



Consultation on OSCR Fundraising Guidance

December 2017

Introduction

ENABLE Scotland is the largest voluntary organisation in Scotland of and for children and adults who have learning disabilities and their families. We are a charitable organisation founded in 1954 by the parents of children who had learning disabilities in order to ensure that people who have learning disabilities have the same choices and opportunities in life as everyone else. We have a strong voluntary network with over 5,000 members across 37 local branches. Around a third of our members have a learning disability.

ENABLE Scotland campaigns with our members to improve the lives of people with learning disabilities and their families and carers. We also provide a wide range of person-centred services designed to ensure that people who have learning disabilities can live the life they want and actively participate in their communities.

We welcome this opportunity to respond to OSCR's consultation on the new Fundraising Guidance. We have completed Section A: Usability Questionnaire on Survey Monkey, and our responses to Section B are below.

Section B: Content Questionnaire

1. Is the language used in the guidance easy to understand?

Yes – We are satisfied that the tone and language used in the Guidance is clear and will be understood by most of the target audience of charity trustees and fundraising staff. We particularly welcome the use of graphics and charts to illustrate a number of points, including some more complex processes.

2. Do the different sections of the draft guidance cover all of the areas that you would expect? Please explain if you think there are other areas the guidance should cover.

Yes.

3. Are there any sections of the draft guidance that you think could be clearer?

Yes – We feel Section 5.2 on the Exempt Promoter Scheme could be clearer. In particular, more clarity on the benefits of registering as an exempt promoter would be helpful to trustees and staff seeking to understand whether this is something their charity should look to do. A comparison of the administrative burden upon an exempt promoter versus that of a charity that does not have an individual registered for this status – ideally illustrated through a graphic and/or case study – would be particularly useful for making a judgement on whether their charity should seek to join this scheme.

4. Are there any sections of the draft guidance that you think should have more detail?

Yes – Under *Section 1 – Sources of Help and Advice*, we feel the Guidance would benefit from referring the reader to specific sources of advice and guidance on telephone marketing and other forms of direct marketing, as these are areas which trustees and fundraising staff need to be clear and up to date on, especially with the rapid pace of change in communications technology and forthcoming changes to data protection law.

Under both *Section 1 – Sources of Help and Advice* and *Section 2 – Sources of Help, Advice and Best Practice*, we note that the Guidance refers the reader to the Charity Commission for England and Wales and the Charity Commission for Northern Ireland among the other organisations that might have useful information and guidance on fundraising. We agree with this approach of including bodies from other parts of the UK that might have useful content, and so we would suggest that alongside the Scottish Council for Voluntary Organisations (SCVO), this section of the Guidance should also list the National Council for Voluntary Organisations (NCVO) and the Northern Ireland Council for Voluntary Action (NICVA) so that the reader can consider any materials they have which might be helpful, while noting the differences between jurisdictions where these apply.

Under *Section 4 – Fundraising agreements*, we feel that in addition to the link to the full requirements of fundraising agreements in the Technical Guide: Charities and Benevolent Fundraising (Scotland) Regulations 2009, it would be helpful to provide a template fundraising agreement and sample fundraising agreements (using fictitious examples) to show trustees and fundraising staff in very clear terms exactly what a compliant fundraising agreement should look like.

5. We will include case studies and examples in the final guidance. What areas of the trustee duties do you think it would be helpful to have examples on?

As outlined in our response to Section B: Question 3, we feel it would be helpful to include a case study on the Exempt Promoter Scheme which shows exactly what the benefits are to a charity of having an individual registered as an exempt promoter, including a comparison with what the same scenario would involve for that charity if they did not have an exempt promoter.

We feel the Guidance would also benefit from case studies on best practice in self-regulation. This would help to flesh out the information on this laid out in the draft Guidance and illustrate what best practice looks like. It would also be useful to present a case study of a complaint against a charity which illustrates self-regulation in practice and the role of OSCR in such cases.

We note that there are case studies on conflict of interest on the OSCR website, but we feel that the Guidance would benefit from including a case study within the document which outlines the identification, declaration and management of a conflict of interest, specifically regarding the charity's fundraising activities.

Finally, we would encourage the inclusion of examples of poor practice in the case studies, since in addition to examples of "what to do", we feel trustees' and fundraising staffs' understanding of the Guidance would benefit from also reading examples of "what not to do". This would help people to easily identify a practice within their own charity which is

short of expected standards – or indeed out of compliance with the law – and take steps to rectify this.

