

Code Response- Detailed

Part A- Key Themes

[You can read the context to these questions here.](#)

Principles-based rules	
Questions	<p>Should the Fundraising Regulator adopt a principles-based approach to rules where this can cover relevant issues in a more concise manner?</p> <p>If you do not agree or have concerns about specific sections of the code which you think should not follow this approach, please explain your response.</p> <p>You will also be able to comment on individual proposals for changes later in the consultation form.</p>
Our Response	<p>Overall, we support exploring how the Code could adopt a more principles-based approach. Some of our members believe that the Code is lengthy, and there is some duplication across sections, therefore stripping out some unnecessary detail should make the Code easier to use and more accessible. Many members think, however, that in order for this transition to be a positive one, they will need to give feedback in detail on the newly published Code next year.</p> <p>Some members would be interested to know more about how adjudications would align with a new principles-based approach. This is important for fundraisers to know in order to avoid them thinking they are meeting a principle, when the Fundraising Regulator may have a different view on what is compliant with a principle and what falls short. Equally, it would be helpful to look at how previous adjudications that relied on a specific level of detail from the Code would be handled in the future.</p> <p>Although we believe that a principle-based Code will be clearer in setting a public narrative of what is expected of fundraisers, there is a risk that the public expectation of what meets a principle is different from either the Fundraising Regulator's, or a charity's view. Additionally, different charities may take different approaches on how to be compliant with a specific principle, which in turn could lead to confusion from the public unfair criticism that a charity is not being compliant.</p> <p>We would therefore welcome clarity from the Fundraising Regulator on how they will give charities the support they need to be compliant, as well as how they will inform the public on what is acceptable fundraising. For example, it may be that the Fundraising Regulator puts emphasis on what it expects a charity be able to show in their decision-making process and rationale on how they set the parameters of a fundraising campaign – this would allow the charity to demonstrate how they have sought to meet the principle and</p>

	<p>put in place appropriate monitoring and training procedures. Some members noted that the DMA’s approach to this has proven to be very effective.</p> <p>In addition to this, we are aware that this change would impact our public fundraising rule books that we use to assess members’ conduct. Currently, the rule books use the exact same wording of the Code, meaning that if the standards were to change, there needs to be consideration into what impact this would have on our rules. To maintain consistency in our public fundraising team’s decision making, we would like to explore how to keep these rules the same. Going forward, we would like to keep these rules the same and would welcome further discussions with the regulator to establish how to achieve this.</p>
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Rules where we are not lead regulator	
Questions	<p>Should the Fundraising Regulator replace rules which relate to legislation where we are not lead regulator with signposting to guidance from the relevant legislative body?</p> <p>If you do not agree with this approach or consider it would not be appropriate in specific circumstances, please cite examples and explain your response.</p> <p>You will also be able to comment on individual proposals for changes later in the consultation form.</p>
Our Response	<p>We support the Fundraising Regulator’s proposal to remove a level of information which incorporates regulatory or legal detail relating to areas of activity where they are not the lead regulator (e.g, gambling, or Gift Aid).</p> <p>However, we recognise that not all our members support this, some would prefer keeping all the information they need to know in one place. Their view is that this will save time, particularly as other regulatory guidance or information can be difficult to access and less user-friendly.</p>

	<p>With that in mind, while overall we support the proposal, we would like to work with the Fundraising Regulator to explore how to mitigate against some of the possible negative consequences – through training, guidance, or resources which could be developed between the Fundraising Regulator and the Chartered Institute to ensure fundraisers are able to easily and quickly find all the information that they need to know when going about their fundraising.</p>
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Part B- Key Themes

Context to these questions can be found [here](#).

