

Significant Day for Fundraising Reform

MACROBERTS

The reform of fundraising regulation saw significant progress in Scotland last week. After a lengthy and extensive consultation process, the Scottish Fundraising Working Group (as set up by the SCVO) has confirmed that enhanced self-regulation is the option for Scotland, with application from today. Meanwhile, south of the border, the day has come for formal launch of the new Fundraising Regulator and proposals have been revealed for its levy.

Background

Following negative media coverage, review and reform of fundraising regulation both north of the border (by the SCVO) and south of the border (by the NCVO through the Etherington Report) has been ongoing since September 2015. Following the progress reports in our [first Charities & Third Sector Newsletter](#) and our recent [Spring Newsletter](#), the below recent developments have occurred.

1. North of the Border

Enhanced self-regulation is the option for Scotland

The Scottish Fundraising Working Group presented and consulted on three potential options to fundraising regulation by the third sector in Scotland, including:



OPTION 1:

Uniform approach

A UK-wide Fundraising Regulator to act as an intermediary - would bring Scotland in line with the English approach with new Fundraising Regulator overseeing fundraising by Scottish charities

OPTION 2:

Hybrid approach

A new Scottish Fundraising Regulator to act as an intermediary - would create a Scottish Fundraising Regulator with a similar role to the Fundraising Regulator in England and Wales but who would be specifically responsible for supervising Scottish charities

OPTION 3:

Enhanced self-regulation

No intermediary - allows charities to take ownership via self-regulation while providing the OSCR with an enhanced role

The consultation was a thorough process and included The Gathering (a discussion event with 60 participants), an online survey with over 500 responses, 17 roundtable discussions, 23 formal written submissions and the commissioning of Ipsos MORI to carry out three focus group sessions with the Scottish public.

Last week, the Working Group announced that the consultation identified resounding support for Option 3, and as such, this approach was recommended to the Scottish Government. Under Option 3, charities will have greater responsibility for handling complaints about their fundraising practices. Any fundraising complaints, which have exhausted the charity's own complaints process will be dealt with by OSCR, as the Scottish charity regulator. Public dissatisfaction of third sector fundraising across the UK has largely not been directed towards Scottish charities; therefore, the Working Group felt that the less stringent approach afforded by Option 3 was proportionate to the needs of Scotland.

This Option 3 can be summarised by a three-step process:

STEP 1: Complain directly to the charity

STEP 2: If the donor is dissatisfied with the result of Step 1, the complaint goes to the Independent Panel

STEP 3: If the donor is dissatisfied with the result of Step 2, the complaint goes to OSCR

This new approach will apply as of **today** (7 July 2016) to align with the start date of the English model (discussed below), and includes:

- the creation of a new free-phone complaints line and online guidance on how to raise complaints [run by Scottish Fundraising Complaints](#)
- a new Independent Panel (including members of the public, donors, charities, fundraisers, OSCR and the Scottish Government) to manage fundraising complaints that cannot be resolved by Step 1 or Step 2
- a new set of standards (as will be created by the new Independent Panel) to be practiced by Scottish charities when

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2. South of the Border

Formal launch - today!

Preliminary work by the Fundraising Regulator has been ongoing since January this year, but formal launch of the new regulator takes place today (7 July 2016). From today onwards, the Fundraising Regulator will:

- take over from the Fundraising Standards Board (FRSB) and will start to investigate and adjudicate on new complaints
- take responsibility for the Code of Fundraising Practice from the Institute of Fundraising (IoF)
- take responsibility for the Rule Book on face-to-face activity from the Public Fundraising Association (PFRA).



Registration and Levy

The Fundraising Regulator recently released a [discussion paper](#) proposing an **eight-tier payment system** for its levy to be based on a charity's annual fundraising expenditure.

TIER	Levy	Spending Range	Levy	Spending Range
1	£ 10,000	for charities spending more than £20m per year	5	£ 1,500 for charities spending £500k-1m per year
2	£ 6,000	for charities spending £5-20m per year	6	£ 800 for charities spending £200-500k per year
3	£ 4,000	for charities spending £2-5m per year	7	£ 300 for charities spending £150-200k per year
4	£ 3,000	for charities spending £1-2m per year	8	£ 250 for charities spending £100-150k per year

Based on these proposals, charities who spend less than £100k a year will be exempt from paying the levy. Nonetheless, the Fundraising Regulator also proposed that exempt charities, with different accounting regimes, should also contribute to the levy at a flat rate of £1,500 per annum. This will include charities whose data about fundraising spend is not available and, specifically, English Universities that are regulated by HEFCE.

The Fundraising Regulator is currently seeking [comments](#) in response to its discussion paper, and submissions are open from interested parties until 22 July. The proposed levy would be set for two years and eight months from 1 August 2016 to 31 March 2019 – on this basis it would appear that the levy rates will be confirmed before the summer end.

3. Cross-Border Organisations

As outlined above, regulation of fundraising practice will not be uniform across the UK. Therefore, charities with fundraising activities on both sides of the border should be aware of the differences between the regulatory systems. The Scottish Fundraising Working Group recommends that cross-border charities should be subject in the first instance to a lead regulator model whereby charities operating in Scotland but registered in England and Wales are regulated by the Fundraising Regulator.

It is expected that a reciprocal agreement will be agreed between the new English Fundraising Regulator and the new Scottish Independent Panel. This agreement will hopefully shed more light on the compliance implications for cross-border charities.

MacRoberts' Charities & Third Sector group can advise and assist any third sector organisation wishing to ensure compliance with new and upcoming changes to fundraising legislation

Key Contacts



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