



FundRaising
Standards Board

Fundraising Standards Board

Investigation into charity fundraising practices

Interim Report

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FRSB INVESTIGATION IN RESPONSE TO THE DEATH OF OLIVE COOKE : AN INTERIM REPORT

Background

Following the tragic death of Olive Cooke, the FRSB has received a large number of public complaints about the way in which fundraising is currently conducted in the UK; concerns that have also been reflected in recent extensive media coverage.

In response, the FRSB launched an investigation into the issues that have been raised; the full details of which can be found in an accompanying terms of reference by visiting www.frsb.org.uk/terms-of-reference-published-for-olive-cooke-investigation/

In summary, the FRSB investigation has two strands:

1. *The circumstances leading to Mrs Cooke reportedly feeling overwhelmed by contact from charities.*
2. *Identification of key learnings from public complaints generated in the wake of Mrs Cooke's death.*

The FRSB has made contact with representatives of Mrs Cooke's family with the intention of meeting with them to discuss the specifics of her case in more detail; in the meantime, an interim report has been drafted which outlines the findings of part 2 of the FRSB's investigation.

This report will be considered by the Institute of Fundraising Standards Board at its next meeting that is due to be held on Wednesday the 10th of June 2015.

Executive summary

Key statistics

- Since the 15th of May 2015, when media coverage about Mrs Cooke's death began to surface, the FRSB has received a total of 384 public complaints. 35% of those complaints relate to approaches being made to elderly people.
- 33% of the all complaints relate to particular charities and are being put through the FRSB's three stage complaints process. ([For more information on the three stage process visit the FRSBs website](#))

Interim Report overview

This interim report:

- Provides a topline overview by topic of the complaints that the FRSB has received since Olive Cooke's death in May 2015.

- Identifies sections of the Institute of Fundraising's Code of Fundraising Practice (IOF Code) applicable to the investigation topics outlined in the terms of reference. These are:
 - *The frequency of charity approaches to individual donors*
 - *Opt outs v's Opt ins and the issue of consent*
 - *Managing relationships with the vulnerable and elderly*
 - *The use of scripts by telephone fundraising agencies*
 - *The sharing of data between charities and external data agencies*
 - *The effectiveness and accessibility of the Mailing and Telephone Preference Services*
 - *The use of enclosures in direct mail packs*
- Outlines the FRSB Board's initial proposals on what corrective action should be taken by the sector in response to public concerns about each topic.

Summary of key findings

Our findings are based on an analysis of all the public feedback received since 15 May 2015.

- Fundamentally, the FRSB Board believes that the IOF Code must be strengthened to ensure that the public are more in control of the relationships they have with charities. In particular, the public must be given regular opportunities to articulate how often and in what ways they want to be communicated with and whether or not they are willing to have their personal contact information shared with any third parties.

Complaint analysis and recommendations

1. The frequency of approaches to individual donors

- 42% (161 complaints) of the overall total of 384 complaints relate to the frequency of asks.
- 70% of those relate to direct mail activity.
- Complainants state that they feel bombarded and overwhelmed by the number of appeals they have been receiving; including those from charities they have no current or previous relationship with.

Relevant IOF Code clauses:

*Clause 5.2 (l) “Organisations **OUGHT** to be able to justify the frequency of contact, balancing the desire to communicate with not overwhelming/bombarding recipients.”*

*Clause 5.2 (m) Organisations **OUGHT** to respect donor’s requests around the frequency of contact, and make it easy to communicate these requests.*

FRSB Board view

Overall, the Board feels that the sector must take steps to ensure that the public who support charities are given more control over how often and in what ways a charity communicates with them.

Specifically on the subject of frequency of contact, the Board recommends that the IOF amend the Code to specify the maximum amount of times that a charity can contact an individual per year.

2. Opt Outs v’s Opt ins and the issues of consent

- 16% (63) of all complaints relate to issues of consent, the fact that the opt in v’s opt out system was confusing and that opt out statements were difficult for people to read in the context of both direct mail and email fundraising appeals. This has led to complainants feeling that they were no longer in control of how their personal information was being used.
- As part of its deliberations, the FRSB Board noted that public concerns about this topic mirrored the issues identified by a recent complaint that was upheld by the FRSB Board. Full details of the case can be found at www.frsb.org.uk/frsb-adjudication-on-breast-cancer-campaign-insight-cci-ltd/.