Contactless / tap-and-donate	
<p>Questions</p>	<p>Should the code include specific requirements regarding transparency for contactless/tap-and-donate methods?</p> <p>Should this be addressed with new rules, or could existing rules be expanded to include these methods? Could the key issues be covered with guidance rather than new rules?</p> <p>What information do you think should be provided to donors at the point of donation when using these methods? Are there any other related issues that need to be considered?</p>
<p>Our response</p>	<p>Generally, our members, including those that are payments specialists, are in favor of including requirements that will improve transparency and ensure that donors know what amount they are giving. It was also generally agreed that this is an area that has developed quickly and therefore guidance in this area would be beneficial to make sure that charities are getting the right support.</p> <p>Whilst the consensus is that a supporter must always know how much they are donating, members’ views differed on what information should be given about transaction fees. Some members agreed that supporters should have information on processing fees, others thought that this would cause confusion as other contactless payments do not include processing fees. It was also recognised that contactless payments have been effective because they make it easier for people to give, so any additional standards on information at the point of donation should not impact this. With this in mind, we would like further information from the regulator on what would be included in additional standards. We would also be happy to work with the regulator on additional guidance in this area, such as selecting a payment provider and processing fees.</p>

	<p>Finally, some members also indicated that the definition of a ‘contactless payment’ can vary from charity to charity, for some it means a sign-up process that doesn’t involve physical contact between the fundraiser and donor, whilst others consider it a contactless payment. To avoid confusion, we recommend the Code setting out a definition of what contactless donations mean, in light of the range of channels and methods someone could now donate to charity.</p>
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‘Round ups’ and micro-donations	
<p>Questions</p>	<p>Should the code include specific requirements regarding consent and transparency for ‘round up’ and ‘micro-donation’ mechanisms?</p> <p>Should this be addressed with new rules, or could existing rules be expanded to include these methods? Could the key issues be covered with guidance rather than new rules?</p> <p>What information do you think should be provided to donors at the point of donation when using these methods? Are there any other related issues that need to be considered?</p>
<p>Our response</p>	<p>Overall, members agree that there should be an explicit opt-in for micro-donations and roundups as this will build trust with donors and are not opposed to standards in the Code that state this. Some members also noted that given transparency of donations and payments appear to be a recurrent theme in this consultation, there could be scope to create a principle or general standards regarding payments and transparency, rather than specific standards for specific kinds of donations.</p> <p>Additionally, some members also raised that as micro-donations are often used by corporate partners, additional guidance on the role and responsibilities of charities in this area would help support best practice.</p>

Cryptocurrencies and NFTs	
Questions	<p>Should the code include specific requirements regarding ‘cryptocurrencies and NFTs’ in the context of accepting and refusing donations?</p> <p>Should this be addressed with new rules, or could existing rules be expanded to include these methods? Could the key issues be covered with guidance rather than new rules?</p> <p>Are there any other related issues that need to be considered?</p>
Our response	<p>Some members recognise that there are unique risks to accepting crypto-currencies that they need to take into consideration. In particular, some noted they are unsure how to manage the ‘Know your donor’ requirements set out by the Charity Commission and would appreciate additional guidance around this.</p> <p>That said, other members highlighted that some of the best practice advice relating to managing crypto is similar to other assets (notably stocks and shares), so there is scope create a set of standards (or principle) that is relevant to both kinds of gift.</p>

Online fundraising platforms	
Questions	<p>Should the code include a requirement that online fundraising platforms follow our recently updated guidance setting out the minimum standard of information we expect donors to see in order to make an informed decision to donate?</p> <p>Should the code also require online fundraising platforms to add a tick box to fundraising pages so fundraisers can confirm they have read the Fundraising Regulator’s guidance for fundraisers setting up a fundraising page?</p> <p>What information do you think should be provided to donors at the point of donation when using these methods? Are there any other related issues that need to be considered?</p>
Our response	<p>Most of our members are not against requiring platforms to conform to this guidance, however, some did raise concerns that this may limit charities who wish to work with platforms outside of the UK.</p> <p>Alongside this, some members raised that there are long-standing challenges associated with working with online platforms. For example, they have received complaints from donors that optional tipping methods are hard to opt-out of, or that accepting money that has been donated anonymously through a platform makes it challenging to meet ‘Know your donor’ requirements set out by the Charity Commission. These members would welcome the regulator carrying out a review into these challenges and work more closely</p>

