A Trustee’s role in fundraising

Written and delivered by
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Key responsibilities

• To understand what fundraising is!
• To maximise income to your charity
• To ensure fundraising is carried out within the law and complies with best practice
• To assess and manage ethical and reputational risks associated with fundraising activities
• To ensure that there is a fundraising strategy that promotes the long-term sustainability of your organisation
Key responsibilities

• To agree a fundraising investment budget
• To support and ensure the continuous development of fundraising staff
• To support fundraising endeavours:
  – Providing moral support
  – Attending events
  – Providing access to networks
  – Donating?
EXERCISE

Do you think that fundraising needs to be regulated?

If so, why?
Key legislation

The main piece of legislation governing charities is the Charities Act 2011, which came into effect in 2012.
New legislation (1)

- Currently, the Charities (Protection and Social Investment) Act is going through Parliament – this will amend the Charities Act 2011 in a number of ways:
  - Requiring 3rd party fundraisers to set out in their contracts how they will protect vulnerable people
  - How the charity they are working for will monitor this
New legislation (2)

– Charities with over £1 million income must set out their approach to fundraising, whether they use agencies and how they protect vulnerable people when fundraising

– “Big” charities will have to publically state how many complaints have been received about “aggressive” fundraising
New legislation (3)

- Reserve powers to control fundraising
- To comply with requirements imposed by a regulator
- To have regard to guidance issued by a regulator
- To pay fees to the regulator
- To be registered with a regulator for the purpose of regulating charity fundraising
Key legislation

However, there is other specific legislation relating to:

- Data protection
- Advertising standards
- Raffles and lotteries (gambling)
- Public collections
- Health and safety (events, food hygiene)
- Various licencing issues: sale of alcohol, entertainment, performance of copyright music etc.
Recent media stories

- Olive Cooke
- Samuel Rae
- Kids Company

- The first two in particular led to the Fundraising Review which makes several recommendations concerning fundraising practice
Key concerns that prompted the Review

• Sharing of personal data between charities

• Selling of personal data to third parties (non-charities)

• Ignoring opt-out requests and assuming consent
Key concerns that prompted the Review

• Ignoring the Telephone Preference Service and the Mailing Preference Service

• Frequency of mailings
Other issues

• EU General Data Protection Regulation:

“Consent should be given by a clear affirmative action establishing a freely given, specific, informed and unambiguous indication of the data subject's agreement to personal data relating to him or her being processed, such as by a written, including electronic, or oral statement….. Silence, pre-ticked boxes or inactivity should therefore not constitute consent.”
• “It shall be as easy to withdraw consent as give it.”
• “the controller shall be able to demonstrate that consent was given by the data subject to the processing of their personal data.”
• Failure to keep such proof of consent will itself be a breach of the requirements for legal consent. This not only exposes the organisation to a risk of enforcement, it can also potentially render large swathes of personal data useless for any purposes that are reliant on consent.
Infringements of the basic principles of processing “including conditions for consent” can be subject to the highest level of fines, which may be the higher of 20 Million Euros or 4% of “total worldwide turnover of the preceding financial year”.


So,

- How did we get here?
Oldest Poppy Seller Suicide
Poor Olive, 92, was hounded by other charities.
10 begging letters a day

Killed by Her Kindness

Hounded to Death by Cold Callers

Free LEGO
Nine toys in nine days!

Bride & Vroom
God’s Formula 1 wedding car

£10 bikinis
She received hundreds of so-called "begging letters" every month - but her family has revealed she left behind a suicide note which refuted claims she had been overwhelmed by the constant hounding. Her granddaughter, 37-year-old nurse Jessica Dunne, said the "beautiful" note had outlined reasons including depression and issues around being elderly. She said while the letters were intrusive and a nuisance, they played no part in her grandmother's decision.
NEW SHAME OF THE CHARITIES

They pass on frail widower’s details 200 times ++ He gets 731 demands for cash ++ And loses £35,000 to conmen

CHARITIES sold personal details of a dementia sufferer to conmen who tricked him out of thousands of pounds, the Daily Mail can reveal.

