

**Cancer Research UK response to the SCVO consultation on the future of fundraising regulation in
Scotland - March 2016**

The £10.6 billion donated to charities in 2014 is a testament to the generosity and civic spirit of the UK public.¹ The majority of UK charities' work to support and improve society would not be able to take place without significant fundraising efforts. Fundraising is critical to the independence of the sector and the causes it supports.

Last year, over 200,000 people in Scotland supported Cancer Research UK. 177,000 donated to us, nearly 50,000 registered to take part in a Cancer Research UK event and 9,000 volunteered their time to help in our shops and ensure the smooth running of our events. We do not receive any money from the Government for our research. Our ground-breaking research, which is so crucial if we are to improve outcomes for cancer patients, is therefore only possible because of the generosity of the public. In 2014/15, this generosity allowed us to spend over £31 million on research in Scotland.

We are committed to best practice and dedicated to creating a positive experience for all of our supporters in Scotland and the rest of the UK. We could not achieve any of our ground-breaking work without our supporters, which is why we're always looking to improve our engagement with them. We are in the process of moving to an opt-in system for all our fundraising communications to new supporters to put their wishes at the heart of what we do.

We continue to support the system of self-regulation as the best way to effectively regulate. While self-regulation must be maintained, it is clear that issues need to be addressed to build public confidence in the sector. The goal should be to ensure that a proportionate regulatory framework and culture for fundraisers emerges which:

- Addresses current public, political and media concerns around fundraising practices
- Creates a long term framework for maintaining public trust in the sector
- Allows charities to continue to fundraise effectively

Only through achieving best practice for fundraising, and communicating the changes effectively, can we secure public confidence.

We welcome the opportunity to respond to the SCVO's consultation, which sets out three options for a new charity fundraising regulatory system in Scotland. We are very supportive of both the working group's vision and the principles that have been adopted by the working group. We believe that option 1 set out in this document is the best approach to:

- Avoid unnecessary complexity and confusion and provide a single, visible regulator for the public to build trust in fundraising practices
- Ensure an efficient and effective system of regulation that supports all fundraising charities, including those operating across cross-borders
- Provide a strong but cost-effective system of regulation, avoiding the need for charities to pay fees to multiple regulators, which would increase the overall cost of regulation and thereby reduce the amount available to spend on vital charitable work.
- Ensure consistency of approach in enforcing fundraising standards

¹ Charities Aid Foundation, *UK Giving report 2014*

We have recently submitted our comments on the Fundraising Preference Service to George Kidd's Working Group in response to their conversation paper². Please find this response in the Annex of this paper.

A UK-wide system for fundraising regulation

To create an efficient and effective system of self-regulation, we support the establishment of the Fundraising Regulator with responsibility for regulating all types of fundraising by UK-based organisations. Option 1 in this consultation paper, would be in line with this approach.

The principle finding of the Etherington review, and indeed Lord Hodgson's 2012 review of the Charities Act, was that the current system in the UK is unnecessarily complex resulting in wasteful duplication of resources and confusing and slow decision-making processes. **Resolving this complexity will be crucial to ensure effective regulation and to provide clarity to the public in order to restore confidence in the sector's fundraising practices. We believe that this should be achieved through a UK-wide approach to self-regulation to ensure consistency of regulation and create a system that is clear to the public.** Option 1 would be able to achieve this and address concerns set out in the Etherington, we do not think that options 2 and 3 would be able to do so.

A substantial amount of Scottish individual giving goes to UK-wide charities, in 2013 this was estimated to be around £1 billion³. Moreover, many Scotland-only charities benefit from donations from supporters outside Scotland. We believe some devolution within a UK-wide system- perhaps on location and make up of any complaint adjudication panel- would be appropriate, but **the overall system from a donor perspective should not have any substantive differences across the UK. We believe that the only way to truly achieve this would be for Scotland to join the approach being developed in England and Wales and for the Fundraising Regulation to have jurisdiction over all three nations.**

In addition to providing a clear system to build public understanding and trust, a UK-wide regulator would also support fundraising organisations that operate across cross-borders.