	with platforms to ensure they are operating in a way that aligns with the Code and good practice.
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Social Media	
Questions	<p>Should the code include specific requirements regarding social media fundraising?</p> <p>Should this be addressed with new rules, or could existing rules be expanded to include these methods? Could the key issues be covered with guidance rather than new rules?</p> <p>What information do you think should be provided to donors at different stages of social media fundraising activities? Are there any other related issues that need to be considered?</p>
Our response	<p>Although social media presents many opportunities for charities to connect with large numbers of donors quickly, members recognise that it comes with its own unique set of risks, many of which are covered in the Charity Commission’s recent guidance on social media. As such, some members are not against additional guidance in this area which could support smaller charities and those who are not specialists in social media (such as volunteers) in navigating these fast-paced channels and how to approach moderation. Of course, any guidance in this area would have to be conscious that many challenges related to this area are the result of bad actors online, which charities cannot control.</p> <p>In contrast to this, some members, particularly those that are digital fundraising or social media specialists, feel that many of the standards in section 9 Fundraising Communications and advertisements would apply to social media channels. They also pointed out that given most people have smartphones, even communications not intended for the internet could be photographed and posted online. With this in mind, they believe a principles-based approach that applies to a wide range of communication channels would be the most holistic way to mitigate risks.</p>

Protecting fundraisers	
Questions	Should the code include protections for fundraisers from inappropriate behaviour by donors and potential donors?

	<p>Should this be addressed with new rules, or could existing rules be expanded to include these methods? Could the key issues be covered with guidance rather than new rules?</p> <p>Are there any other related issues that need to be considered?</p>
Our response	<p>Although we agree that safeguarding fundraisers an important challenge the sector must address, we are unsure how the safeguarding of fundraisers from donors' behaviour could be appropriately incorporated into the Code.</p> <p>As it stands, the Code is set up to ensure fundraisers operate in the right way to protect the public, so we are unclear on how the Code could address this area in a meaningful way, or how it could be monitored and adjudicated on.</p> <p>We are keen therefore to have further discussions with the Regulator to scope out this area before looking at any potential changes to the Code in relation to this area.</p>

Complaints handling	
Questions	<p>Should the code include a requirement that organisations comply with reasonable requests from the Fundraising Regulator in relation to complaints or other concerns about their compliance with the code, not limited to legal breaches?</p> <p>In such cases, organisations would be subject to proportionate regulatory action from the Fundraising Regulator. What do you think should be the scope and limits of such a rule?</p>
Our response	<p>Generally our members agree with this, although they would appreciate more clarity on how the Regulator plans to enforce this.</p>

Third party legislation and regulations

Questions	<p>Should the code include an explanation that organisations found to have breached relevant legal obligations while fundraising will be considered to have breached the code – even where these laws are not listed in the code itself?</p> <p>In such cases, organisations would be subject to proportionate regulatory action from the Fundraising Regulator. What do you think should be the scope and limits of such a rule?</p>
Our response	<p>Our members recognise and understand that a breach of legal obligations would also constitute a breach of the Code. They also raised, however, that they would want more clarification on what ‘proportional’ sanctions might include and encourage the regulator to let other regulators take the lead to avoid double or disproportionate consequences.</p> <p>There were also many concerns and questions on how the regulator would handle communications in the event of additional sanctions. For example, if a charity was to inadvertently breach a legal requirement, which led to media coverage, an additional statement from the regulator could cause the situation to escalate. Members would therefore like more clarity on the circumstances in which the regulator would release a statement saying that the Code has been breached and reassurance that the regulator will take necessary steps to ensure that communications to investigations are handled with care.</p>

Other areas for expansion	
Questions	<p>Are there any other areas where you think the scope of the code should be extended?</p> <p>Please explain how you think this would be best addressed, for example, establishing new rules, expanding existing rules, creating guidance etc.</p>
Our response	<p>Some members mentioned they would be in favor in seeing the Code encourage better supporter experience and stewardship of donors. For example, at the moment there are few standards or guidance on what good communication and engagement with donors look like, these members believe that inclusion of this in either the Code or guidance could help charities retain supporters.</p>

Artificial intelligence	
Questions	<p>The Fundraising Regulator is interested to find out more about emerging issues and developments in artificial intelligence that may impact fundraising.</p> <p>Do you have any evidence or observations about how artificial intelligence might affect fundraising, now and in the future?</p>