Former Army colonel Samuel Rae’s information was handed to unscrupulous companies all over the world. As a result, the 97-year-old widower has been victimised.
New shame of the charities: Widower's details were passed on 200 times leading him to lose £35,000 and get 731 demands for cash

- Former Army colonel Samuel Rae was contacted by 12 scam firms after his details were passed on up to 200 times
- Catalogue scammers tricked 87-year-old, who has dementia, into thinking he had to buy products to win prize cash
- Charities also bombarded Mr Rae for up to five years after he asked them to stop, some asking for money 38 times
- His son Chris demanded a crackdown and said charities who passed the data on were ‘as bad as the scammers’

By DAILY MAIL INVESTIGATIONS UNIT

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HOW HE BECAME A TARGET FOR CONMEN

Details sold to
PDGSA
HELP A VET
HELP A PET

They contact him
275 times
and sell his details
10 times

Passed to a list broker
Medical insurance company
Gambling company
Jewellery company

Prize Winners' Club
a scam company

Passed to data company

NDCS
National Deaf Children's Society
They contact him
21 times

International Fund for Animal Welfare
They contact him
219 times

Worldwide Cancer Research
They contact him
120 times

Diabetes Research and Wellness Foundation
They contact him
48 times
and sell lists containing his details
107 times

Passed to a list broker

10 scam companies
in four continents
(America, Australia, Asia and Europe)

List is sold to dozens of charities including:
Unicef
British Red Cross
British Heart Foundation
Help the Aged (now Age UK)

Biotic and Best Of scam
Mr Rae out of nearly
£4,000

35,000
total lost through scams
since onset of dementia

731
number of times he was contacted

200
times his details were passed on

88
charities received his information

12 scam firms got their hands on the data

12 ‘suckers’ lists feature his name

£4,000
lost by Mr Rae to scam firms
which got his details from charities

£35,000
total lost through scams
since onset of dementia

Cancer Recovery
They contact him
48 times
and sell lists containing his details
69 times

Passed to a list broker

Two scam companies

Royal National Institute for the Blind
Action Ethiopia
The Haven
(formerly Breast Cancer Haven)

Three commercial companies

Sold to dozens of charities including:

RNIB
The Haven

BY NUMBERS

Samuel Rae completes a lifestyle survey
and forgets to tick 'do not share my
details' box
HOW ONE DONATION LED TO YEARS OF HARASSMENT

OCT 2009
After his wife Elizabeth dies in 2009, Samuel Rae makes a donation to the RSPCA, her favourite charity. But he misses the tiny print at the bottom, which opts him in to his details being shared. See Figure 1.
The print on the RSPCA forms is so small the charity had to blow it up to more than twice its actual size for Mr Rae’s son to read. See Figure 2
Because Mr Rae has left the box unticked, the charity say he gave consent for his data to be shared.

MAY 2010
Mr Rae is sent a supporters’ questionnaire. On this he is asked if he consents to be contacted by telephone – he says ‘No’. See below.

Can we call you to tell you about our work or particular campaigns?
If yes, please provide your phone number below

NO

MAY 2010
RSPCA’s first phone call to Mr Rae asking him to increase his donations. He raises it from £3 to £5 per month.

2010
During the year he gets six letters from RSPCA

JULY 2011
RSPCA phone call asking him to increase his direct debit

2011
13 letters from the RSPCA

MARCH/APRIL 2012
RSPCA pass Mr Rae’s name to Acxiom Ltd, a data firm which ‘scores’ supporters as to their likelihood of leaving money in their wills.

AUG 2012
Mr Rae cancels monthly donation to the RSPCA.

OCT 2012
The RSPCA telephone Mr Rae and ask him to start donating again. He refuses.

