charity fundraising: a guide to trustee duties'

Introduction

Thank you to everyone who participated in this consultation. We are pleased with the very useful feedback which we received. It has helped us to further develop this guidance for publication.

On 3 December 2015 we published a consultation seeking views on a new draft version of our fundraising guidance (CC20). When the revised guidance is published it will replace the current version of CC20 which is called Charities and Fundraising.

The consultation ran for 10 weeks and we received a total of 74 responses, 58 via an online survey and 16 by email. The number of responses does not fully reflect the level of engagement, as several were from umbrella charities and other organisations responding on behalf of their membership.

We have now considered the responses and decided on the changes to the guidance.

[The infographic](#) gives a visual summary of the key findings from our consultation. In the following sections of this document you can find:

- a short summary of the revisions to this guidance
- a list of the main points that were raised in response to each survey question
- a summary of other issues and themes raised by responders

1. Changes to the commission's fundraising guidance

The revised guidance is written for trustees and its focus is to help them comply with their legal duties when overseeing their charity's fundraising.

It sets out 6 principles to help them achieve this.

The guidance signposts to other organisations and free sources of information about the wider legal rules that apply to specific types and aspects of fundraising, such as the rules on data handling and protection.

It also reflects other changes such as those which will be introduced when the new system for self-regulation of fundraising begins operating, and new provisions in the Charities (Protection and Social Investment) Act 2016.

It is shorter than the current guidance, and designed to work better as online guidance.

2. Responses to consultation questions

If you are responding to this consultation on behalf of a charity, did any of your trustees contribute to your charity's response?

Number of responses to this question: 51

Yes: 26

No: 17

No answer: 8

Although we had plans to update our fundraising guidance, we have brought forward its revision, following the recent fundraising controversy. One aspect of publicly expressed concern has been about the adequacy of trustee oversight of fundraising. We want to provide greater clarity for the trustees of fundraising charities about their role and responsibilities, and the revised guidance is written specifically for them.

In view of this, we were pleased that just over half of the consultation responses we received from charities included input from their trustees. For charities with annual income over £10 million, including some significant fundraising charities, a trustee contribution to the charity's response was made in 85% of cases.

Q1. Have you used the current version of our fundraising guidance which is called 'Charities and Fundraising' (CC20)?

Number of responses to this question: 65

Yes: 52

No: 13

Q1a. When did you last use the current version?

Number of responses to this question: 48

This month: 13

This year: 11

Last year: 15

A few years ago: 2

Other: 7

Q1b. Do you find the current or the new version most helpful?

Number of responses to this question: 50

New version most helpful: 32

Current version most helpful: 18

What you said – key themes

1. The commission's decision to revise the guidance is welcome or supported, given the recent high profile attention on fundraising practice, governance and regulation.
2. The focus, in the new version, on trustee role and responsibilities in the fundraising context, provides clearer messages for trustees. Setting out 6 principles and including a checklist is helpful.
3. The emphasis on trustee involvement, in the new version of the guidance, implies a more hands-on role for trustees than would be feasible, or good governance practice, in larger charities. For many respondents this was their key concern.
4. The current version of the guidance provides a useful overview of the wider legal rules and regulations applicable to fundraising. Many respondents emphasised how much they value the current version and considered that removal of content on the full framework for fundraising was unhelpful.

What we have done

Delegation

We recognise that delegation to paid staff and others is normal practice in many charities and can help trustees to govern more effectively. We agree that the consultation version of the guidance did not consistently reflect this. We have clarified this in the introduction to the published version of the guidance. The guidance has also been amended so that it now refers to trustees 'having effective systems in place' to meet the standards and expectations it sets out. We tested this revised approach with some of the larger charities who raised this issue in their consultation response. However, we have kept clarity that trusteeship is a responsibility in all charities, and that the commission has expectations of strong governance if trustees are to deliver against their legal duties.

Coverage of the wider legal framework

The draft version of the guidance which we consulted on did not provide a comprehensive overview of the legal framework for fundraising. We took this approach because it is not our role to give an account of rules and frameworks which we do not regulate, which would require regular review and updating. Instead, we concentrated on the trustee role and on promoting trustee compliance with their legal duties, signposting readers to other resources and organisations as a source of information about these rules.

The published version of the guidance will retain the approach taken in the draft version, focusing on trustee duties which we regulate, and on what our resources allow. However, we have:

- covered the rules in the Charities Acts legislation and the regulations made under them, including the new fundraising provisions in the Charities (Protection and Social Investment) Act 2016
- provided:
 - links to other sources of information about the wider legal framework
 - a list of the other organisations responsible for regulating aspects of the legal framework for fundraising, most of whom provide free guidance about compliance

Q2. The new version is shorter than the current version. Please select whether you think the new version is: too short, too long, about the right length

Number of responses to this question: 62

Too short: 7

Too long: 9

About the right length: 46

What you said – key themes

1. The length and format of the new document make it more accessible than the existing version.
2. The new version could be shorter still, if repetition was reduced.
3. Length is not a good parameter on which to judge the guidance.
4. More issues could be covered, such as the wider legal rules and regulations applicable to fundraising.