6. Do you think the draft Guidance will have an impact (positive or negative) on any of the protected characteristic groups listed? If so, how?

To avoid any negative impact on trustees and fundraising staff who have a learning disability, we would encourage the production of an easy read version of the final Guidance to ideally be available at the same time as the publication of the final draft. This would ensure no-one who has a learning disability is at a disadvantage while waiting for the Guidance in a format that is accessible to them.

For more details on any element of this response, please contact:

[Redacted contact information]

[Redacted contact information]

Consultation Response Form

Please help us to analyse the responses to our consultation by completing this form.

Name	<input type="text" value="Holly Bryon-Staples"/>
Email address	<input type="text" value="hbryonstaples@yahoo.co.uk"/>
Charity number (if responding on behalf of a charity)	<input type="text"/>

Choose **one** of the categories which best describes you or the organisation you represent.

Are you responding as a:

- Charity trustee
- Charity volunteer
- Charity employee
- Professional Adviser
- Member of the public
- Other, please specify:

Do you agree to your response being made available to the public?

- Yes - please answer A below
- No, not at all - your response will be treated as **confidential**

A. Where confidentiality is not requested, we will make your response available to the public on the following basis (please tick only one of the boxes):

- Yes, make my response, name and address all available
- Yes, make my response available, but not my name or address
- Yes, make my response and name available, but not my address

The Fundraising Guidance: content questions and response form

Section A: Usability questionnaire

Please complete this section on the usability of the web-based draft guidance. If you do not wish to complete the usability questionnaire, please go to [section B](#) on the content of the draft guidance.

1. Is the draft guidance easy to navigate?

- Extremely easy
- Very easy
- OK
- Difficult
- Very difficult

2. Is the layout of the web-based draft guidance helpful?

- Very helpful
- Fairly helpful
- OK
- Not really helpful
- Not at all helpful

3. Are the different sections (summary and more detail) of the draft guidance useful?

Yes No

Comments:

4. Are the purple links to the explanation of terms helpful?

Yes No

Comments:

5. Can you think of any terms that need explanation?

Yes No

Comments:

6. Overall, how easy or difficult did you find the draft guidance to understand?

- Very easy
- Quite easy
- Quite difficult
- Very difficult
- Don't know

7. Any other comments you wish to make about the overall look and feel of the guidance?

Yes No

Comments:

Section B: content questionnaire

1. Is the language used in the guidance easy to understand?

Yes No

Comments:

2. Do the different sections of the draft guidance cover all of the areas that you would expect? Please explain if you think there are other areas the guidance should cover.

Yes No

Comments:

3. Are there any sections of the draft guidance that you think could be clearer?

Yes No

Comments:

I think the explanation of the regulation context could be clearer. The basics of how and why the requirements of the law and fundraising code of practice exist separately but must work together in practice could be helpful. The table on page 6 is useful.

4. Are there any sections of the draft guidance that you think should have more detail?

Yes No

Comments:

When working with Trustees on complicated areas of compliance like this, I like to explain a bit of context around why it's so important that they manage it well. This is a lot of information and regulation for small charities and very often they can assume that it doesn't apply to them. Spelling out that it is all based on public trust in the 'charity label' and that as soon as that's tarnished by one charity, the whole sector experiences a negative impact, can be helpful in giving them a basis as to why they need to consider these things that in practice can be quite a burden. It means they're able to see it through the lens of 'joe-public' and are often more open to taking such information on board. It might be useful to include some info along the lines of the Charities, Public Trust and Regulation 2016 graphic that was published last year.

5. We will include case studies and examples in the final guidance. What areas of the trustee duties do you think it would be helpful to have examples on?

Yes No

Comments:

Something simple around fundraising being fundamentally included in the governance processes. Effective management of ethics and risk would also be interesting examples to use.

We also welcome any comments on our revised 2009 Regulations technical guide: <https://www.oscr.org.uk/charities/guidance/consultation-draft-technical-guide-charities-and-benevolent-fundraising-scotland-regulations-2009>

Equality Impact Assessment Equality Impact Assessment (Separate document available on the OSCR [website](#))

6. Do you think the draft Guidance will have an impact (positive or negative) on any of the protected characteristic groups listed? If so, how?

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

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Section A: Usability questionnaire

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2. Is the layout of the web-based draft guidance helpful?