Relevant IOF Code clauses:

*Clause 5.2 (a) Data Protection is an important issue for all fundraisers. Fundraising organisations **MUST** comply with all legal requirements relating to data protection.*

*Clause 5.2 (m) Organisations **OUGHT** to respect donor’s requests around the frequency of contact, and make it easy to communicate these requests.*

*Clause 9.6.2 (f) Reply by SMS **OUGHT** to be an option for opting out and be clear in all communications.*

*Clause 9.6.2 (g) Organisations **OUGHT** to use a simple opt-out message.*

Legal appendices

*Clause L14.3 (Consent) “The consent of the data subject **MUST** be absolutely clear...Consent must be freely given, specific, and informed, giving the individual enough detail to make a decision about how their personal data will be used.”*

Clause L14.3 (Consent) “Where explicit consent is required to process sensitive personal data, an individual must actively agree- either orally or in writing- to their personal data being processed. Consent based on an individual’s inaction is not sufficient. Individuals should also be able to withdraw their consent.”

Clause L14.7 “If a donor or contact informs an organisation that they do not wish to be subject to direct marketing, then the organisation MUST comply with that request.”

FRSB Board view:

The Board concluded that the IOF Code should be clearer on rules regarding “Opt Ins” and “Opt Outs” for all fundraising methods as they are for SMS and MMS activity.

The Board recommends that the IOF Code stipulates that “Opt Outs” must be made available in all marketing communications, be clearly presented and simply worded.

3. Managing communications with vulnerable people

- 16% (60) of all complaints relate to concerns about elderly and vulnerable people being “targeted” by charities. The majority of complainants believe that elderly people should not be approached in the same way as younger age groups for donations.
- There seems to be a general consensus among these complainants that charities view their elderly supporters as a “soft touch” and that more should be done to prevent exploitation through better safeguarding.

Relevant IOF Code clauses:

Clause 1.2 (e)

*(i) Fundraisers **OUGHT** to take all reasonable steps to treat a donor fairly, enabling them to make an informed decision about any donation. This OUGHT to include taking into account the needs of any potential donor who may be in a vulnerable circumstance or require additional care and support to make an informed decision.*

*(ii) Fundraisers **OUGHT NOT** to exploit the credulity, lack of knowledge, apparent need for care and support or vulnerable circumstance of any donor at any point in time.*

FRSB Board view:

The Board feels that, although significant progress has been made by the sector in providing detailed guidance on communicating with people in vulnerable circumstances, complaints received since Olive Cooke’s death highlight the need for further work to be done in this area.

In particular, the Board recommends that the IOF must review how charities currently communicate with older supporters and how those communications could be tailored to better reflect the needs of the audience.

4. The use of scripts by telephone fundraising agencies

- 7% (26) of all complaints relate to people feeling pressurised by telephone. The majority of these complainants have raised concerns about the “formulaic” nature of the pitches delivered by fundraisers which often contain multiple asks and do not make it easy for people to say “no.”

Relevant IOF Code clause:

*Clause 1.3 (b) Fundraisers **OUGHT NOT** to pressurise donors or potential donors but may use reasonable persuasion.*

FRSB Board view:

The Board believes that industry practice of making three donation requests during the course of a call could constitute “pressure” and not “reasonable persuasion”.

Therefore, it recommends that the IOF considers stipulating how many times a fundraiser can request a donation during one individual approach. Such a step would help to address the problem of some donors feeling pressurised.

The Board recommends that the IOF Code stipulate that all telephone fundraising agencies should achieve TPS-Assured certification as a quality assurance measure. This new certification, recently launched and supported by Government, demonstrates that an organisation in the telemarketing industry is abiding by both legal principles and best practice guidelines.

The Board recommends that the IOF considers including a stipulation in the Code that charities must regularly monitor the content and tone of telephone pitches that are being made on their behalf; either through a regular review of call recordings or through mystery shopping.

Finally, the Board recommends that the IOF should remove the reference to “reasonable persuasion” in clause 1.3 (b). The Code should be clear that it is never acceptable to pressurise the public into giving.

5. The sharing of data between charities and external data agencies

- 7% (25) of complaints received by the FRSB relate to concerns about charities and external data agencies sharing the contact details of existing and potential supporters.
- The majority of these complainants state that they had no idea their personal information might be shared with other organisations and strongly believe that charities should not be involved in such practices.

Relevant IOF Code clauses:

*Clause 7.1(a) All list owners engaging in reciprocal mailing **OUGHT** to subscribe to the Mailing Preference Service (MPS) as a protection to their supporters’ rights to privacy.*

Clause 7.2 (a) Organisations MUST observe the provisions of the Data Protection Act 1998, including those around permissions to pass on donors' data.

Clause 7.2 (b) To undertake reciprocal mailings, organisations MUST be registered with the Information Commissioner's Office (ICO) for the following 3 purposes:

- *Advertising, marketing and public relations;*
- *Fundraising; and*
- *Trading/sharing in personal information.*

Clause 7.3 (a) Organisations holding a manual index OUGHT to satisfy their reciprocal mailing partner about the standard and quality of their list.

Clause 7.3 (b) Organisations engaging in reciprocal mailing OUGHT to exchange written agreement of the terms and conditions of the mailings, which should include the list content, dates for use, levels of list cleanliness and content of the mailing.