MAY 2013
Six letters from the RSPCA

MAY-JULY 2013
RSPCA shares Mr Rae’s details with Acxiom Ltd a second time.

FEB 2015
Another RSPCA phone call – nearly three years after he stopped donating. By now, Mr Rae has dementia and his son has taken over his financial affairs.
HARD SELL How MoS man was trained to snare soft targets

CAUGHT ON FILM: The instructor working for Listen Ltd who trained recruits how to snare a 98-year-old donor

HOW TO BAG A 98-YEAR-OLD

* ‘They haven’t said they are dead’ the trainer (left) jokes to recruits as he drums into them how to get cash from the old. Here, he plays part of a cold caller...

Trainer: ‘I understand, you being a 98-year-old pensioner... that’s absolutely fine you don’t have to give as much, blah, blah, blah... Oh, brilliant, two more years and you’ll get a letter from the Queen.

[To recruits]: I mean she seems to be going strong with all that money...

NO MONEY? IT’S JUST AN EXCUSE

* Our undercover reporter rang a man for an Oxfam donation: he declined as he only had £61 a week. Our reporter sought advice from a second, female trainer...

Recruit [undercover MoS reporter]: ‘Why do you think he said at the end of that [call] that “I’m only on £61 a week”? ’

Trainer: ‘Because it’s another excuse. Then you’ll go, “Oh, all right then”. There’s a lot of people on benefits that still give to about five charities’

WHEN ‘NO’ IS NOT AN OPTION

* Our undercover reporter asked a third, male trainer if a caller who complained of harassment should be deleted from the database. The trainer said to mark him down as ‘no’, but not to delete his number

Trainer: ‘We have to wait for one of three phrases: remove, remove me from your list or database or I’m on TPS [telephone preference service]. Anything other than that, even if they said I don’t want any more calls...’

Recruit [undercover reporter]: ‘He said the calls were getting harassing.’

Trainer: ‘We’re going to put that as a no...’
VICTORY!

EXCLUSIVE: After Mail exposé reveals shame of charity cold call sharks, PM pledges tough new laws

DAVID Cameron today dramatically announces a new law to curb the shameful tactics of charity fundraisers.

The Prime Minister vowed to act after the Daily Mail revealed how ‘boiler room’ call centres were targeting elderly and vulnerable people, compromising the reputation of all charities. Under tough measures to be introduced in the next week, charities will be bound by a new code of conduct.
I'd like to express my thanks to the Daily Mail for bringing this to light.

David Cameron
The Mail received thanks for its investigation from Stephen Eckersley, head of enforcement at the Information Commissioner’s Office, and Bernard Jenkin MP, Conservative chairman of the Commons public administration committee. Richard Lloyd of consumer group Which? responded by asking for the government to launch a full review of fundraising rules and regulations.
Charities risk becoming a ‘dirty word’ if they continue to abuse personal data, the Information Commissioner warned yesterday.

Christopher Graham vowed to investigate organisations exposed by the Mail for passing on the details of dementia sufferer Samuel Rae. ‘There’s a danger here of blackening a whole sector,’ he said. ‘Charities seem to be becoming the new dirty word.’ He said that while it would not be fair to accuse all charities of abusing supporters’ data, it was clear many people felt plagued by them. And he warned failure to tick a box 20 years ago did not constitute permission to ‘trade in people’s data years after the event’.

‘The Data Protection Act is very clear – the very first principle is that your data is only processed fairly and lawfully,’ he told the BBC. ‘If the law has been broken, we will act.’

Marilyn Baldwin, the founder of anti-scams charity Think Jessica who received an OBE last year, said the sale of data was fuelling scams and could destroy the reputation of charities.

Dominic Nutt, former head of news at Save the Children, said: ‘The big issue round this is that the cultures of charities have become aggressive.