	How can the Fundraising Regulator help ensure the use of artificial intelligence in fundraising is legal, open, honest, and respectful?
Our response	<p>Some of our members believe that AI presents an opportunity for charities to make fundraising more efficient, improve donor engagement and make fundraising safer for donors and staff alike. Specifically, they are looking at how AI can help them achieve the following:</p> <ul style="list-style-type: none"> • Identify which donors would be most interested in certain products and appeals • Refine campaign messaging • Automate fundraising processes, such as comment moderation on social media <p>That said, some members are aware that AI can be misused, although some of the standards in the Code relating to the accuracy of fundraising material do mitigate against this.</p> <p>As this area of technology progresses and the government refines its regulatory approach, we welcome facilitating more discussions between the Fundraising Regulator and our members to ensure charities are able to use this technology to enhance fundraising and donor experience whilst mitigating any risks or ethical concerns from the public.</p>

Appropriate Times for Fundraising Activity	
Questions	<p>Do you consider the current timeframes for specific fundraising activities, and the variations between different approaches, to be appropriate?</p> <p>Do you have any suggestions for how these timing restrictions could be amended?</p> <p>Please provide evidence to support your case for the suitability of the current approach, or any changes you propose.</p>
Our response	<p>We have concerns that changes to the time restrictions would limit face-to-face campaigns which could have an impact on donations at a time when charity finances are under pressure. Our members have reported that fundraisers are still seeing considerably productivity well into the evening. They believe that this is because outside of office hours (9am-5pm) is a particularly good time to engage with people who are currently working and earning, which is a key demographic for regular giving campaigns.</p>

	<p>Our view is that the current fundraising times are proving effective in engaging donors and raising funds and therefore we do not see any reason to amend them.</p>
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Part C- Amending specific rules

Context to these questions can be found [here](#).

<p>Questions</p>	<p>Rules 8.4.13-8.4.19 outline expectations for behaviour during street fundraising. In the current code they appear under the text “Collecting regular gifts (face-to-face fundraising) on the street” so only apply in the context of collecting regular gifts.</p> <p>For consistency, these standards could be applied to all forms of street fundraising, including asking for direct donations. Some aspects of behaviour when asking for direct donations are covered by the terms for street collection licences and rules in Section 8.2 of the code.</p> <p>Greater consistency in this area will aid public understanding of how the Fundraising Regulator expects fundraisers to behave when asking for donations face-to-face in the street.</p> <p>Proposal The Fundraising Regulator proposes amending Rules 8.4.13-8.4.19 to extend their scope to all forms of street fundraising.</p> <p>Do you agree with this proposal?</p> <p>If no, please explain and provide any evidence which may support your answer.</p>
<p>Our response</p>	<p>We have concerns that this change could make some street fundraising campaigns unfeasible and limit charities’ volunteering opportunities. Currently, some of our members carry out face-to-face fundraising with volunteers, which proves both successful at raising funds and engaging volunteers, however volunteers typically wear their own clothes rather than charity branding. This means that standard 8.4.14 which requires fundraisers to be easily identifiable at a distance through charity branded clothing is not feasible and there is a risk that if it is too costly to implement, these kind of campaigns could not go ahead.</p>

	Certain members, however, do recognise that to mitigate against bad actors, volunteers should be identifiable. They suggested colored lanyards would be more cost-effective and easier to manage.
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Questions	<p>Rules 8.4.22-8.4.28 outline expectations for fundraising on private sites. In the current code they appear under the text “Collecting regular gifts (face-to-face fundraising) on bookable private sites” so only apply in the context of collecting regular gifts.</p> <p>For consistency, these standards could be applied to all forms of fundraising on private sites, including asking for direct donations. Greater consistency in this area will aid public understanding of how the Fundraising Regulator expects fundraisers to behave when asking for donations on private sites.</p> <p>Proposal The Fundraising Regulator proposes amending Rules 8.4.22-8.4.28 to extend their scope to all forms of fundraising on private sites.</p> <p>Do you agree with this proposal?</p> <p>If no, please explain and provide any evidence which may support your answer.</p>
Our response	As with our response to amending standards 8.4.13-8.4.19, members are concerned that this would make volunteer campaigns unfeasible and costly as charities would have to provide volunteers with t-shirts. We therefore recommend amending standard 8.4.26 to be broader and include branded lanyards for volunteers as these are cheaper and easier to manage.

