

DSC consultation response

Revised Code of Fundraising Practice

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1. Introduction

1.1 Background

The Fundraising Regulator (FR) is an independent, non-statutory body that regulates fundraising across the charitable sector in England, Wales and Northern Ireland.¹ The Code of Fundraising Practice outlines the standards expected of charitable fundraisers across the UK. The Code and its application provide reassurance for the public that charitable organisations hold themselves accountable and that they will handle complaints appropriately.²

The FR maintains the Code and keeps it up to date with sector developments. This requires adjusting the content and language of the Code, but also the layout and presentation of it in print and online. The FR has been consulting on the style, presentation, clarity and accessibility of the Code, rather than fundamental changes. DSC's response to specific questions the FR raises in its consultation follows below. A summary of responses will be published by the FR together with the final decisions regarding changes to the Code.³

1.2 DSC's interest in the consultation

The Directory of Social Change (DSC) is an independent charity that helps other charities, through training, research and policy advocacy work. Although we are self-funded and do not actively seek donations from members of the public, we are a leading and well-established trainer in all aspect of fundraising, and we help charities raise funds through our fundraising databases. These are informed by our continuous high-quality research on funders, which puts us in a unique position as experts on the fundraising landscape.

The Code of Fundraising Practice is widely used by DSC trainers, conference speakers, authors of expert literature and the charities we work with on a day-to-day basis. We have an interest in how the Code develops over time and that the Code is accessible and useful.

1.3 Summary

Overall, the revised Code contains many improvements that make it a clearer, more accessible document. However, it remains lengthy, and building upon the accessibility of the current online version will be central to increasing its use and understanding in the future. Accessibility and clarity is especially important for smaller charities and voluntary organisations, as well as people who are doing fundraising but don't necessarily identify as 'fundraisers'. Further, seemingly minor changes to text may lead to confusion, and the FR needs to bear this in mind when rolling out the new version and in future investigations. We

¹ <https://www.fundraisingregulator.org.uk/more-from-us/about-us>

² <https://www.fundraisingregulator.org.uk/code/consultations/consultation-fundraising-code>

³ More information can be found on the landing page for the consultation:

<https://www.fundraisingregulator.org.uk/code/consultations/consultation-fundraising-code>

recognise the scope of this consultation, which by design does not address key questions about how the content might need to evolve. We urge the FR to adopt the same style of engagement it has taken here in future consultations on the Code's content.

2. Recommendations

2.1 Roll-out, application and user support

- The Fundraising Regulator should adopt an implementation phase of three or more months to ensure a smooth roll-out of the new Code. Additional support during that time via helplines and offers to answer questions via social media and email should be introduced for that time as well.
- For a certain time during and after the roll-out phase the FR should as a routine exercise ask the question whether a particular breach of the Code or behaviour could be also a result of the changes implemented.
- The FR should highlight training as complimentary to applying the Code because it helps to ensure that fundraisers do their work to the highest standards possible.

2.2 Language and user perception

- The consistent use of 'You' throughout the document makes it more accessible and more personal and relevant to individuals. But where possible the impression of 'personal liability' should be avoided where organisational liability is implied or referred to.
- The FR should bear in mind that the Code is read by people who do not necessarily define themselves as fundraisers. The FR should highlight to people that if they engage in a certain set of activities they are actually working as fundraisers and should therefore be familiar with the Code.

2.3 Layout

- The FR should consider whether the overall size of the contents page could be further reduced, to make it feel less overwhelming for the lay reader.
- The information boxes used throughout the Code could be more streamlined, making sure that people differentiate when they refer to other legal requirements, examples or external documents and guidance.

2.4 Glossary

- The introduction of a glossary is a helpful addition to the Code and will make navigating it easier for the user. When developing the online version of the Code, there are many visual/graphical solutions available that could be used to link the text to the terms from the glossary (info/pop-up boxes, hyperlinks etc.).
- It might be confusing for the reader to see differentiations between home nations for some terms only. The reason for this could be highlighted earlier on top of the glossary and in the Code itself, maybe by using different colour schemes for terms/text that applies differently across nations.

2.5 Online implementation of the Code

- If the benefits of a more user-friendly Code are to be fully realised, much depends on how it will be implemented online. The FR needs to consider this, and the wider question about whether any additional resources will help making the Code more accessible and ‘more alive’.
- The FR should seek further feedback from practitioners and other interested people about the final online version of the Code, to further refine the accessibility and visual representation of the Code (e.g. through user testing of the online version of the new Code and focus groups).

3. DSC’s response to the consultation questions

3.1 Do you agree with the proposed approach set out in this consultation?

Yes, we do agree with the approach the Fundraising Regulator has chosen for this consultation. Improving the style, presentation, clarity and accessibility of the Code is a crucial endeavour given that various groups with different levels of working experience and knowledge have to be able to access the Code and make it work in their day-to-day fundraising activities. A more accessible Code can only help it to be understood and used more widely.

