

More

Fundraising regulation and data protection: what you need to know

Gerald Oppenheim

Head of Policy and
Communications,
Fundraising Regulator

Victoria Cetinkaya

Senior Policy Officer, Information
Commissioner's Office

Chair: Glen Fendley



Independent Regulation of Charity Fundraising
Upholding the Code of Fundraising Practice and implementing
the Fundraising Preference Service

Gerald Oppenheim, Head of Policy and Communications

IDPE Annual Conference
12 June 2017

Our role: a new regulator

- Cross-party review of Fundraising Regulation September 2015 chaired by Sir Stuart Etherington
- Fundraising Regulator launched 7th July 2016
- Independent self-regulator of charitable fundraising in England & Wales
- Lead regulator model in Scotland (FR regulates charities with HQs in E and W which fundraise in Scotland)
- Consultation taking place in Northern Ireland, decision later in 2017

Our role

- Set and promote standards for fundraising practice in consultation with public, stakeholders and legislators in a proactive approach
- Ensure fundraising is respectful, open, honest and accountable to the public
- Adjudicate on complaints about fundraising practice which cannot be resolved by charities themselves
- Investigate cases where poor fundraising practice has caused public concern
- Apply remedies and offer best practice guidance where necessary
- Operate the Fundraising Preference Service
- Consultations and amendments to the Code to reflect current climate
- Work with other regulators involved with charities

Funding the Fundraising Regulator

- 46 of the largest fundraising charities in UK contributed to start-up costs
- Estimated annual income to raise from levy and registration of up to £2.5m.

Levy

- Since 1 September 2016, annual levy on charities with cost of generating voluntary income of £100,000 or more, ranging from £150 to £15,000 in a series of steps
- Flat rate charge for Higher Education Institutions and other exempt charities

Registration

- £50 annual registration fee for charities not in the levy.
- Fundraising agencies will be able to register and pay a fee according to overall annual income; also other commercial participators.

Since our launch...

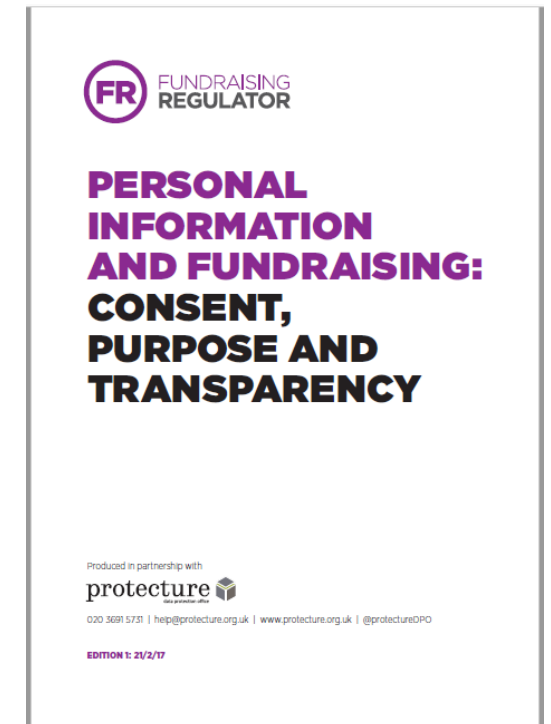
- Received 713 complaints 7 July 2016- 31 March 2017: most closed, around 30 investigations.
- Neet Feet adjudication November 2016.
- Working with 13 charities receiving Monetary penalty Notices from the ICO on remedial actions to ensure future compliance
- Answered 1500 enquiries: about fundraising, registration, levy, FPS, the Code
- 4000 sign ups for our monthly newsletter and updates feed
- Discussion papers on the Fundraising Preference Service, Levy and Registration

Code of Fundraising Practice

- Transferred from the IoF on day of launch (also PFRA Face-to Face fundraising rulebooks)
- Major consultation on Code development and changes 3rd February-28th April 2017: charity trustees (CC 20), the fundraising ask, solicitation (disclosure) statements, whistleblowing, vulnerable people, charity collection bags, third parties (reasonable efforts in monitoring compliance and fundraising agreements).
- FPS and GDPR, data protection and consent in next changes.
- Working closely with ICO to reflect GDPR and data protection in Code.

New Guidance: *Personal Information & Fundraising*

- Developed with Protecture – data protection advisers
- Responds to call for more sector-specific guidance on data protection and consent
- In absence of case law, seeks to **follow ICO's lead in how law is interpreted.**
- Will **change over time** as the law and context develops (we welcome feedback on this version)
- Fundraising Regulator will be looking at how to best **incorporate into the Code** in Summer 2017.





New Guidance: Accompanying Tools

Three accompanying tools to help Fundraisers put the guidance into practice:

- Consent self-assessment tool - helps charities self-assess their communications; has consent been gained to send Direct Marketing communications to an individual? What are the risks in the existing Direct Marketing approach?
- A Checklist of actions to consider before sending Direct Marketing Communications
- A set of Case Studies from a variety of Charities focusing on how they have approached consent for Direct Marketing

Fundraising Preference Service

- Setting up of new Fundraising Preference Service for **Summer 2017**.
- Service will cover charities registered in England and Wales **but not Scotland** (NI TBC).
- Public will be able to choose to stop communications from **specific** charities they name.
- The opt-out will **cover any charities specified** and **all Direct Marketing communications** directed at individuals (email, text, telephone and addressed mail).
- The process will be **IT based but with telephone service** to support vulnerable people or those without IT.
- The Fundraising Regulator will ensure charities are notified of opt outs and that they comply (largely automated process).
- **Guidance for the public and charities** will explain how best to manage contact with charities and what the FPS will and will not do.

Fundraising and data protection: what you need to know

Victoria Cetinkaya, Senior Policy Officer, ICO



ICO enforcement action – charity fundraising



Use of
publicly
available
data

Wealth
screening

Data
matching
and tele-
appending

<https://ico.org.uk/for-organisations/charity/>

GDPR and school development



- School development activities will need to comply with GDPR
- Lawful basis required for:
 - Obtaining data
 - Using data, e.g. wealth screening
 - Contacting individuals for fundraising purposes
- Legitimate interests vs. consent
- Privacy notices

Legitimate interests



“..processing is **necessary** for the purposes of the legitimate interests pursued by the controller or by a third party, **except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.**”

Consent

“..any freely given, specific, informed and **unambiguous** indication of the data subject’s wishes by which he or she, **by a statement or by a clear affirmative action**, signifies agreement to the processing of personal data relating to him or her”



Your to-do list

- Review school development activities
- Which lawful basis?
- Are existing consents still valid, and do we need any further consent?
- Review privacy notices

Guidance:
ico.org.uk

Helpline:
0303 123 1113