



# Code of Fundraising Practice

Consultation by the Fundraising Regulator

## Introduction

The Fundraising Regulator launched a new consultation on the *Code of fundraising Practice*<sup>1</sup>. The consultation closed on 1 December 2023.

The consultation was formed of four parts:

- A Key themes
- B Expanding the code
- C Amending specific rules
- D Detailed changes for each section.

It is expected that the new code will be launched in early 2025.

The HFMA responded to the consultation. The response was based on discussions at the HFMA's NHS Charities Finance Group and is broadly supportive of the move to a streamlined, principles based code.

### A Key themes

#### Principles-based rules

It is proposed to streamline the code by grouping the current rules under wider principles. The code will still include representative examples but include principles-based rules rather than detailed rules that cover specific issues.

#### HFMA response

The HFMA's NHS Charities Finance Group is supportive of this proposal. Accountants are used to working with principles-based accounting standards so for finance staff moving to a principle-based document makes sense. It also means that as methods of fundraising change, the code's principles should be applicable to any new situation whether or not there is an exact example or rule in the code. Everyone following the principles should come to the same, or at least, similar decision.

In order to ensure that this is the case, it will be important to test the principles by asking a range of organisations to apply them to different scenarios.

<sup>1</sup> The Fundraising Regulator, *Code consultation 2023*, 2023



## Rules where the Fundraising Regulator is not the lead regulator

It is proposed to remove summaries of legislation or guidance where the Fundraising Regulator is not the lead regulator. Instead, the code will signpost to the appropriate guidance.

### HFMA response

We agree with this proposal. There is a risk that by including other bodies' guidance in the code, reference will be made to out of date guidance. Signposting should mean that fundraisers access the most up to date guidance from the appropriate organisation.

### Reorganising the code

This is to allow for streamlining but also to reduce the amount of duplication in the code. For example, many sections of the current code relate to GDPR so these rules will be replaced with signposting to the section on GDPR.

### HFMA response

As above, we agree with this proposal. There is always a risk, when a document includes repeated information, that internal inconsistencies may be introduced. Reorganising the code may mean that users need to move between different sections as they consider their particular circumstances, but it will mean that they should reach a considered and consistent conclusion.

Streamlining any reference document is also supported for the same reasons – it is much more likely that individuals will find the guidance they need in a streamlined document. If guidance is repeated and spread over different sections, there is a risk that only part of the rules is identified and followed.

## B Expanding the code

The Fundraising Regulator wants to understand whether there are areas where the scope of the code could be expanded. Suggested areas for expansion include:

- contactless donations/ tap and donate
- round-up and micro donations
- cryptocurrencies and non-fungible tokens (NFTs)
- online fundraising
- social media
- gaming and streaming
- protecting fundraisers
- modern slavery
- a requirement for applicable organisations to comply and engage with the Fundraising Regulator's processes
- the impact of third-party legislation and regulations
- the use of funds that fail for reasons other than not achieving a pre-determined target.

### HFMA response

The first six areas are all new ways of fundraising in the digital world – consideration should be given to referencing the *Charities Statement of Recommended Practice: FRS 102*<sup>2</sup> so that fundraisers understand that their finance team may need to be consulted before new fundraising mechanisms are developed.

We suggest that modern slavery is another area where reference to external guidance should be considered.

In relation to use of funds, we suggest that a principles-based approach should be taken. This would focus on the need to be open and transparent about what will happen if an appeal fails for any reason, either by raising too much or too little money or, indeed, if there is a change in trustees'

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<sup>2</sup> Charity Commission for England and Wales, OSCR, Charity Commission for Northern Ireland, *Charities SORP (FRS 102)*, October 2019

plans. There is a balance between providing too much information and too little so some guidance on proportionality would be helpful.

### **C Amending specific rules**

There are a number of specific rules that the Fundraising Regulator is seeking perspectives – either yes or an explanation about concerns:

- clarifying that complaints about fundraising apply to third-party fundraisers as well as charities and their governing bodies.
- clarifying that the rules on paying fundraisers applies to paying celebrities/ influencers to promote charities and ask for donations using their social media channels.
- clarifying how 'excessive amounts' should be assessed in relation to paying fundraisers – this is likely to make it clear that the judgement should be based on the specific role in question.
- removal of the current allowance in the code that fundraisers should use additional security measures for online transactions 'if they have the resources for this' on the basis that security measures are now commonplace so the allowance is no longer relevant.
- clarifying that digital signatures and agreements are acceptable when agreeing commercial fundraising agreements.
- amending the rule that says charities must 'make sure' that third party fundraisers and commercial partners abide by the code to say that charities must make all reasonable efforts to ensure they follow the code.
- amending the rules around street fundraising and on private sites to cover all forms of fundraising as they currently only cover asking for regular gifts.
- amending the rule around accepting legacies to allow charities to consider legal and reputational issues and associated risks and benefits before accepting a legacy with conditions.

### **HFMA response**

Our response is yes to all of these suggestions. In relation to accepting legacies, we note that this is an area where the code must be consistent with the governance arrangements of the charity and the requirements of the appropriate regulator.

## About the HFMA

The Healthcare Financial Management Association (HFMA) is the professional body for finance staff in healthcare. For over 70 years, it has provided independent and objective advice to its members and the wider healthcare community. It is a charitable organisation that promotes best practice and innovation in financial management and governance across the UK health economy through its local and national networks.

The association also analyses and responds to national policy and aims to exert influence in shaping the wider healthcare agenda. It has particular interest in promoting the highest professional standards in financial management and governance and is keen to work with other organisations to promote approaches that really are 'fit for purpose' and effective.

The HFMA offers a range of qualifications in healthcare business and finance at undergraduate and postgraduate level and can provide a route to an MBA in healthcare finance. The qualifications are delivered through HFMA's Academy which was launched in 2017 and has already established strong learner and alumni networks.

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