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Joint Working Agreement

OSCR and the Institute of Fundraising



August 2013

1. Purpose

- 1.1 The purpose of this agreement is to set out the arrangements for joint working and sharing of information between the Office of the Scottish Charity Regulator (OSCR) and the Institute of Fundraising (the Institute).

2. Context

- 2.1 Under section 1 of the Charities and Trustee Investment (Scotland) Act 2005 (2005 Act) OSCR is responsible for the operation of an effective regulatory framework for charities in Scotland including the granting of charitable status, maintenance of a public register of charities, the investigation of apparent misconduct and facilitation and monitoring of compliance with the 2005 Act.
- 2.2 The Institute is the professional membership body for fundraising across the UK. It promotes and supports best practice in fundraising in all forms through its Code of Fundraising Practice which form the legislation for the self-regulation of fundraising.
- 2.3 Both OSCR and the Institute receive complaints and concerns about fundraising and recognise there are opportunities for joint working and sharing of information.

3. Objectives

- 3.1 The objectives of this agreement are to ensure effective liaison on matters relating to functions in which both organisations have a mutual interest and set out the circumstances in which both will share information.

4. Sharing of information

- 4.1. OSCR will share information with the Institute that is permitted to by statute.
- 4.2 The Institute intends to alert members that it will share information with OSCR about members, past members and other individual members known to them for the prevention or detection of fraud.

5. Responsibilities in relation to Fundraising

5.1 OSCR

- 5.1.1 OSCR's specific powers in relation to fundraising are set out in Part 2 of the 2005 Act, with OSCR's powers in relation to inquiry and intervention being set out in sections 28-34. OSCR's powers relate only to charities or those

bodies/persons representing themselves as charities in Scotland. OSCR has a regulatory remit over all charitable funds raised, to promote their proper use and administration. OSCR will take action where it decides:

- (i) There is risk of significant damage or detriment to the charity, its assets, beneficiaries or reputation and intervention is a necessary and proportionate response to protect them
- (ii) There is information to suggest serious or sustained mismanagement or misconduct by those in management and control of the charity
- (iii) There is information to suggest that the charity does not meet the charity test
- (iv) Where it is identified that a body may be misrepresenting itself as being a charity in Scotland when it is not.

In doing so OSCR will follow procedures set out in its Inquiry and Intervention Policy.

5.2 Institute

5.2.1 The Institute is the professional membership body for fundraising across the UK. It currently has over 5,200 individual members and 300 organisational members. Central to its work is its Code of Fundraising Practice (the Code), encompassing standards across all aspects of fundraising and comprehensive legal guidance. Members agree to abide to the Code.

5.2.2 Adjudications made by the FRSB are done so against the Code of Fundraising Practice and its Fundraising Promise.

6. Liaison over complaints

6.1 OSCR

6.1.1 Where OSCR carries out an inquiry on a charity that is also a member of the Institute and a section 33 report¹ is published, a copy will be sent to the Institute.

6.1.2 To enable OSCR to be aware of when a charity is a member of the Institute, the Institute will send OSCR a quarterly membership update.

¹ Report on an inquiry made under section 28 of the Charities and Trustee Investment (Scotland) Act 2005. See section 33 of the 2005 Act for further detail on the nature of these reports and when they are required.

6.2 The Institute

6.2.1 Where the Institute is aware, as a result of any reports or investigative activity, of the identity of any charity which appears to be directly involved in non-charitable activity or the misapplication of charitable funds, it will inform OSCR.

6.2.2 OSCR will investigate the information following the processes as set out in OSCR's Inquiry and Intervention Policy. A copy of any section 33 report will be sent to IOF once the case is closed.

7. Other assistance

7.1 Policy

7.1.1 OSCR and the Institute are committed to appropriate liaison on policy matters which are likely to have an impact upon the work of the other such as any new legislation, development of any new policy or relevant guidance, or policy arising in the context of novel or complex cases.

7.2 Training

7.2.1 As part of their respective staff training programmes, both OSCR and the Institute will ensure that staff are made aware of the differing organisational, operational and legal frameworks.

7.2.2 In order to support joint working and outreach, OSCR and the Institute will also explore opportunities to co-operate on presentations and seminars..

7.3 Communication and research

7.3.1 OSCR and the Institute will inform each other of emerging trends identified in their research, and will agree strategies for the dissemination of advice and best practice. Where appropriate we will also consider collaboration to produce research relating to fundraising that are of a mutual interest and of wide public and sectoral interest.

7.3.2 Where appropriate we will collaborate on external communications or handling external media interest where there is a matter of mutual interest. We will also consider working jointly in order to raise awareness of fundraising issues and matters of interest to the general public.

8. Liaison

- 8.1 In order to ensure that matters are handled at the appropriate level, contact between OSCR and the Institute should be established between designated points of contact. Where they consider it appropriate, designated points of contact may delegate ongoing liaison to other members of staff.

Area of Liaison	OSCR	Institute of Fundraising
Development of strategic policy	Chief Executive	Chief Executive
Development of operational policy	Head of Enforcement	Scotland Manager
All operational liaison	Head of Enforcement	Scotland Manager
Legal issues	Senior Legal Advisor	Scotland Manager
Communications and media	Communications Manager	Scotland Manager

9. General

- 9.1 Both organisations are committed to the principles of continuous improvement and therefore will monitor the working arrangements contained in this agreement. The agreement will be reviewed every three years, examining all aspects of the agreement in order to identify areas for improvement and best practice. Representatives of OSCR and the Institute will meet when necessary, and there will be at least one formal policy meeting per year.
- 9.2 Whilst it is intended that the arrangements in this agreement should apply generally, it is recognised that some circumstances will require special handling. Nothing in this agreement prevents the making of arrangements to meet specific exceptional needs.

9.3 Any disagreement arising from the interpretation of this agreement will be referred to the Chief Executives of OSCR and the Institute, who will endeavour to resolve it within the spirit implicit in the co-operation arrangements. The agreement will be amended if necessary to reflect the agreed outcome of the referral.



David Robb

Chief Executive

Scottish Charity Regulator



Peter Lewis

Chief Executive

Institute of Fundraising