This refers not only to the content of the consultation but also how it has been conducted. Including feedback from an earlier consultation and building upon it shows a commitment to use valuable input in a continuous manner. Collecting feedback via convening roundtable discussions with charities and umbrella bodies - in particular such bodies as the Small Charity Coalition - as well as other relevant regulators and bodies, fundraisers and members of the public is good practice. In responding to this consultation DSC also echoes some points raised by the Institute of Fundraising as mentioned in their draft response.⁴ We have highlighted in the response when this has been done.

The changes to Code in terms of format and structure are quite substantial. This includes for example:

- changes to structure by including an introduction and three different sections on general rules, working with others and fundraising methods;
- inclusion of a glossary with definitions of key terms;
- the incorporation of the rulebooks on face-to-face fundraising into the Code.

⁴ The IoF’s draft response can be found here: <https://www.institute-of-fundraising.org.uk/library/institute-of-fundraising-consultation-draft-response/>

Charities and many other organisations and individuals who use the Code on a more regular basis have embedded the Code into their own documents, training and wider organisational structures and activities. Staff, trustees, volunteers, trainers, authors and other users of the Code need time to adapt to the changes and adjust their documents. An implementation phase of three or more months should be considered in order to ensure a smooth roll-out of the new Code. Additional support during that time via helplines and offers to answer questions via social media and email should be introduced for that time as well.

Where changes to the language of the Code might have unintended impacts on the interpretation and application of the Code, a flexible approach should be taken by the FR when it comes to future investigations and dealing with complaints. As part of its future investigative process, the FR should as a routine exercise ask the question whether a particular breach of the Code or behaviour could be also a result of the changes implemented. While different interpretations of elements of the Code do not necessarily have to be traced back to the suggested changes, there should be a certain timeframe in which this question should continue to be asked until the new version of the Code has been fully implemented and applied throughout the sector.

3.2 What is your view on each of the proposed changes?

3.2.1 The new contents page and reordering of rules

A new contents page has been introduced and the existing sections and rules have been reordered.

This is an improvement. Splitting up the Code into a ‘General rules’ section and ‘Rules relevant to specific fundraising practices’ makes sense and is intuitive. There might be an issue around the section on ‘General Rules’ taking up a lot of space upfront, while most people might want to jump to specific sections in the Code right away. The FR should consider whether to merge sections and therefore reduce the overall size of the contents page, to make it feel less overwhelming for the lay reader.

We are also aware that the Code will be presented in an online format and not only as a simple PDF document. Many of the issues around navigating the contents page could be solved with visual and accessible graphical solutions and cross-linking sections of the Code in its online format. The FR should seek further feedback from practitioners and other interested people about the final online version of the Code, to further refine the accessibility and visual representation of the Code. This could be done through further user testing of the online version of the new Code and focus groups.

One way to address these issues with the navigation would be to use a more graphical overview of the content in the summary, and work more with colours to guide the reader to different sections to make sure that he/she finds the appropriate content. The same goes for indicating where the applicability and also interpretation of terms used in the Code

differs for people from different geographical regions and why these differences matter to them.

There are certain topics that could be better reflected in the table of contents but also throughout the introduction. For example, questions around ethics and safeguarding have come up consistently in recent fundraising scandals. While the Code values are highlighted in the introduction and a section on fundraising conduct exists, some people might look out more for other keywords like ‘safeguarding’ and ‘ethical behaviour’.

There is also the wider question about whether this topic of safeguarding merits more recognition in the Code and if it requires further linkages to safeguarding guidance from other bodies and regulators.

The President’s Club incident for example was a case of neglect of safeguarding obligations towards hired staff and other people involved with a particular charity, but the case was also related to a fundraising event. These two spheres – fundraising and wider charity conduct – are often interlinked. Users of the Code might look for more information or look for information that is already included but framed differently. This could be done for example by introducing a ‘hot topic/quick look’ or ‘most searched for topic’ section in the online version of the Code. Topics included can change depending on current developments. People can then use this ‘hot topic’ section to quickly identify the parts of the Code that talk about the specific issues they are interested in.

Most of the conduct rules are framed with the donor in mind – for good reasons. And while the Code highlights that fundraisers should act in accordance with the law, they can also have safeguarding obligations towards others (volunteers, employees, beneficiaries etc.) and should be also aware of wider safeguarding obligations (e.g. of the organization they work for). There might be space issues in terms of incorporating whole new sections into the Code on this topic, but the Code could allude to this and reference more other external information or give examples why the topic matters to fundraisers in general.