Although large charities (those with an annual gross income of greater than £500,000) represent just 7.1% of those operating in Scotland, they are responsible for 95% of sector income⁴. These larger charities are likely to be those operating across borders. **Having consistent standards and systems of adjudication would be helpful to these organisation and would support compliance.**

Because of our support for a UK-wide approach, we would not endorse options 2 or 3 set out in this consultation. As stated previously, we believe that the system of self-regulation is the best way to effectively regulate. **Option 3 would involve parliamentary involvement to change the remit of the Scottish Charity Regulator (OSCR) role and it is not clear whether OSCR is willing or well placed to take on additional responsibilities. Furthermore, this proposal would move Scotland towards a statutory solution for regulation, which could risk the sector's independence and ability to quickly act to address any concerns with fundraising practices.**

Cost effective regulation to provide value-for-money to donors

It is crucial that fundraising regulation is cost-effective. Cancer Research UK is completely reliant on the generosity of the public to fund our life-saving work as we receive no Government funding. Our research has been at the heart of the progress that has seen survival rates for cancer in the UK

² https://www.ncvo.org.uk/images/documents/about_us/media-centre/FPS%20key%20proposals%20and%20questions%20paper.pdf

³ <http://www.scvo.org.uk/wp-content/uploads/PDFs/SCVO-Briefing-Fundraising-.pdf>

⁴ <https://www.oscr.org.uk/media/1405/scottish-charities-2011.pdf>

double in the last 40 years. For every £1 donated to us, 80p is used to beat cancer. It is important to us and our donors, that where we provide money to a regulator, through a levy or otherwise, that money is used effectively. **Establishing a separate system for fundraising regulation in Scotland is likely to present an additional cost to UK-wide fundraising charities. On behalf of our donors, we would therefore seek strong justification of the necessity for a separate system and the costs it would entail.**

Registration of organisations with the Fundraising Regulator

The Etherington review recommended that the Regulator should have universal remit; all organisations carrying out fundraising activities being subject to its regulatory powers. Although only charities spending £100,000 or more a year on fundraising are likely to need pay a levy to the new Fundraising Regulator, organisations below this threshold will still be able to register. We believe it is likely most will do so to ensure effective self-regulation and avoid a move to greater statutory regulation, which has been provided for in the Charities Act 2016.

The awarding of a registration badge, which will be a mark of quality assurance to the public, should also be a strong motivator for organisations to register. This badge is likely to be in the public eye in Scotland, even if Scotland chooses not to join the new Fundraising Regulator. **By choosing to join a UK-wide regulator, Scotland will further encourage voluntary registration and ensure the badge becomes a clear, meaningful and recognised mark of quality assurance to members of the public across the UK.**

Effective consideration of the differing legislative and policy frameworks in Scotland

It is crucial that if Scotland chooses to be part of the Fundraising Regulator being established in England and Wales, that the approach of this Regulator fully considers the differing legislative and policy frameworks in Scotland and that Scotland is represented on the Regulator's board. We understand that Theresa Shearer, Chair of the Fundraising Working Group in Scotland and Chief Executive of Enable Scotland, currently attends Board meetings. We think that this engagement during its establishment is important to ensure that the new Fundraising Regulator could be effective in Scotland.

About Cancer Research UK

Cancer Research UK is the world's largest independent cancer charity dedicated to saving lives through research. We support research into all aspects of cancer and this is achieved through the work of 4,000 scientists, doctors and nurses. We receive no funding from the Government for our research and are dependent on fundraising with the public.

For more information please contact Dr Hollie Chandler, Policy Manager, on 0203 469 5337
hollie.chandler@cancer.org.uk

Annex – Cancer Research UK’s response to proposals for a Fundraising Preference Service

In 2014/15, Cancer Research UK spent £434 million on research in institutes, hospitals and universities across the UK. We are aiming to increase our total spend on research in the UK by 50% over the next five to 10 years to improve cancer outcomes. We receive no Government funding for our research. Our ground-breaking work is therefore only possible because of the generosity of the public.

Cancer Research UK is committed to best practice and dedicated to creating a positive experience for all of our supporters. We are in the process of moving to an opt-in system for all our fundraising communications to new supporters to put their wishes at the heart of what we do.

We strongly support the development of a Fundraising Preference Service (FPS). We believe this service will help ensure that the preferences of the public, in respect of the fundraising communications they receive, are upheld. In particular, we hope that this service will deliver on its aim to protect the most vulnerable in society.

We welcome the conversation paper as an opportunity to feed into the development of the FPS and would appreciate further engagement as the working group finalises its recommendations on how to implement this service. We are concerned that the working group has not set out its thinking around the governance of the FPS or how this service will be funded and we would welcome clarity on these points as soon as possible. In considering the current proposals for the FPS, our main recommendations are:

