



Strategic statement on the Charity Commission's regulation of fundraising

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Introduction

Raising money from the public is vital to the success of many charities. Done well, fundraising builds public confidence in charities but when it's mishandled, poorly managed or fraudulent it can quickly and seriously damage that confidence. The commission expects trustees to comply with the law, follow the rules which apply to their fundraising, and to approach it in a way that encourages public trust and confidence in charities.

Regulation has an important role to play in raising standards and ensuring that trustees are accountable for their charities' fundraising.

This statement describes:

- what is covered by self-regulation and the organisations involved (Part 1)
- the commission's role (Part 2)
- other key bodies that regulate specific fundraising activities and may deal with complaints about those aspects of fundraising (Part 3)

Part 1: Self-regulation of charity fundraising

1.1 The conduct of fundraising

Clear standards of conduct for fundraising are set and enforced through self-regulation.

The three bodies described in this section are involved in the self-regulatory system for fundraising in the UK. The system is about regulating the conduct of fundraising which means the fundraising methods, practices and approach which a charity uses. Charities that voluntarily subscribe to be regulated via membership of FRSB have to demonstrate compliance with recognised standards, and ensure that they have a complaints procedure in place.

1.2 The Fundraising Standards Board (FRSB)

FRSB regulates charities' compliance with:

- recognised standards which apply to different types of fundraising activity in England and Wales. These are set out in a [Code of Fundraising Practice](#) (the Code) compiled by the Institute of Fundraising
- high standards of honesty, openness, accountability and transparency in the conduct of fundraising

FRSB monitors and rules on public complaints about the conduct of fundraising that remain unresolved after consideration by the member charity concerned. FRSB also works with the public and the charity sector to identify and address key areas of public concern, and to raise standards. FRSB will investigate bad fundraising practice if it is reported to them by the public, media or any other genuine source.

1.3 The Institute of Fundraising (IoF)

IoF is the membership organisation for fundraising professionals and fundraising organisations.

It compiles and publishes the [Code of Fundraising Practice](#) which sets out the legal requirements and recognised standards which apply to different types of UK fundraising activity. The Institute's members commit to follow the Code.

1.4 The Public Fundraising Regulatory Association (PFRA)

PFRA oversees door to door and street fundraising where the fundraiser asks someone to make a regular donation to a charity by direct debit. PFRA's work does not cover street or house to house cash collections.

PFRA operates Site Management Agreements with local authorities to regulate set locations at which this type of fundraising can happen, when it can occur and how many fundraisers can be deployed.

The standards for this type of fundraising are part of the Code. PFRA checks compliance with the rules through site checks and mystery shopping programmes. The public can raise concerns about this type of fundraising with FRSB.

Part 2: The commission's role in regulating charities that fundraise

This part explains what the commission does to regulate charities that fundraise so that the public, charities and other regulators are clear about when the commission can become involved.

2.1 What the commission expects of charities that fundraise

Charities are independent bodies. The commission expects their trustees, who have overall responsibility for their charities, to ensure that their fundraising is carried out lawfully and in a way that encourages public trust and confidence. This is the case whether the charity itself does the fundraising or it uses a professional fundraiser, subsidiary trading company, donation website or other intermediary body. As a minimum, trustees must:

- comply with the law
- ensure the funds are fully accounted for
- spend donations on the purposes for which they raised them

The commission regulates trustees' compliance in these areas and more detail on how it does this is given below.

2.2 How the commission regulates

The commission concentrates on promoting compliance by charity trustees with their legal obligations, by enhancing the rigour with which it holds charities accountable, and by ensuring that it upholds the definition of charity under charity law. The commission believes that this is the best way for it to promote public trust and confidence in charities, and thereby encourage charitable giving and endeavour in all its forms. See the commission's [statement of mission, regulatory approach and values](#).

The commission regulates charities' fundraising through a mix of prevention, intervention and co-operation.

Prevention

This is about trustees getting fundraising right at their charity, the support the commission gives them, and what they and the public can do to prevent poor practice or abuse.

Trustees must do all they can to prevent fundraising becoming a problem in the first place. They:

- should be clear about the charitable purposes that the fundraising is for
- must fulfil their legal duties to their charity which include always acting in its best interests. In the context of fundraising this means not exposing their charity and its reputation to undue risk and exercising proper control over its funds, assets and fundraising costs

- must comply with the legal requirements which govern each type of fundraising activity, for example:
 - obtaining appropriate permissions to collect funds in public
 - complying with data protection law for the handling of donor details
 - requirements for most registered charities (with an income over £10,000) to declare their registered status on all their fundraising documentation and their website
- must ensure that, where any third party organisation or individual is carrying out any aspect of fundraising on the charity's behalf, the arrangement complies with any specific legal requirements and they effectively manage and control it in the interests of the charity
- should intervene where funds are being raised for the charity without their authority
- should comply with the Code and other recognised standards
- should [report serious incidents](#) to the commission as soon as they suspect or are aware of them
- should ensure that their charity has a complaints procedure in place that is followed, accessible, open and transparent

The commission supports trustees in preventing fundraising problems by providing:

- [guidance](#) on the key legal obligations, including:
 - using professional fundraisers or commercial organisations to raise money for them
 - licensing requirements
 - displaying details about a charity's registered status
 - accounting for the money raised
 - [alerts and warnings](#) to the sector and the public to raise awareness of specific risks, frauds and scams, and of how to [give safely](#) to genuine charities

While most fundraising is genuine, the role and influence of the public in preventing abuse are vital. As donors they can:

- check that fundraisers, including online appeals, are properly authorised by a genuine charity. Donors can check for a registered charity number, but see the commission's guidance on [charities that don't have to register](#)
- donate only where they are confident that their money will reach a genuine charity and be used as intended
- report concerns to the charity and, if necessary, to the police or appropriate regulator

By taking these simple steps the public can make fundraising less attractive to those who fail to follow the law and best practice or who operate fraudulently.

