

29 September 2016

Fundraising Regulator: Fundraising Preference Service discussion paper

A written submission from Together for Short Lives



About us

Together for Short Lives is the UK charity that, together with our members, speaks out for children and young people who are expected to have short lives. Together with everyone who provides care and support to these children and families, we are here to help them have as fulfilling lives as possible and the very best care at the end of life. We can't change the diagnosis, but we can help children and families make the most of their time together.

Together for Short Lives has more than sixty members from the voluntary sector that deliver children's palliative care – including children's hospices and other service providers.

We welcome the opportunity to respond to this discussion paper and have outlined points for consideration below from the children's palliative care voluntary and community sector. Our key concern is that the proposed 'two-tier' fees system does not go far enough in ensuring a proportionate fees system. We support a tiered banding system akin to the Fundraising Regulator levy, so that the charities who send the most fundraising communications bear the biggest burden of the fees.

Hybrid communications

1. The report acknowledges (pages 9-10) the difficulty in identifying whether the 'core purpose' of a communication is fundraising, when for example it is a newsletter that includes a fundraising message.
2. We agree with the statement that the Information Commissioner Office's approach of including all promotional material as direct marketing 'is not appropriate to a self-regulatory regime for fundraising' and that the test for whether a communication is considered a 'fundraising communication' should be purposive, i.e. based on a reasonable test of what the 'core purpose' of the communication is.
3. However, it should be acknowledged that this approach is ambiguous and that individual fundraisers will make different judgements as to whether the core purpose of a communication is to fundraise. We would therefore welcome detailed guidance, best practice and case studies to clarify this issue. The Fundraising Preference Service should also offer training to fundraisers who are expected to use their judgement on this matter.

Subscription cost

4. The proposed FPS subscription cost of £3,000-£4,000 per annum (page 32) is significant for small to medium charities, especially as these charities also face increased regulatory fees following the establishment of the Fundraising Regulator. Therefore, under these proposals, it is now feasible that a voluntary sector children's palliative care provider could pay £5,000 or more in regulatory fees each year.

5. If the approximate total of £5,000 in fees are extrapolated out to Together for Short Lives' more than 60 voluntary sector members who provide children's palliative care in the UK, they will potentially reduce the amount which they can collectively spend on these key services by over £300,000. The only income that children's hospices receive which is committed to by NHS England is an annual £11 million grant. It is alarming, therefore, that these new fees could account for approximately 3% of this funding.
6. Many of these charities do not engage in high volume fundraising and may send just four fundraising communications each year. This represents a very small fraction of fundraising communications that members of the public will receive. The proposed 'two-tier' fees system therefore does not go far enough in ensuring a proportionate fees system. We support a tiered banding system akin to the Fundraising Regulator levy, so that the charities who send the most fundraising communications bear the biggest burden of the fees.

Compliance costs

7. The report states (page 32) that there will be no additional administrative costs for subscribers as 'subscribers will already have the necessary internal arrangements in place (since all charities and other fundraisers are already required to comply with the terms of the TPS regime and the consent rules according to data protection legislation)'. However, not all fundraisers conduct telephone fundraising, so there will be additional administrative costs for these charities. This is in addition to the initial cost that charities will face in terms of staff time, as they seek to understand and comply with the new regulatory system.
8. Small charities will also face an additional cost due to the proposal that 'the FPS file should not in the first instance be made available directly to intermediaries and sub-contractors, most obviously those commercial businesses that charities and others may use to out-source fundraising campaigns'. One of our members, a children's hospice, told us that currently their mail house screens against the MPS on their behalf. Charities such as them would have to bring this compliance work back in-house, which for smaller charities will present resource and capacity issues. This should be considered when determining the subscription cost bandings.

Calculating costs and activity

9. The report states that the two options for calculating the scope of the FPS are to 'base the threshold on fundraising expenditure, or on an organisation's volume of fundraising activity' (page 10). It then states (pages 10-11) that 'data is generally available on an organisation's level of spend on fundraising activity and, though not perfect, this is a useful indicator of where activity volumes are significant'.
10. While there may be correlation between overall fundraising spend and the volume of activity they conduct, it is vital to acknowledge that the 'fundraising spend' in a charity's accounts covers a range of spends other than direct marketing – including major donor fundraising, corporate partnerships and even the design of fundraising materials.
11. Given that the objective of the FPS is to provide a framework where donors can limit unwarranted fundraising communications, using a measure of overall fundraising spend is inappropriate. Since there is no requirement for charities to record their 'direct marketing' spend (as per recommendation 6, page 19), it would be preferable to instead pursue an approach that calculates the volume of fundraising communications. If a 'direct marketing cost' option is pursued, there must be a clear definition of what this

includes – e.g. whether it includes staff and management time and other non-direct costs.

Specific opt-outs

12. We support the inclusion of the mechanism that allows users to opt out of fundraising communications from specific charities, instead of the single 're-set' option (recommendation 2, page 19).
13. In order to make sure that individuals do not unintentionally block fundraising communications from their supported charities, we urge the FPS to make it clear on their website the differences between these two options.

Opt-in

14. We recognise the challenges in asking individuals to opt 'back in' to charities when they register for the FPS (page 8). As a compromise, we propose that each registrant should be given clear instructions of how to opt back in to specific charities when they receive their registration confirmation (as per page 24).

Contribution from the levy

15. The summary version of this paper states (page 11, para. 38) that 'some FPS operating costs may also be met through the levy on charities to meet the Fundraising Regulator's annual operating expenses'. The levy that has been implemented to fund the Fundraising Regulator is based on modelling of the regulator's annual operating costs. Given that this has already been costed, it is unclear how, or why there would be excess funds that could be diverted to the FPS. Greater clarity is required in this regard.

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