- The FPS should apply to all fundraising communications, but should not restrict an organisation’s ability to send other forms of communication to supporters. This scope should be clearly defined in guidance produced by the Fundraising Regulator.
- The working group needs to better assess public expectation of the FPS and recommend that the Fundraising Regulator develops a clear plan for how it will communicate the FPS to manage public expectation. This will be crucial build and maintain public confidence in the service.
- The FPS must have the functionality to enable individuals to choose the particular channels through which they do not want to receive fundraising communications.
- The FPS registration process should contain a user identification procedure, such as CAPTCHA, to guard against multiple registration of individuals by computer programmes.
- The FPS should place an expectation on individuals registering to provide accurate and complete data of all contact addresses and phone numbers for which they would like their FPS preferences to apply. Individuals should also be expected to update their data.
- The FPS should make it clear and easy for individuals to identify organisations they still want to receive fundraising communications from. We strongly recommend that the application includes a freeform, intelligent search field for this purpose to avoid any ambiguity in the organisation being selected.
- Individuals should be able to override preferences set at FPS registration and engage or re-engage with charities of their choosing by giving consent to these organisations to send them fundraising communications. To facilitate this, it is crucial that the FPS logs the date when individuals register or change their FPS preferences.
- The receipt of registration should set a user’s expectations of the service. For example, to make it clear that whilst charities will endeavour to ensure their preferences are reflected in the communications they receive, this could take up to 28 days.
- It does not seem appropriate for the FPS to prompt users to update their preferences by way of an annual reminder and we recommend that the working group revises this proposal.

- We do not think that organisations with an income of less than £1 million should be exempt from checking their campaigns against the FPS. The working group should explore options for how the smaller fundraising organisations may be supported to do so.

Scope

We support the working group's proposal that the FPS should apply to all fundraising communications, i.e. those wholly or primarily for the purpose of soliciting money or other property for charitable purposes. As well as including communications containing explicit financial asks, we believe such a definition would also bring trading and communications about lotteries and raffles within scope of the FPS.

It is important that the FPS does not hinder other communication with supporters, such as those intended to provide updates on an organisation's operation, ambitions and achievements; those that advertise volunteering opportunities; and those that promote campaigns. The FPS should also not restrict communications to thank supporters, but we agree that this should not be used as an opportunity to make a further 'ask'. We believe that it is achievable to send such communications and for these to not be seen as forms of fundraising communications by supporters who have kindly made a gift to that charity.

The working group should recommend that the Fundraising Regulator produces guidance to set out a clear definition of 'fundraising communications', which details the types of communication that are in scope of the FPS. This will help ensure that fundraising organisations comply with the FPS and that the public experience an expected and consistent outcome from different organisations as a result of registering their preferences.

The working group needs to better assess public expectation of the FPS. If the FPS (with its scope defined as supported above) is likely to fall short of this, then the working group should recommend that the Fundraising Regulator develops a clear plan for how it will communicate the FPS to manage public expectation. This will be crucial build and maintain public confidence in the service.

Channels

We agree that the FPS should apply to addressed mail, email and telephone, including mobile (and SMS). We would welcome clarification from the group that SMS will be included.

In order for the FPS to give the public *'greater control over their interactions with charities and genuine choice about whether and how they are approached with fundraising requests'*, as set out in the Terms of Reference for the FPS working group, we consider that **it will be crucial for the FPS to allow those registering to choose which channels they no longer want to receive fundraising communications through.** Individuals may want to stop direct mail requests, but be happy to receive text messages and emails. It is important that the FPS has the functionality to support this choice.

It is appropriate that the FPS doesn't apply to face-to-face fundraising as organisations will not be able to determine whether these individuals are registered with the FPS. For house-to-house fundraising, it would be possible to check individuals against the FPS. However, as they can already opt out of house-to-house fundraising in a variety of ways, and therefore have a high degree of control, the working group should carefully consider the added value of this being in scope against the significant additional burden it would present to fundraising organisations.

It would not be feasible for the FPS to apply to unaddressed mail and so we agree it should be excluded from the scope. There is a possibility that this may cause some charities to increase their use of this fundraising communication, which may be seen as increased, unwanted contact by some members of the public. However, this type of communication is not that which has been of most

concern to the public. It is fundraising communication that it directed toward a named individual that has the potential to make some members of the public feel personally targeted and pressured to give, and it is this form of communication that the FPS should play a role in helping the public opt out of if they so wish. Again, the working group should assess whether the public is likely to expect unaddressed mail to be in scope of the FPS and if so, communicate the scope effectively to manage this expectation.

The conversation paper does not make it clear as to whether the working group is considering social media to be in scope of the FPS. We would question the need for social media to be in scope of the FPS given the preference options/controls that users are able to set up when using these sites.

