APPAG on Charities and Volunteering

Is regulation improving fundraising standards?

Committee Room 6, 10:00-12:00 24 October

Stephen Dunmore, Chief Executive, Fundraising Regulator (FR)

- The FR has received over 2000 enquiries from charities and the public. They have received 800 complaints, about 80 a month. The issues most often complained about are door-to-door fundraising, addressed mail and clothing bags. The vast majority are referred straight to the charity to rectify, which they do. Over 30 complaints were investigated by the regulator.
- Fundraising Preference Service (FPS) now operational. After consultation with the sector, it doesn’t include a ‘big red button’ to stop all charity communications.
- There have been around 8000 suppressions from around 3000 people so far. If charities don’t comply with a suppression request it is a breach of the Data Protection Act. The Regulator has worked with the Charity Commission (CC) and the Information Commissioner’s Officer (ICO) to produce guidance on data protection and consent.
- Collaborating with the CC to look at online fundraising – whether it is transparent enough, or open to fraud. Met with main fundraising platforms to discuss whether Code covers their issues.
- 100 organisations haven’t responded to letters about the fundraising levy. To not reply is unprofessional and not acceptable. Names of those who refuse to pay are published.
- There is almost too much guidance on data protection and consent at the moment. It is important that we listen specifically to what the ICO say about GDPR and useful guidance from the IOF. Small organisations often can’t afford legal advice, so it is important the regulator tailors the guidance appropriately.
- There has been a change in fundraising culture since 2015, and the regulator has very good relations with IoF, NCOVO, ACEVO, OCS etc. Data sharing seems to have stopped, and the charities that were fined by the ICO have collaborated with the regulator.
- The FR needs to be advertised more to smaller organisations, and to share more best practice guidance, but marketing can cost lots of money. Currently the CAB advertises the FPS, but charities should be promoting the regulator, the FPS and complaints procedure on their sites.

Peter Lewis, Chief Executive, Institute of Fundraising

- IoF moved quickly to ban the sharing of data without consent in 2015, and supported the setup of the FR and the FPS. IoF members have appreciated the work FR has done to engage.
- All IoF members are encouraged to join the FR, and only a handful have not paid.
- The IoF is working to encourage charities and their agencies work together closely, as this is such a point of weakness.
- IoF members have embraced change, and reflect their supporters’ preferences in a positive way.
- IoF’s role is now to ensure compliance, and encourage excellent fundraising. Now offer a training module on ethics, to really embed it in to decision making.
• We mustn’t forget that fundraising has wider benefits than just income generation – people who give, also give their time and effort, or change their behaviour as a result of fundraising asks. Connecting supporters to a cause is very important, and we must remember why we are asking people to give.

Melanie Sallis, Head of Supporter Marketing, Woodland Trust
• Woodland Trust is very proud of its brand, and to protect this they have rules on the number of times supporters can be contacted. As a result, they have very few complaints, or FPS requests.
• The Trust is looking to double supporter base, though how to do this in compliance with GDPR is unclear – the guidance differs greatly. Following the RNLI, the Trust’s board previously chose a 100% opt-in approach, but now the guidance has changed, and the Trust will use a ‘legitimate interest’ approach. This is trickier than opt-in, as you can’t know people’s expectations.
• Outside of membership subscription 90% of the Trust’s income is from direct mail - £20-25m pa. The Trust modelled for different levels of consent, and found the financial exposure very high.
• GDPR should be seen as an opportunity to get organisations in to shape – database, communications and strategy all need to be overhauled, as supporters will want to continue to hear from charities. Consolidating the data is a big piece of work – if someone gave consent ten years ago, that probably wasn’t recorded, but now must be. People who now give consent need to be clear about what they are consenting to, and why.
• The software, staff and communications costs are very high, and those are resources diverted from core. The Trust’s consent communications will cost £350K. Organisations who can’t afford this may go back to door-to-door fundraising, and people will receive more asks.
• The guidance is unclear, and moving, with few case studies, and this has meant barristers don’t want to give legal advice.

Lydia Thomas, producer of BBC Radio 4’s ‘Selling Barbara’
• Barbara, subject of recent Radio 4 documentary on fundraising, was receiving lots of asks from organisations she didn’t know, mainly from abroad, and often sending gifts with the ask.
• She supports lots of charities and only a small number shared here data. Tended to be the bigger organisations who were the worst. They used data brokers or had no data sharing policy.
• Like many people, Barbara still wants to give, but she wants to do so on her own terms, rather than being beholden to give. All of the charities stopped communicating with her when asked.
• You and Yours, Radio 4’s consumer affairs show, received hundreds of complaints after the fundraising scandal. The volume has decreased, but it is still a problem.
• Direct mail is the most lucrative, but it is the cause of the most complaints. Charities have become over reliant on older people, who are very generous and respond to direct mail. Young people don’t, so how is the sector going to get young people to give?

Audience Q&A
Asked about what good consent is, MS said it is primarily about finding a layout and wording that means people know exactly what they are consenting to – not tricking people into ticking a box. Some consent forms are very unclear on what you are agreeing to. SD said that there is a historic hangover of people who
have found their way on to databases through data sharing and charities need to check whether they have the right consent for people to be on them.

Asked about whether the regulator could have an ombudsman function, with all charities being compelled to sign up to the complaints function of the fundraising regulator, SD clarified that they already investigate complaints against any charity, and the CC have made clear they consider it a governance failure if organisations do not comply. The FPS also applies to all, and non-compliance is a breach of data protection legislation.

 Asked about whether the new regulation has helped increase transparency and public trust it was agreed that trust is rising, but very hard to measure. An individual’s level of trust can be wholly down to their relationship with one organisation, and one organisation acting badly can taint opinions about all organisations. Individual donations and retention are both on the rise, hopefully in response to the work done to reflect donors’ wishes.

Discussing what can be done to help small charities fix behaviour it agreed that many will struggle to change, but worst behaviour was down to large organisations. Some small charities may have very old systems and are may find it hard to adapt to GDPR. Many areas of the sector have groupings, such as medical charities – perhaps the larger organisations can help the smaller ones to change. PL suggested the Minister for Digital could provide specific funding to help them adapt.

The panel were asked whether the new focus trustees must have on fundraising operations risks the traditional roles of trustees and staff. There was agreement that trustees are now more aware of operations, and that their reputations are at risk, but that the divergence of practice and strategy still holds. An improvement that it is now easier to get boards to discuss fundraising plans, but there is an opportunity cost in the staff time spent managing it. Baroness Pitkeathley said that the House of Lords select committee on charities wanted to see increased training for trustees, and more recruitment of trustees with digital skills. SD referred to expectations and requirements set out in CC20 and the 2016 Charities Act.

Rather than regulation, should we focus on whether charities are acting ethically? SD agreed that some fundraising practices, focused on targets alone, had probably lost sight of ethics, but that the work of the regulator is to change fundraising culture and support ethical fundraising. This had also been a theme of the Etherington Review.

What happens if an organisation makes a genuine mistake and owns up to it? Are they treated with more lenience if they are small? SD said that the regulator always refers complaints to the charity to resolve in the first instance – if the issue isn’t fixed then the regulator will investigate, and charities will be given a chance to explain. They wouldn’t specifically be treated differently because they are small.

Asked who is responsible for the bad behaviour of agencies, SD said that the 2016 Charities Act requires charities to have watertight, monitored contracts with agencies; the Regulator regards charities as ultimately responsible but will investigate the agency at the same time. PL concluded that charities are always responsible for the actions of the agencies that work for them.