FRSB Board view:

The Board recommends that the IOF make it a requirement of the Code that organisations engaging in data sharing must, at first point of contact, make it clear to donors that their personal contact information may be shared.

Furthermore, Section 7.2 (a) of the Code merely states that fundraisers must observe provisions of the Data Protection Act on data sharing but does not provide the specific provision. It is the FRSB's view that the provision should be included in order to ensure greater compliance with it.

6. The effectiveness and accessibility of the Mailing and Telephone Preference Services

- 4% (14) of all complaints relate to concerns that the Mailing and Telephone Preference Services (TPS & MPS) are not effective in stopping unwanted communications.
- Complainants have informed the FRSB that in spite of being TPS and/or MPS registered, they continue to receive correspondence and telephone calls, leading them to believe that these services are ineffective.

Relevant IOF Code clauses:

Clause 6.2 (a) "Organisations OUGHT to ensure cold mailing lists have been run through the Mailing Preference Service to ensure they are not sending mail to those who have requested not to receive it."

Clause 8.2.3 (a) Organisations MUST always check telephone numbers against TPS/CTPS when intending to call cold donors.



Clause 8.2.3 (b) Organisations **MUST NOT** make direct marketing calls to Telephone Preference Service (TPS)/Corporate TPS (CTPS)-registered numbers unless the person who registered the number has notified* the organisation that they are happy to receive calls for the time being.

*organisations may make the judgement that their relationship with a donor is such that they do not need to seek further consent to receiving calls. The Information Commissioner's Office ([ICO](#)) urges a cautious approach

FRSB Board view:

The Board recommends that, in order to strengthen compliance with the TPS, the IOF should remove the above footnote from the Code as it does not reflect the view of the Information Commissioner's Office; that TPS registered supporters must not be contacted by telephone unless they have given clear permission to receive calls.

The Information Commissioners Office (ICO) have confirmed that it is not sufficient to assume that a TPS registered supporter has given consent to receive calls simply due to the fact that they have made a donation.

The Board discussed the work carried out by *The Nuisance Calls and Texts Task Force on Consent and Lead Generation* which was convened by Which? at the request of the Department of Culture, Media and Sport (DCMS); this followed the publication of the DCMS Nuisance Calls Action Plan in March 2014. The Board encourages the IOF to consult the task force's report and subsequent recommendations whilst considering this particular topic.

Based on the complaints so far received about MPS, the FRSB feels it is clear that the service is not working the way that people expect it to and encourages the IOF to look into this particular issue as part of its review.

7. The use of enclosures in direct mail packs

- 3% (10) of all complaints relate to the use of free gifts in mail packs.
- These complainants feel that such gifts are a waste of money and pressurise recipients into making a donation through a sense of guilt.

Relevant Code clauses:

Clause 6.3

*(a) Fundraising organisations **OUGHT** to consider the safety of any enclosures*

*(b) Fundraising organisations **OUGHT** to be able to demonstrate that the purpose of an enclosure was to enhance the message and/or the emotional engagement in the cause and not to generate a donation primarily because of financial guilt or to cause embarrassment.*



(c) Fundraising organisations **OUGHT NOT** to use enclosures that might cause inconvenience in achieving delivery, unless the donor knows or has requested it.

FRSB Board view

In keeping with the Code, the Board believes charities must be more mindful of whether or not a recipient may feel pressurised as a consequence of receiving an enclosure.

8. Additional comment

- The Board believes that compliance with the IOF Code could be further strengthened by making all clauses in the Code **MUST** requirements. It feels that the use of the term **OUGHT** has the potential to undermine the importance of complying with those clauses by suggesting that they are optional. That view has also been articulated by a number of complainants contacting the FRSB over recent weeks.
- Taking this important step would strengthen the message that fundraising organisations across the UK must comply with the Code in its entirety.

Conclusion

This interim report has outlined what potential changes the sector can make to current practices to ensure that the donor lies at the heart of all charity fundraising. Public feedback indicates that more needs to be done to give donors greater control over the relationship they have with the charities they support.

The FRSB recognises that the majority of fundraising in the UK is carried out by charities that are committed to the highest standards set out in the Code of Fundraising Practice. The Code outlines detailed and comprehensive guidance for fundraising practitioners and is regularly reviewed in light of industry developments, legislative changes and relevant public feedback.

A key advantage of the self-regulatory framework is that any new standards and guidance can be incorporated swiftly within the Code as fundraising practice; a requirement for all charities that are regulated by the FRSB.

Next steps

The FRSB will continue to monitor complaints and to channel relevant information to the Standards Committee of the Institute. We will work with the relevant organisations to ensure that all charity-specific complaints are dealt with appropriately and in accordance with the three stage complaints process.

In addition, we will continue to investigate the circumstances behind Mrs Cooke feeling overwhelmed by appeals from charities and await further instruction from her family's representatives.