We completely support the proposal that the FPS should be set up for individuals, not households. To ensure that it is an individual registering, the FPS application process should contain a user identification procedure such as CAPTCHA. The FPS should hold accurate, up-to-date data on all individuals registered. The FPS should place an expectation on individuals registering with the service to provide accurate and complete data of all contact addresses and phone numbers for which they would like their FPS preferences to apply. Individuals should also be expected to update their data. Organisations should place similar expectations on their supporters. This should minimise the risk of inconsistencies between data held by the FPS and fundraising organisations.

User experience and choice

We agree that it is right for the FPS to provide a single ‘reset’ option if a user wants to end all fundraising communications. However, **there may be organisations that individuals will still want to receive fundraising communications from and the service should make it easy and clear for them to select these.** Setting out a list of these organisations is likely to appear cumbersome and will make it difficult to identify the organisation/s a user would wish to select. To avoid this, **we recommend a freeform, intelligent search field. An intelligent search option is essential to ensure there is no ambiguity in the organisation being selected** – for example, ‘Cancer Research UK’ should be the only name under which our organisation could be selected and an individual typing in ‘CRUK’ or ‘Cancer Research’ should be directed to select ‘Cancer Research UK’.

As proposed, **individuals should be able to override preferences set at FPS registration and engage or re-engage with charities of their choosing by giving consent to these organisations to send them fundraising communications. To facilitate this, it is crucial that the FPS logs the date when individuals register or change their FPS preferences.** This will provide organisations with the means to determine whether an individual registered a preference to opt-in to their organisation’s fundraising communications before registering for the FPS (in which case their FPS preferences should be adhered to) or after registering for the FPS (in which case their latest indication to opt-in to that organisations fundraising communication should be respected).

We would endeavour to ensure that preferences registered by an individual on the FPS are reflected as soon as possible in the fundraising communication that they receive from us. However, there is normally a significant lead time for our mailing and phone call campaigns. This is likely to mean that the selection and cross checking of individuals against the FPS, will be done some weeks in advance of a campaign launch and contacting of individuals. We therefore think it is right that the compliance assumption is that a registrants wishes will be reflected in an end to calls or mail within 28 days of registration. This is line with the telephony preference service and would be achievable for our mailing campaigns.

It is important that when an individual registers for the FPS they receive a receipt setting out the preferences selected. This email should also be used as an opportunity to set expectations – making it clear that whilst charities will endeavour to update their databases as a result of the preferences selected, in some cases this could take up to 28 days. This should be accompanied by

an explanation as to why it might take so long to update these details. Such transparency and clarity of process is needed to ensure public trust and confidence in the system and to avoid future frustrations.

Duration

We think that a user's preferences should be held on the FPS and kept until a user reconnects with the service to amend these preferences. **We do not think that it is appropriate for the FPS to prompt users to update their preferences by way of an annual reminder.** Cancer Research UK doesn't re-contact individuals who have opted out of our communications. The same principle should apply to the FPS. It is important that a service aiming to reduce communications to individuals that have contacted them to do so, does not in turn send unwanted communications to those it is striving to help.

Application

We do not think that organisations with an income of less than £1 million should be exempt from checking their campaigns against the FPS. This cut-off appears to be arbitrary and has been proposed without any clear rationale or evidence to explain why these organisations should be exempt. Our analysis suggests that medium charities (with an income between £100,000 and £1M) receive a similar, if not greater, level of direct marketing complaints than larger charities when normalised using relative volumes of fundraising activity. This analysis was performed using data from the FRSB's 2015 Complaints Report⁵. The public is therefore arguably most aggrieved by direct marketing contact by these organisations and the effectiveness of the FPS would be limited if an exemption was made for them. If the cut off of £1 million is applied, the limitations of the service need to be clearly explained to the public.

If, as we would recommend, all fundraising organisations are required to check individuals against the FPS, the working group should explore options for how the smaller fundraising organisations may be supported to do so.

The FPS as a tool for vulnerable people

It is important that individuals who are unable to register on the FPS, but would like to do so, can ask a friend or family member to register them on their behalf. The name, contact information and relationship of this individual to the person they are registering should be recorded. **We do not think it is feasible for the FPS to undertake an assessment over the appropriateness of an individual, vulnerable or otherwise, to be registered by a friend or family member.** To ensure that the registered preferences reflect the individual's wishes, it will be necessary for a receipt of registration to be sent to the registered individual. If this person was registered by someone else, they should be sent notification of this along with the details of the person who completed the registration. The working group should consider whether those under the age of 18 will be able to register on the FPS and if not, ensure that a parent or guardian will be able to register them on their behalf. Many Cancer Research UK supporters and fundraisers are under the age of 18.

⁵ http://www.frsb.org.uk/wp-content/uploads/2015/07/FRSB_Complaints_Report_2015.pdf