‘Executives are on bonus schemes if they hit targets. Every conversation I had was around numbers – how are we doing compared with everyone else.’
Naming (and shaming?) Fundraising Directors

£100,000-a-year bosses driving cold-call menace

THE BULLYING, CHARITIES W

Principles: James Phillips of Macmillan

I'M A PROFESSIONAL BEGGAR

MARK Astarita of the British Red Cross says off his fancy dress party.

A batch of Charity bosses who were in the audience raised concerns about a possible gravy train at some of the organisations.

The Executives of Fundraising for the Red Cross were found to be wearing a postbox, covered in charity appeals and the sign "No Junk mail ever." His outfit appears to be designed to undermine the notion that people give to charities.

But now faces serious questions about tactics he employs to raise funds.

Mr Astarita, 55, lives with his partner Angela in a £3 million mansion in a gated community. He was diagnosed with cancer in 2002.

After the execution of the Red Cross, he said to have trouble with his money. Mr Astarita was

THE MASS MAILING EXPERT

THE background of Tim Hunter, Macmillan's director of fundraising.

He has a degree in marketing and has worked at several marketing agencies.

His approach to fundraising is to focus on the personal connection with donors.

In a year in which he raised £55,000, he spent £10,000 on direct mail and £1,000 on events.

THE CAREER FUNDRAISER

Paul Phillis, 44, lives in a

The Daily Mail gets personal in its criticisms of four charities.
Dame Hilary Blume, chief executive of the Charities Advisory Trust. She said:

“I’d like to dismiss all the people who are in charge of these big fundraising operations in these big charities. I’d say to them, go and develop your careers elsewhere. We want people who have a higher ethical standard”.
The RSPCA pays investigators to assess how much money donors might leave in their wills, the Mail can reveal today. The charity has said it supports animal lovers and donors but the Mail can reveal that only a handful of donors have made this generous gesture.

Some donors have left amounts ranging from £20,000 to thousands of pounds, while one generous donor left a substantial sum of money in their will.

The Mail can reveal that the donations have come from a variety of sources, including individuals, businesses, and foundations.

The RSPCA has changed its policy on donating to charity, with a focus on raising awareness and support for animal welfare initiatives.

Donors can leave donations to the RSPCA in their wills, and it is important to ensure that these are recorded and acknowledged.

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Complaints to FRSB

• Complaints rose by 8% in the past year
• 48,432 complaints in 2013, 52,389 in 2014, 66,814 in 2015
• Most complaints relate to cold calling and “junk” mail
  – Tone and frequency of approaches
  – Approaches to elderly or vulnerable people
The Fundraising Review: Issues

- Current system of self-regulation is not working
- Current approach is too complex (IoF, FRSB and PFRA)
- Little appetite for state regulation
- But statutory involvement is helpful
- Alternative funding required for regulation
- Sanctions need to be more effective
- Rules need to cover ALL fundraising organisations, not just those who are members of professional bodies
- Better oversight by trustees and managers
“Many of the problems have occurred due to the lack of compliance with existing rules, or disregard of the available guidance.... Charity trustees and managers have too often been absent from discussions on fundraising practice or values.”
Fundraising Review: Recommendations (1)

• Fundraising Standards Board (FRSB) to be replaced with a new body – The Fundraising Regulator

• Institute of Fundraising (IoF) and Public Fundraising Association (PFRA) to work towards a merger
Fundraising Review: Recommendations (2)

• The Fundraising Regulator will be responsible for:
  – Regulating ALL types of fundraising by UK-based organisations
  – Setting the Code of Fundraising Practice
  – Dealing with complaints
Fundraising Review: Recommendations (3)

- Fundraising Regulator to be financed by a levy on fundraising expenditure
- Organisations “spending” £100,000 or more on fundraising will have to contribute
- Stepped levy – those spending more will have to pay more
Fundraising Review: Recommendations (4)

• Sanctioning powers:
  – Naming and shaming organisations that breach the Code of Fundraising Practice
  – Cease and desist orders
  – Compulsory training
  – Clearance for future campaigns
  – Charity Commission to act as a backstop where there is a suspected breach of Trustee responsibilities
Fundraising Review: Recommendations (5)