The role of fundraising and how it is conducted is undergoing changes due to technological progress. While there is a section on digital in the Code, it does not speak specifically to new ways to fundraise in particular when it comes to blockchain and fundraising linked to internet of things (with Amazon’s Alexa being a prominent and recent example). A similar topic could be the acceptance of donations in cryptocurrencies. These new technological developments come with particular and specific challenges to ethics and data processing. The Code should reflect these. We recommend that the FR should revisit these issues in further consultations.

The use of the words ‘general rules/general’ could be also more consistent, maybe avoiding their use in Section 2 ‘Working with others’ and 3 ‘Fundraising methods’ so that they are clearly separated from Section 1 ‘General rules’ in terms of language.

The information boxes could be also more streamlined throughout the Code, making sure that people differentiate when they refer to other legal requirements, examples or external documents and guidance. We understand more visual solutions will be available for the online version of the Code that could help making these distinctions better.

3.2.2 ‘Plain English’ review of language

The Code underwent a ‘Plain English’ review of the language used in the document.

The ‘Plain English’ review of the Code is important. This should help lay readers and non-professional readers to better access the Code and enable them to better apply it in practice. Getting rid of jargon where appropriate is also helpful, especially for small charities that may not have specialist fundraisers. Many people that work in different organisations such as charities, community organisations or CICs might in practice fulfil the role of fundraiser but not necessarily identify themselves as such and might not be familiar with industry terms or jargon.

However, DSC would also like to echo some concerns that the Institute of Fundraising (IoF) raised. The consistent use of ‘You’ throughout the document makes it more accessible and more personal and relevant to individuals. But where possible the impression of ‘personal liability’ should be avoided where organisational liability is implied or referred to. This is important since individuals could be discouraged from undertaking a certain activity when they are under the (false) impression of personal liability. Non-professional fundraisers might not be familiar with the legal implications of activities and need clearer signposting of responsibilities and legal obligations in order to be able to navigate them.

3.2.3 Code introduction

A new introduction has been included at the beginning of the Code.

The introduction is useful and accessible. It includes relevant sections on purpose, who the Code applies to, adherence, references to other codes of practice, legal responsibilities, investigation of complaints, values, legal requirements/professional standards, rules in different jurisdictions and rule referencing.

There is a wider question on whether the different parts of the introduction could be restructured in order to cluster together those sections and subparagraphs that are more related to each other. The section on ‘Using the Code’ is quite clear. It has one main heading and a set of sub-sections that cluster topics related to the main heading. But there are eight more main sections in the introduction which are not specifically clustered and don’t have a specific order which is signposted for the reader. One could for example link up the sections on the values that underpin the Code, the purpose of the Code and who the Code applies to. Other sections talk more about the application of the Code and how it is reviewed. These could be also linked up instead of being positioned throughout the introduction. The same goes for the sections that talk about the context in which the Code is situated in, i.e.

references to other related codes of practice and legal responsibilities beyond the Code. Some further signposting or simple re-clustering of the existing paragraphs might help the reader to better navigate the content of the introduction.

The introduction could also highlight ways to actually use and implement the Code in practice and answer a further set of questions that people might have. For example: When I am setting up a particular fundraising activity, when should I consult the Code and how will it help me? If I am a fundraiser, which people that I am working with should also be aware of the Code as well? How can I implement it into my day-to-day practice and organisational culture? Should I get training on applying the Code?

There are also people in many charities and other fundraising organisations who hold multiple positions and roles. They might not define themselves as fundraisers, but they conduct fundraising activities. It should not be taken for granted that the Code is read by people who actively define themselves as being fundraisers. This could be addressed by highlighting to people that if they engage in a certain set of activities they are actually working as fundraisers and should therefore be familiar with the Code: ‘When you are in X position and conduct X activities, then you are essentially a fundraiser and this Code therefore applies to you’.

3.2.4 Glossary of key terms

A new glossary of key terms has been introduced to the Code.

This is a helpful addition to the Code and will make navigating it easier for the user. When developing the online version of the Code, there are many visual/graphical solutions available that could be used to link the text to the terms from the glossary (info/pop-up boxes, hyperlinks etc.). Certain additional terms could be included. For example, if other codes, laws, regulators and other relevant bodies are mentioned in the Code, these terms should be included in the glossary as well (e.g. what is the Charity Commission, ICO, SORP, Charities Act, NCVO etc.). Hyperlinks to external sources are already included in the revised Code, but having these additional glossary terms might be helpful for people with limited background knowledge on the social sector.

It might be confusing for the reader to see differentiations between home nations for some terms only. The reason for this could be highlighted earlier on top of the glossary and in the Code itself, maybe by using different colour schemes for terms/text that applies differently across nations. This problem might be more easily addressed in the online version of the Code, since multiple definitions can be included in one info box for example.

