



# SCOTTISH FUNDRAISING ADJUDICATION PANEL

## Scottish Fundraising Adjudication Panel Complaints Policy

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## Part 1: General information

### Introduction to the Panel

1. The Independent Fundraising Standards and Adjudication Panel for Scotland, known as the Scottish Fundraising Adjudication Panel is the body that is responsible for fundraising standards in Scotland and the handling of fundraising complaints relating to Scottish registered charities.
2. As an independent non-statutory body, we seek to resolve and adjudicate on issues that may arise between members of the public and charities without the need for statutory intervention.
3. Charities in Scotland are invited to sign up to the [Fundraising Guarantee](#) highlighting that they are committed to best practice fundraising. Irrespective however of whether a charity has signed up to the Guarantee, we are able to seek information from and adjudicate on the actions of any charity relevant to a complaint we receive and take appropriate remedial action with the charity where poor practice is found to have taken place.
4. People may have concerns about some aspect of the way a charity fundraises and will need to know where to take those concerns. This policy sets out how we shall respond to concerns and outlines the procedures which we follow when handling complaints about fundraising.

### The complaints we deal with

5. [The Code of Fundraising Practice](#) ('the Code') outlines the standards expected of all charitable fundraising organisations across the UK. We will deal with fundraising complaints relating to Scottish registered charities (those registered with the [Scottish Charity Regulator's \(OSCR\)](#)). For charities registered with the [Charity Commission for England and Wales \(CCEW\)](#), the [Fundraising Regulator](#) will deal with these complaints.
6. For charities that are registered in both Scotland with OSCR and England and Wales with CCEW, the cross-border model is applied. This is the model used by both charity regulators to determine who the lead regulator is. So, this means that if a charity's lead regulator is CCEW then any fundraising complaints will be dealt with by the Fundraising Regulator, and if a charity's lead regulator is OSCR then any fundraising complaints will be dealt with by us.
7. The types of fundraising complaints we deal with include complaints about:

- **How a charity collects or solicits property, money or the promise of money from people.** This may include, misleading or excessive requests by post, over the telephone, face-to-face on the street or at the door.
- **A charity's relationship with donors.** This may include disrespectful, misleading or otherwise unreasonable engagement once a charity has gained an individual's support.
- **How a charity works with others to raise money.** This may include instances where the relationship (operational or financial) between a third party working on a charity's behalf and the fundraising organisation is not made sufficiently clear.
- **A charity's complaints-handling process.** For example, a complainant may not have been treated with due courtesy or respect, or not received a response to a fundraising concern within a reasonable period of the complaint being made.
- Issues related to **the management of an individual's contact preferences with charities.** This may include instances where an individual has been contacted by a particular charity despite their express wish that this should not happen.

### The complaints we would not deal with

8. We shall not ordinarily consider complaints that relate to:
  - **Matters affecting a charity that does not relate to fundraising.** This may include, for example, issues relating to employment or other contractual issues.
  - **Where an organisation no longer meets the legal requirement to be a charity** (the legal requirement includes having charitable purposes and providing public benefit). This is usually a matter for the Office of the Scottish Charity Regulator (OSCR) in Scotland, the Charity Commission in England and Wales (CCEW) or the Charity Commission for Northern Ireland (CCNI). We may offer guidance to these bodies where the issue relates to fundraising.
  - **Where a fundraising organisation may purport itself to be a charity when it is not.** This is usually a matter for OSCR, CCEW or CCNI.
  - **Where there is serious or sustained misconduct by those in management and control of a charity.** These are usually matters for OSCR, CCEW or CCNI. If criminal activity is suspected, the matter will generally be referred to the police.

- We are not a court and we do not offer legal advice and support. **If a complaint is the subject of actual or pending court proceedings, we shall not be able to consider it.**

### **Who can complain?**

9. We shall consider a complaint from anyone directly affected by fundraising (or an authorised representative). We shall also consider complaints from representative groups, where the alleged breach of the Code is significant and there is a public interest in our doing so.
10. Where an individual may otherwise be considered vulnerable or unable to make a complaint, it may be possible to accept a complaint made on their behalf, such as by a relative or carer (subject at all times to establishing their authority to represent the complainant).
11. If we receive multiple complaints about the same issue or charity we shall usually identify a lead complaint(s) to investigate. If a complainant is unclear about whether they are able to make a complaint to us, they can contact us for advice.
12. If an individual faces difficulties in pursuing their complaint or otherwise making use of our services because of a disability we shall do our best to make reasonable adjustments as necessary to our procedures in order to accommodate their needs. We shall let the complainant know how we propose to accommodate their needs; if we are unable to meet their request fully, we shall explain why.