What we have done

The answers to this survey question show support for a document which is reduced in length by a third compared to the current version, so we have maintained the document at this revised length.

We agree that there was some repetition in the consultation version and we have worked to reduce this.

For our approach to covering the wider legal framework, see Q1b.

Q3. In the new version, do you find the explanation of trustee duties in relation to fundraising clear?

Number of responses to this question: 65

Yes: 44

No: 21

What you said

1. Overall, the guidance is clearer about trustee duties in relation to fundraising.
2. It would be helpful to include more links in the guidance to the commission's guidance [The essential trustee: what you need to know, what you need to do \(CC3\)](#), and describe trustee duties consistently with CC3.
3. Clarity about trustee duties in the new version is reduced by:
 - the emphasis on trustee involvement, which implies a more hands-on role for trustees than would be feasible, or good governance practice, in larger charities
 - the removal of full coverage of the wider legal rules and regulations applicable to fundraising, so that trustees have to find out about some of these rules from other sources.

What we have done

We have clarified the question of delegation for the published version of the guidance, see Q1b.

We have included more links to CC3 and introduced more consistency with how duties are described in CC3.

We have retained our focus on the trustee role and with promoting trustee compliance with the trustee duties, see Q1b.

Q4. There are six principles trustees can use to fulfil their responsibility for their charity's fundraising. Do you find these a useful way of describing what trustees need to know and do?

Number of responses to this question: 65

Yes: 52

No: 13

What you said

1. Overall, the six principles work well and will be helpful.
2. Some of the wording used is unhelpful, and gives the wrong emphasis.

What we have done

We have retained the six principles as a way of articulating the key areas of responsibility that trustees have for their charity's fundraising. In the published version of the guidance, these will:

- be shown in a summary as well as full version
- be shown as a visual
- form the basis of a checklist tool which trustees can use to review their approach

We have changed wording where we agree that its use gives the wrong emphasis. For example, the principles are now described as a means of 'taking responsibility for your charity's fundraising' rather than as a means of 'controlling your charity's fundraising'.

Q5. The commission has focused less on describing the wider legal rules that apply, in addition to trustee duties, to specific types and aspects of fundraising. For example, the rules on data handling and protection, collections in public spaces. This is:

- so that we can focus on trustee duties that we regulate
- to avoid duplicating the free information on these rules which is produced by other regulators
- to reduce the length of our guidance

Should the commission keep this focus on trustee role and duties?

Number of responses to this question: 63

Yes: 41

No: 22

Q5a. Do you think the guidance includes enough links to sources of information about the wider legal framework for fundraising?

Number of responses to this question: 47

Yes: 36

No: 11

What you said

1. Some responders said that it was appropriate for the commission to focus on trustee responsibilities.
2. Most responders who left a comment on these questions said that the commission should fully cover the wider legal rules and regulations applicable to fundraising.

What we have done

For our approach to covering the wider legal framework, and providing links to sources of information about it, see Q1b.

Q6. The commission has included two examples to help trustees avoid mistakes. Do you think it is useful to have these examples?

Number of responses to this question: 62

Yes: 54

No: 8

Q6a. Are there other parts of the guidance where it would be useful to include an example?

Number of responses to this question: 55

Yes: 29

No: 26

What you said

1. The examples are generally useful.
2. There was no consensus about the topics on which further examples might be included - delegation and reporting, commercial partnership and fundraising fraud were some of the topics mentioned.
3. Two examples are not enough.
4. The examples are not clearly identifiable in the guidance and they should be highlighted more clearly.
5. The example on fundraising costs is too negative.

What we have done

1. We have increased the number of examples in the publication version of the guidance to 4 - in an 'avoid mistakes' format. These cover commercial partnerships undertaken by a charity's subsidiary trading company and protecting cash collections from fraud risk.
2. We have highlighted them more clearly.
3. We are satisfied that our approach to fundraising costs in the guidance balances the need to spend money on fundraising, with ensuring that there are systems in place to ensure that the costs are justifiable in the charity's best interests and transparent for donors, supporters and the public.

Q7. The system for regulating fundraising is principally self-regulatory and the final version of the guidance will describe this. Does this guidance help you to understand what the commission expects of the trustees of fundraising charities?

Number of responses to this question: 62

Yes: 50

No: 12

What you said

1. The main point raised here was that the guidance needs to cover the role of the new fundraising regulator and the new self-regulation system.

What we have done

The published version of the guidance covers the role of the new Fundraising Regulator and how we anticipate working with this body when it starts operating. This was not included in the version we consulted on because the new organisation was in the very earliest stages of its development.

We will publish more detail about our working relationship with the new regulator as it develops.

Q8. Would you use the checklist which has been produced in section 13 of this guidance?

Number of responses to this question: 63

Yes: 54

No: 9

What you said

1. Including a checklist in the guidance is helpful to trustees.
2. The checklist needs to acknowledge that, in many larger charities, staff will have day to day responsibility for ensuring compliance in key areas.