• PFRA rulebook should be merged with the Code of Fundraising Practice
• The Fundraising Promise to be abolished
• Code of Fundraising Practice should relate to guidance for Trustees (primarily CC20)
• Badge to indicate registration with The Fundraising Regulator
Fundraising Review: Recommendations (6)

• Establishment of a “Fundraising Preference Service” (FPS)
  – Enabling people to register if they no longer wish to be contacted for fundraising purposes
  – Organisation engaging in high volume fundraising would have a responsibility to check their contacts against this ‘suppression list’ before the start of a campaign.
Fundraising Review: Recommendations (7)

• Trustees and senior managers should read and observe the guidance on ‘Charities and fundraising’ CC20 issued by the Charity Commission

• The principles of CC20 guidance should be incorporated into the Code of Fundraising Practice

• Trustees to take “a more active role in the oversight of fundraising”
Trustees must:

- Regularly review their charity’s fundraising processes and compliance with the Code of Fundraising Practice
- Ensure regular attendance of senior fundraising staff at their meetings
- Include fundraising activity on the risk register
- Treat consent to direct marketing as a board-level issue
Fundraising Review: Recommendations (8)

• Charities should make a public commitment to put donors’ interests first by reviewing the use of personal data

• Charities should move to an ‘opt in’ system for ALL their communications

• Establishment of a ‘Commission for the Donor Experience”
Changes to the Codes (1)

- Fundraising organisations **MUST** comply with all legal requirements relating to data protection. In addition, organisations **MUST** keep up to date with and have regard to relevant guidance from the Information Commissioner.

- Organisations **MUST NOT** share personal data for payment with any other organisation for that organisation’s marketing or fundraising purposes*
Changes to the Codes (2)

- Even if not for payment, organisations **MUST NOT** share the personal data of an individual with any other organisation for that organisation’s marketing or fundraising purposes without the explicit consent of that individual to the sharing of the personal data with that other organisation or other specified types of organisation.
Changes to the Codes (3)

- Organisations **MUST NOT** engage in fundraising which:
  - Is an unreasonable intrusion on a person’s privacy;
  - Is unreasonably persistent;
  - Places undue pressure on a person to donate.
Changes to the Codes (4)

• Fundraisers **MUST NOT**, at any point in a telephone call, be unreasonably persistent or place undue pressure on the recipient to donate, and **MUST NOT** ask for a donation more than three times during that call.

• Telephone fundraising agencies carrying out fundraising calls on behalf of a charity **MUST** have an up to date [TPS Assured certification](#) or be in the process of applying.
Changes to the Codes (5)

• Fundraising agencies and charities **MUST** make every fundraising call using a telephone number which can be identified by the recipient and to which the recipient can return the call.

• Fundraisers **MUST NOT** continue a call if, at any point during the call, the recipient gives a clear indication they do not want the call to continue.
Changes to the Codes (6)

• Organisations **MUST** check, and make all reasonable efforts to ensure, the on-going compliance of third parties with the Code and their legal requirements.

• Before soliciting money or other property a “professional fundraiser” **MUST** have a written agreement in place with the client, and each time a “professional fundraiser” solicits money or other property, they **MUST** make a disclosure (or solicitation) statement.
Changes to the Codes (7)

• Professional fundraisers MUST* make a solicitation statement every time they solicit money or other property on behalf of a charity or an institution which is established for benevolent or philanthropic purposes. This is the case even if the money is not a pure donation but is given in return for something.

• In the case of telephone fundraising, the appropriate statement MUST* be made during each call and within seven days of any payment of £100 or more being made by the donor to the professional fundraiser, the professional fundraiser must give the donor a written statement, and notify the donor of their right to a refund/cancel.
Changes to the Codes (8)

- Fundraisers **MUST NOT** knock on any door of a property that displays a sticker or sign which includes the words ‘No Cold Calling’.
Changes to the Codes (9)

- Organisations **MUST** always check telephone numbers against TPS/CTPS before making calls.