There might also be merit in including for certain terms a description on ‘what it does not mean’. There might be common misperceptions/myths that people associate with a specific term. This way readers can be also informed about certain misconceptions which might help strengthen the definition.

3.2.5 Rules proposed for deletion or amendment

The FR provided a two logs of those rules proposed for deletion or merger.⁵

DSC would again echo two of the points that the IoF made here. Regarding number 4 in the rules mergers log⁶: instead of including more detailed information on Gift Aid, the Code should signpost to existing HMRC guidance. Regarding number 35 in the deletions log⁷: we also acknowledge that the regulator cannot require or endorse the training regime of any specific organisation where it has no input into the quality of it. Nevertheless, we would also encourage the FR to highlight the Institute of Fundraising's Public Fundraising Compliance Work and to signpost to the reader that proper training (either internal or external) is essential for maintaining the standards for face-to-face fundraising over time.

Training should be seen as complementary to applying the Code because it helps to ensure that fundraisers do their work to the highest standards possible.

3.2.6 Incorporation of fundraising rulebooks in the Code

The face-to-face fundraising rulebooks have been included into the 'Fundraising Methods' section of the Code instead of being available as a separate set of documents.

The inclusion of the rulebooks into the Code will make the navigation of the different documents easier for practitioners. We would encourage the FR to provide additional assistance to any other external bodies if they have to adjust any of their documents and processes as a result of the merger of the documents.

3.3 Are there any points not covered by this consultation that you think should be considered to improve the style, presentation, clarity and accessibility of the Code?

If the benefits of a more user-friendly Code are to be fully realised, much depends on how it will be implemented online. There is also the wider question about whether any additional resources will help making the Code more accessible and 'more alive'. This could be done for example by embedding additional content and media formats into the website that will host the online version of the Code. For example: case studies on good practice and bad practice, information on 'common pitfalls to avoid', videos, pictures, hyperlinks to useful guidance, references to other sector bodies, peer learning networks and references to FR helplines and email contacts. We would encourage the FR to make use of these additional elements where possible, to ensure the new version is widely used and disseminated.

⁵ The full table of rules proposed for deletion and amendment (Annex A deletion log and Annex B merger log) can be found here: <https://www.fundraisingregulator.org.uk/code/consultations/consultation-fundraising-code>

⁶ <https://www.fundraisingregulator.org.uk/sites/default/files/2018-09/consultation-annex-b-merges-log.pdf>

⁷ https://www.fundraisingregulator.org.uk/sites/default/files/2018-09/consultation-annex-a-deletions-log_0.pdf

4. Useful links

Fundraising Regulator - Consultation on the Fundraising Code:

<https://www.fundraisingregulator.org.uk/code/consultations/consultation-fundraising-code>

Institute of Fundraising – Draft Response:

<https://www.institute-of-fundraising.org.uk/library/institute-of-fundraising-consultation-draft-response/>

Online version of the Code of Fundraising Practice:

<https://www.fundraisingregulator.org.uk/code/key-principles>

5. About DSC

The Directory of Social Change has a vision of an independent voluntary sector at the heart of social change. We believe that the activities of charities and other voluntary organisations are crucial to the health of our society.

Through our publications, courses and conferences, we come in contact with thousands of organisations each year. The majority are small to medium-sized, rely on volunteers and are constantly struggling to maintain and improve the services they provide.

We are not a membership body. Our public commentary and the policy positions we take are based on clear principles, and are informed by the contact we have with these organisations. We also undertake campaigns on issues that affect them or which evolve out of our research.

We view our role as that of a ‘concerned citizen’, acting as a champion on behalf of the voluntary sector in its widest sense. We ask critical questions, challenge the prevailing view, and try to promote debate on issues we consider to be important.

6. DSC's Policy Principle of Responsible Regulation

DSC believes that charities' activity should be regulated responsibly. Some regulation is necessary to safeguard and maintain the interests of the general public, the beneficiary, and of the organisations and individuals being regulated. However, it should have a demonstrable benefit and should aim to empower and strengthen charities rather than control them unnecessarily.

a) Regulation should be proportionate

Regulation must strike a balance between perceived risk and intended benefit. It should recognise the diversity of voluntary sector activity and be developed and applied in a proportionate way.

b) Regulation should be appropriate

Regulation must be informed by the characteristics, capacity, and needs of the organisations and individuals that are being regulated. Insofar as is possible it should be focussed, rather than acting as a blunt instrument that has unintended effects.

c) Regulation should be enabling

Regulation should seek to empower rather than control voluntary activity. The reasons for the regulation and the regulation itself must be properly understood by those institutions which are applying it. It should be accessible and intelligible to those being regulated. It should seek as far as possible to encourage self-regulation rather than focus simply on enforcement.