What we have done

We have revised the checklist so that it will be more adaptable to the needs of charities of different sizes. It will be available with the published version of the guidance, as a stand-alone item.

Q9. How do you think the commission can best help trustees become familiar with how their duties apply to fundraising? How could your organisation help us with this?

We received a number of useful suggestions about how we can promote the guidance and we will consider these.

Q10. Do you think that this consultation process, meets the principles in section 2 of [The regulator's code](#) ?

Number of responses to this question: 60

Yes: 42

No: 18

What you said

1. It is positive that the commission is seeking views on the revision of this guidance.
2. The consultation would be more compliant with the code if:
 - other ways to respond had been available, other than through the online survey
 - there had been options to give answers to the consultation questions other than just 'yes' or 'no'

What we have done

We take our responsibilities under the Regulators Code seriously. We were encouraged with the results on this question, but we will look at how we can better present our consultations in the future and make them as accessible as possible.

10a. Do you think that this guidance meets the principles in section 5 of the Regulator's Code? If not, what do you think would help meet those principles?

Most responses didn't include an answer to this question.

Yes: 14

No: 5

What you said

1. The guidance would be more compliant with the code if more detail was included about the new Fundraising Regulator, the new system for self-regulation, and the provisions of the new Charities Act.
2. The commission should engage in further consultation when these aspects of the guidance are complete.

What we have done

We have included information in the new guidance about the role of the Fundraising Regulator and the key provisions in the Charities (Protection and Social Investment) Act 2016 which relate to fundraising, as well as those which are contained in other Charities Act legislation and regulations made under them.

On balance, we consider that the content of these new sections do not require further consultation.

3. Other key themes raised by consultation responses

Tone	<p>Some responders noticed that the tone of the new guidance was stronger than in the current version, and expressed concerns that this could put people off taking on the responsibility of trusteeship.</p>	<p>The style and tone of our guidance has changed over the last 2 or 3 years, in line with the changes to our regulatory approach. We have recently updated other key pieces of guidance, such as The Essential Trustee, where our tone and style have similarly changed.</p> <p>Largely this approach has been welcomed as providing greater clarity to trustees but we understand that some see this as a negative.</p> <p>We fully recognise the contribution of trustees and we have changed some of the introductory sections of the guidance to more positively acknowledge the challenges of their role.</p>
Timing	<p>Some responders considered that the published guidance should come after the new regulatory structure starts operating, rather than before.</p>	<p>We haven't changed our decision to publish at this stage. This is so that trustees of fundraising charities are provided with more clarity about what is expected of them, against a backdrop of some uncertainty pending establishment of a new regulatory framework. We cannot see that it is helpful to trustees to delay publication of these essential governance messages.</p> <p>The published guidance will be an online document which can be amended, if necessary, should more information about the new regulatory framework be required.</p>

Practicality	<p>Some responders considered that the guidance was not practical enough, and didn't give sufficient information on how to discharge the principles in practice</p>	<p>The commission's new guidance focuses on trustee duties and our regulatory expectations, and includes some practical advice and tools. It is written for a diverse charity audience, and whilst trustees must follow the legal requirements described in the guidance, they will need to consider and decide how best to meet the expectations and good practice in their charity's circumstances.</p> <p>We are pleased that the Institute of Fundraising, NCVO, CFG and ACEVO have decided to publish a practical guide for trustees later in the summer which will give a detailed overview of the fundraising process, including practical detail on issues such as:</p> <ul style="list-style-type: none"> • developing a fundraising strategy • planning fundraising • choosing fundraising methods • effective working between trustees and fundraising staff <p>We hope that these two pieces of guidance will complement each other and provide trustees with the information they need to oversee their charity's vital fundraising and meet the challenges they can face in getting it right.</p>
Taking account of donor, supporter and public perception when deciding about income expectations and other goals.	<p>Some responders considered that this was not fair expectation to include because, for example, public perception is a subjective term and sometimes ill informed.</p>	<p>We haven't changed this reference in the guidance. The current version of CC20 includes this expectation. It is presented as one the issues/risks trustees need to consider. The guidance doesn't say that charities can't run any risks of negative public perception when making fundraising decisions.</p>

Audience	Some people considered that the focus in the new guidance on trustees unhelpfully excluded audiences for the guidance who would benefit from knowing about its principles.	Whilst we want to focus on trustees, we recognise that there is a wider audience for this guidance. We have indicated this in the introductory parts of the guidance, and amended it to include the directors and staff of a charity's trading company.
Repetition and structure	For some responders the consultation version of the guidance could be improved by reducing repetition, clarifying the structure, and better definitions and use of some terminology.	The guidance has been changed to reduce repetition and increase clarity and format.
Must and should	For some the distinction between must and should was less clear than in the current version.	These terms are defined at the beginning of the guidance. We are satisfied that we have used them accurately.
Public trust and confidence	The consultation version of the guidance said that charities should fundraise in a way that encourages public trust and confidence in charities generally. Some responders considered that this was not a fair obligation.	The guidance has been changed to remove these references.