Part D

Context to these questions can be found [here](#).

Section 15- Legacies

Rule	15.1.1 You must make sure that all fundraising activity relating to legacies considers: the freedom of the person leaving the legacy (the testator) to provide for their family and others; and any sensitive circumstances of the potential testator and their family and friends.
Our feedback	Through consultation with Remember A Charity’s members, we recommend that this standard is amended slightly as members were concerned that the way it currently reads

	<p>implies that fundraisers will always be aware of sensitive circumstances. Although this may be the case, there will often be circumstances fundraisers will be unaware of and it would be inappropriate to ask.</p> <p>We therefore recommend changing the standard to say “any sensitive circumstances of the potential testator and their family and friends, which you are aware of”.</p>
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Rule	<p>15.1.2. You must make sure <u>fundraisers</u> do not provide legal advice. Whenever <u>legacy fundraising</u> is done by an external third party who is a professional <u>fundraiser</u>, this fundraising must meet the legal obligations that professional fundraisers have.</p>
Our feedback	<p>Concerns have been raised from both our members and Remember A Charity’s members that this standard does not sufficiently clarify what constitutes legal advice. Currently charities are able to provide information on Will-writing but cannot recommend a particular course of action.</p> <p>We therefore recommend that, when this standard is merged with standard 15.2.1 and includes a list of “essential requirements”, it is clear that information on the things a legator may want to consider when writing their will which could include the wording required to include a gift to a specific charity.</p> <p>Further to this, we recommend that the regulator includes guidance on the definition of legal advice, recognizing that Will-writing is a non-regulated market meaning that professional advisers can also provide advice on writing a Will, to ensure that fundraisers get support in this area.</p>

Rule	<p>15.2.2 If you give a potential testator suggested wording for legacies made to you to be included in their will, you must make sure that the suggested wording is accurate (which may involve getting legal advice) and that you are clearly identified (this will depend on which country you are in, but will usually mean providing your full name, company number, address and the registered office address if you are a company, and registered charity number, if this applies).</p>
Our feedback	<p>We recommend including guidance on substitution clauses that explain how an estate is distributed if the charity beneficiary no longer exists.</p>

Rule	15.3.1 You must be open about the reason for an invitation to an event if it is about legacies or if legacies will be discussed and may be asked for.
Our feedback	We think that under a principles-based approach, this rule could be included elsewhere under an overarching principle.

Rule	<p>15.6.1 There are considerable risks to you in paying the costs involved in making a will which includes a legacy to you, so it is discouraged. But if you want to do this, you:</p> <p>must not insist that you receive a legacy or that you are appointed as executor in exchange for paying for the will;</p> <p>must always recommend to the person making the will that they should get independent legal advice; and</p> <p>must make it clear to the person making the will that the solicitor or other will writer will be acting only in their interests and on their instructions.</p>
Our feedback	<p>Some members raised that the current standard does not reflect the popularity of these schemes amongst supporters and the positive impact for charities who have been effectively managing the risks and mitigations in accordance with the current code. They noted that free Wills have been in the sector for nearly two decades and have seen little to no major issues arising as a result of this, therefore there should be more clarity on what is meant by 'considerable risk'. On top of this, it is currently not illegal for a charity to pay for a Will, they therefore believe the regulator should not discourage this, rather, they recommend amending the wording to say charities should "consider any reputational risks of paying for wills and apply relevant safeguards".</p> <p>On the other hand, other members recognise that paying for Wills in some circumstances could be a reputational risk to the charity and are happy with the regulator's position.</p> <p>Separate to this, there were recommendations that the point stating charities "must always recommend to the person making the will that they should get independent legal advice" should be amended to reflect that Will-writing is not regulated, meaning supporters can receive independent advice from a non-legal professional. We therefore recommend that this standard be amended to say "must always recommend to the person making the Will that they get independent advice".</p>