Intervention

This is about dealing with problems or abuse in fundraising.

Where problems arise, trustees have the primary responsibility for considering and, if necessary, fixing them. Complaints can be made either to FRSB (see part 1), to the commission or to one of the bodies listed in Part 3, depending on the issues involved.

The nature of the commission's intervention will depend on the seriousness of the concern – it assesses this using a [risk framework](#). Where the trustees' actions or failings present a serious risk to the charity the commission is likely to regard this as misconduct or mismanagement.

Where charities are fundraising directly, the sorts of issues that may be serious enough to cause the commission to intervene, sometimes alongside or in support of other agencies, are:

- damage to public trust and confidence caused by the charity's fundraising activities
- failure to protect and account for all funds raised
- where conflicts of interest and private benefit have not been properly controlled
- serious and/or frequent failures in the conduct of fundraising (for example, persistent unlicensed fundraising or failure to provide required information) which put funds and reputation at risk
- methods of fundraising which are either inappropriate for a charity, or which would be a breach of trust and which pose a significant risk to public trust and confidence
- arrangements which amount to tax evasion or seek to exploit tax legislation artificially, including tax avoidance
- criminality which exposes related concerns about misconduct and mismanagement in the administration of a charity. For example fraud, theft, false accounting, tax fraud (including the making of fraudulent gift aid claims), or failing to obtain legal authority to fundraise

Where members of the public, volunteers, or a trading subsidiary are fundraising on behalf of the charity or where the charity employs a professional fundraiser or other third party, trustees should ensure that they have proper and appropriate control of funds, costs and the charity's reputation. The sorts of issues that may be serious enough to cause the commission to intervene, sometimes alongside or in support of other agencies, are:

- weak governance or trustee oversight of the charity's activities, resources or reputation
- commercial participation/professional fundraising arrangements which do not comply with the law and which cannot be shown to be in the charity's best interests
- high fundraising costs that
 - risk seriously undermining the charity's reputation
 - arise as a result of lack of oversight by the trustees, or
 - cannot be justified by the trustees as being in the charity's best interests

Where funds are raised as charitable appeals for charities, or for charitable purposes, the commission will have jurisdiction over those funds and those holding the funds. It can intervene if necessary to ensure that funds are applied to the charities, or for the charitable purposes for which they have been raised. Where funds are raised as charitable appeals, the sorts of issues that may be serious enough to cause the commission to intervene, sometimes alongside or in support of other agencies, are:

- where fraudsters misuse a charity's name, or otherwise use dishonest methods, to deceive the public into giving money
- when funds raised for charitable purposes or in the name of a charity are used, or at risk of use for private, illegal or other wrongful purposes
- where funds raised by other individuals or bodies for charities are not properly accounted for or at risk of loss or diversion
- where the commission's intervention is needed to protect public confidence

Co-operation

This is about working with the other organisations involved in fundraising regulation to:

- promote a clear and well understood framework for regulating fundraising
- co-ordinate handling of requests for advice and reports of concerns
- prevent risk and abuse
- promote recognised standards

For example, the commission is developing its charity register to show whether a charity has signed up to the self-regulation of fundraising by becoming a member of FRSB.

Part 3: Other organisations with a role in fundraising regulation

The fundraising activities and methods listed below are subject to particular laws and regulation.

3.1 Lotteries, cash collections and collections of goods

The [Gambling Commission](#) regulates commercial gambling and the National Lottery. Its work includes licensing forms of gambling, such as lotteries, which raise money for good causes.

Local Authority Licensing departments grant licenses for collections by charities of cash or other goods, such as clothing. A license is usually required whether the collection is carried out in the street or door to door. Where the collection is in a London Borough (excluding the City of London), licenses are granted by [the Metropolitan Police](#). Collections in the City of London are licensed by the [City of London Corporation Licensing Service](#). The public can check with the charity itself whether a collection is licensed, or they can contact their local authority's licensing department.

3.2 Advertising and marketing

The [Advertising Standards Authority](#) is the UK's self-regulator for advertising across all media. Like all other advertisers, charities must ensure that their advertisements are not misleading, harmful or offensive.

[The Direct Marketing Commission](#) handles any complaints about how its members use direct marketing. They investigate complaints, keep an eye on direct marketing issues and practices, and provide guidance to the public.

[Ofcom](#) is the communications regulator for the TV and radio sectors, fixed line telecoms, mobiles, postal services, plus the airwaves over which wireless devices operate. With regard to [charity appeals](#), Ofcom has a number of rules in the Broadcasting Code to protect viewers and listeners.

3.3 Data protection

The [Information Commissioner's Office](#) (ICO) is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. Good information handling and compliance with data protection legislation is relevant to a range of fundraising activities. ICO has compiled [advice and guidance](#) for charities which covers these topics.

3.4 Fraud

[Action Fraud](#) provides a central point of contact for information about fraud and financially motivated internet crime. If a charity or the public becomes aware of a charity scam, or are the victim of one, they should [report](#) it. They can also [contact local police](#), the local authority trading standards service, and the appropriate charity regulator.

3.5 Tax

[HM Revenue and Customs](#) (HMRC) is the UK's tax authority. Its work includes preventing and stopping tax avoidance and evasion.

3.6 Other charity regulators

The [Charity Commission for Northern Ireland](#) (CCNI) is the regulator of charities in Northern Ireland. [The Scottish Charity Regulator](#) (OSCR) is the regulator of charities in Scotland.