### **Unreasonable behaviour**

13. We reserve the right to reject complaints which are abusive or characterised by unreasonable behaviour whether in terms of the nature of the complaint or the manner in which it is pursued.
14. We reserve the right to take appropriate action in cases where a complainant behaves unacceptably. This may involve restricting the manner in which the complainant may communicate with us.
15. Where an individual makes allegations without evidence, it is unlikely we could take this forward - [Unacceptable Actions Policy](#)

### **The Panel's role**

16. We will consider whether the charity has breached any aspect of the Code and, if so, provide recommendations to the charity to rectify this.

17. Our role is not to act on behalf of an individual, but to assess any complaint based on the Code. This may mean that a decision does not go in favour of the complainant. If, however, we decide that a charity has not breached the Code but that there are areas of recommendation to be made, this could mean that the Code needs to be updated. In these circumstances, we will work with the Fundraising Regulator to update the Code.
  
18. If you're unhappy with the service you've received, we would ask you to contact us in writing, within four weeks of notification of a decision by us. You should set out the reasons why you are unhappy and the respects in which you say we have failed. You should also let us know how you believe we can resolve those problems (please note that we cannot offer financial compensation). Complaints about our service should be addressed to the Chair.
  
19. We aim to provide a consistently high level of service. We shall try to address any concerns, learn from our mistakes and improve the service that we offer.

## Part 2: The Process – Overview

### How you can complain

20. In order to deal with a complaint about a charity we need you to let us know (usually) in writing:
  - the name of the charity you are complaining about;
  - when the incident giving rise to the complaint took place;
  - a summary of what happened including the steps taken through the first two stages of the 3-stage process and the charity's response;
  - your name and how you would like to be contacted; and
  - consent for us to contact the charity on your behalf.
21. Where you refer to particular fundraising material, you should, where possible, send us a copy of the material in question (for complaints about on-line material, you should obtain a screen shot of the page or pages that relate to the complaint), or a note of where and when it appeared. If we do not receive a copy of the fundraising material itself and are unable to locate a copy from the information provided, or if the content of the fundraising material has changed since you saw it, we may not be able to proceed.
22. Where the complaint refers to a direct approach or incident involving a particular fundraiser in person, you should provide a description of the relevant individual to enable us to identify them in conjunction with the charity they represent.
23. Our service comes free of charge. We cannot however reimburse any fees or expenses you may incur in connection with your complaint.
24. [Unreasonable complainants](#) may adversely impact our ability to effectively serve all of our stakeholders. We may decline to proceed with particular complaints in such circumstances.

### Timescales

25. Before you bring your fundraising complaint to us you should make sure you have given the charity a chance to respond by following the [3-stage complaints process](#). It's important for charities to get your feedback, so they can understand any problems, address your specific concerns and improve their fundraising practice. If you're not satisfied with the way the charity has dealt with your concerns, you can then refer your complaint to us.

26. A complaint should be made to us within twelve weeks of the fundraising incident or communication. In exceptional circumstances, complaints about older incidents may be considered by us, although this is entirely at our discretion, and you're still expected to raise your concern with the charity first.
27. We shall acknowledge each complaint we receive where contact details have been supplied to us and we shall give you a reference number. Where we require further information in order to consider the complaint, we will request this. Please note, we will be unable to take a complaint forward until we have received all the relevant information as detailed in clause 20 above.
28. We aim to acknowledge complaints within one week of receiving them. An exception may be when we have received a very high volume of complaints about a particular incident or area of fundraising practice. In this situation we shall post a notice on our website indicating that we are already investigating and will be proceeding to select a lead complainant for a class of complainants.
29. The time taken to investigate will depend on the complexity of the case, however, we aim to complete investigations within 13 weeks of receipt of a competent complaint. Where we need to work jointly with another regulator, the investigation could take longer. We will, however, always advise you of any delays.

### **Disclosure of evidence**

30. To ensure that the charity which is complained about has a fair opportunity to respond to the case being made against it, those who provide evidence to us in support of their complaint and wish to rely on all or part of it will be asked to agree to it being shared with the charity concerned. If you are not willing to consent to this, if and when it is requested, we may not be able to take this information into account when making a ruling. In such circumstances, it may not be possible for us to proceed with the complaint.
31. We shall ask all parties to the complaint (including charities, complainants, regulators and other parties contacted during an investigation) to keep confidential all material submitted and correspondence entered into in relation to the case that is not already in the public domain. When draft findings are sent to the relevant parties they must be treated as confidential until the decision is finalised (and when relevant published).