- Organisations **MUST NOT** make direct marketing calls to Telephone Preference Service (TPS)/Corporate TPS (CTPS)-registered numbers unless the person who registered the number has notified the organisation that they are happy to receive calls for the time being.

- Marketing calls under the guise of administrative calls **MUST NOT** be made.
Changes to the Codes (10)

• If a fundraiser knows or has reasonable grounds for believing that an individual lacks capacity to make a decision to donate, a donation MUST NOT be taken.
• A donation given by someone who lacked capacity at the time of donating MUST* be returned.”
• Organisations MUST require that any agency or third party that they work with complies with the requirements of the Data Protection Act 1998 and the Privacy and Electronic Communications Regulations 2003, including the requirements of the Telephone Preference Service, regardless of the country or legal jurisdiction in which the agency is based or operating.
Changes to the Codes (11)

• Fundraisers **MUST** take all reasonable steps to treat a donor fairly, enabling them to make an informed decision about any donation. This **MUST** include taking into account the needs of any potential donor who may be in a vulnerable circumstance or require additional care and support to make an informed decision.

• Fundraisers **MUST NOT** exploit the credulity, lack of knowledge, apparent need for care and support or vulnerable circumstance of any donor at any point in time.
Changes to the Codes (12)

• Every addressed fundraising communication will be required to carry a clear message explaining how donors can easily ‘opt-out’ of receiving future communications

• Minimum font sizes for all permission statements (10), or no smaller than the text asking for recipient details / donation amount
What was Safe Harbour?

• An agreement between the EU and the US entered into 15 years ago whereby US organisations undertook to respect a set of data protection principles and privacy broadly in line with the Data Protection Directive
Safe Harbour

- The European Court of Justice has ruled that, because of the excessive nature of mass surveillance in the US, the Safe Harbour agreement between the EU and the US has been struck down as being invalid because it is incompatible with the fundamental right to privacy that we have under the EU Charter of Fundamental rights.
Safe Harbour (2)

• As of 6\textsuperscript{th} October 2015, any organisation that is sending data to the US on the basis of Safe Harbour is exporting data out of the EU without a lawful basis and is committing an offence under the Data Protection Act

• The UK’s Information Commissioner will have a duty to investigate complaints
Safe Harbour (3)

Will affect users of:

• Cloud storage solutions
• Raiser’s Edge
• Survey Monkey
• Gmail
• Mailchimp
• Facebook... and other tools and systems
What should you do?

• Review *all* data systems. Is the service provider transferring data to the US for processing or hosting?
• If so, find and alternative that keeps data within the EU
• Remember that anything in “the cloud” is likely to be affected by this ruling
• This problem can only be ‘fixed’ by the US
EXERCISE

• How will the matters highlighted so far affect your charity?

• What do you need to do at Board level?
Solutions

• Move the focus away from immediate return on investment – that is not the only measure of fundraising success

• Greater emphasis on relationship fundraising

• Use community fundraising events for recruitment and gaining consent
Solutions

• Have a fundraising advocate on your Board

• Fundraisers must make time to READ (and be supported by the Board in this)

• Make sure that your data is secure and kept within the EU

• Respect donors’ wishes
Solutions

• NEVER phone anyone registered with the Telephone Preference Service unless you have their explicit consent

• NEVER mail anyone on the Mailing Preference Service unless you have their explicit consent
Solutions

• Don’t sell personal data

• Don’t swap personal data without the data subject’s explicit consent
You MUST read:

• Regulating Fundraising for the Future: Sir Stuart Etherington

• Direct Marketing: Information Commissioner’s Office

• Charities and Fundraising: Charity Commission
THANK YOU FOR LISTENING!

@KathyRoddy