### **Whistleblowing**

32. If you are a fundraiser and you feel that you are being pressured to act in a way that is not in line with the Code you should, in the first instance, follow your charity's whistleblowing procedure. If there is no such procedure and you would like to confidentially register your concerns or seek advice from us, please complete the [online complaint application](#) or call us on [0808-1642520](tel:0808-1642520).
33. Individuals raising concerns have some protection in law under the Public Interest (Disclosure) Act (the Act) from detrimental treatment or victimisation if, in the public interest, they report concerns about serious wrongdoing at their charity to us, provided that the concerns they report meet the conditions in the Act for a 'protected disclosure'.
34. We shall, on request, treat in confidence any private material supplied (by a whistleblower for example), except where disclosure is required by law. However, we may send confidential evidence to external consultants or relevant regulatory organisations, but only where they give confidentiality undertakings. We shall inform the person providing the evidence before doing so.
35. Where private material is provided to us as part of a complaint, we shall, as already stated, seek consent to disclose that material to the charity concerned in order to deal with the complaint.

### **Investigations by the Panel**

36. We may ourselves initiate an investigation on the basis of information we receive or issues we identify through our course of business.

## **Part 3: The Process – In Detail**

### **Initial consideration**

37. The Secretariat to the Panel will make an initial consideration of the complaint. We shall assess the complaint to establish whether:
- it is within our jurisdiction;
  - it was made to us within the time limit;
  - there are implications more widely for the fundraising sector;
  - there is a risk to the public or to the charity sector, and to public confidence in the integrity of charities and charitable fundraising more generally; and
  - the complaint should be dealt with by another regulator, inspectorate or public body.
38. Where we require further information in order to determine this, we shall request it.
39. We may carry out our own enquiries to make sure that any information provided to us is correct. Where we have reasonable grounds to believe there may be criminal activity, we shall work with the police.
40. We shall usually advise you within four weeks whether we shall proceed with your complaint. If we are unable to respond within that time, we shall let you know. We do not act on behalf of individuals or organisations that make complaints to us but act independently.

### **Investigations**

41. Where we are satisfied that the complaint falls within the Code, and therefore our remit, we shall begin our investigations.
42. As part of our investigation we will agree the scope of the complaint and share this with you and the charity complained about.
43. We shall also explain which part of the Code is thought relevant and, where appropriate, ask for further information or raise issues beyond those raised by you.
44. The charity should normally respond to us within two weeks; however more time may be allowed in complicated cases. The grounds for an extension of time should be set out in writing. An extension is unlikely to be for longer than one week and repeated requests for extensions are likely to be refused.

45. We may also send a summary of the complaint to other relevant parties, including, where relevant, third party providers working on behalf of a charity, and regulatory stakeholders, who may be invited to provide input, where appropriate.
46. Once the evidence has been gathered we shall usually share our draft decision with the parties to the complaint, allowing two weeks for comment before finalising our report and any recommendations.
47. The time taken to investigate will depend on the complexity of the case, however, we aim to complete investigations within 13 weeks of receipt of a competent complaint. Where we need to work jointly with another regulator, the investigation could take longer. We will, however, always advise you of any delays.

## **Recommendations and Remedies**

48. We may make recommendations where a breach of the Code is found to have taken place. Recommendations may include (but not limited to) one or more of the following measures (all or some of which may be announced publicly):
  - recommending that fundraisers undergo relevant training or directing the charity to online guidance to improve their approach;
  - seeking evidence from the charity as to how it has dealt with the complaint and how this will affect their future campaigns;
  - recommending that the charity suspends fundraising or submit to its Board clear future fundraising campaigns for a stated period and report back to us. In some cases, we may ask the charity trustees/board members to conduct an independent external audit of their fundraising;
  - referral to the Scottish Charity Regulator or other statutory regulator or relevant body.
49. In cases where we make recommendations we shall do so taking into account considerations such as the level of risk, harm and detriment posed by an instance of poor practice.

## **Review Process**

50. There is no process to appeal our decision. If you are unhappy with the service you've received, we would ask you to contact us in writing, within four weeks of notification of a decision by us. You should set out the reasons why you are unhappy and the respects in which you say we have failed. You should also let us know how you believe we can resolve those

problems (please note that we cannot offer financial compensation).  
Complaints about our service should be addressed to the Chair.

51. We aim to provide a consistently high level of service. We shall try to address any concerns, learn from our mistakes and improve the service that we offer.

Adopted: June 2017