- Very helpful
- Fairly helpful
- OK
- Not really helpful
- Not at all helpful

3. Are the different sections (summary and more detail) of the draft guidance useful?

Yes No

Comments:

Yes as it breaks it down into manageable sections.

4. Are the purple links to the explanation of terms helpful?

Yes No

Comments:

Yes, as it enables the reader to get more information if they choose, whilst if they only need some basic information it is readily available.

5. Can you think of any terms that need explanation?

Yes No

Comments:

6. Overall, how easy or difficult did you find the draft guidance to understand?

- Very easy
- Quite easy
- Quite difficult
- Very difficult
- Don't know

7. Any other comments you wish to make about the overall look and feel of the guidance?

Yes No

Comments:

The ability to click on the hyperlinks to other relevant webpages i.e. Code of Fundraising Practice was beneficial.

Section B: content questionnaire

1. Is the language used in the guidance easy to understand?

Yes No

Comments:

2. Do the different sections of the draft guidance cover all of the areas that you would expect? Please explain if you think there are other areas the guidance should cover.

Yes No

Comments:

3. Are there any sections of the draft guidance that you think could be clearer?

Yes No

Comments:

4. Are there any sections of the draft guidance that you think should have more detail?

Yes No

Comments:

5. We will include case studies and examples in the final guidance. What areas of the trustee duties do you think it would be helpful to have examples on?

Yes No

Comments:

Working examples are always beneficial to illustrate points. Trustees misconduct and acting with care and diligence would be useful examples.

We also welcome any comments on our revised 2009 Regulations technical guide: <https://www.oscr.org.uk/charities/guidance/consultation-draft-technical-guide-charities-and-benevolent-fundraising-scotland-regulations-2009>

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- Race
- Religion or belief
- Sex
- Sexual orientation

Comments:

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Name

Email address

Charity number (if responding on behalf of a charity)

Choose **one** of the categories which best describes you or the organisation you represent.

Are you responding as a:

- Charity trustee
- Charity volunteer
- Charity employee
- Professional Adviser
- Member of the public
- Other, please specify: Arts & Business Scotland is a support agency providing training and advice on fundraising and governance for the not-for-profit cultural sector.

Do you agree to your response being made available to the public?

- Yes - please answer A below
- No, not at all - your response will be treated as **confidential**

A. Where confidentiality is not requested, we will make your response available to the public on the following basis (please tick only one of the boxes):

- Yes, make my response, name and address all available
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- Yes, make my response and name available, but not my address

The Fundraising Guidance: content questions and response form

Section A: Usability questionnaire

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- Extremely easy
- Very easy
- OK
- Difficult
- Very difficult

2. Is the layout of the web-based draft guidance helpful?

- Very helpful
- Fairly helpful
- OK
- Not really
- helpful Not at all helpful

3. Are the different sections (summary and more detail) of the draft guidance useful?

Yes No

Comments:

The summary within the Introduction is confusing because the links listed within the summary to the different sorts of fundraising take you to the Fundraising Regulator Code of Practice site without any warning. It is valid that the links are given but they should be within the body of the guidance under the description of the relevant type of fundraising with a clear indication that you are going to different site. Then later in the section entitled "Self regulation and OSCR's role" the different types of fundraising are listed with large coloured boxes under the Code of Fundraising Practice heading, without any link to the relevant code of practice which would have been the obvious place to put the link rather than in the Introduction.

4. Are the purple links to the explanation of terms helpful?

Yes No

Comments:

5. Can you think of any terms that need explanation?

Yes No

Comments:

I think there should be more explanation of the different types of fundraiser; benevolent fundraiser, professional fundraiser and commercial participator (particularly as they can mean different things in England and Wales). Some of this is carried in the Technical Guide. I believe for this reason amongst others, that the two guides should be one, and that the guide should not just be for trustees, but for any individual/organisation who fundraises.

6. Overall, how easy or difficult did you find the draft guidance to understand?

- Very easy
- Quite easy
- Quite
- difficult Very
- difficult Don't know

7. Any other comments you wish to make about the overall look and feel of the guidance?

Yes No

Comments:

I think that a number of people will wish to have a printed version for handy reference and the pdf version shown is very bitty and difficult to follow. For example I think that the sections on "Sources of help and advice" should all be in one place on the printed version, and in fact possibly should all be listed in one place on the web version too.

Section B: content questionnaire

1. Is the language used in the guidance easy to understand?

Yes No

Comments:

2. Do the different sections of the draft guidance cover all of the areas that you would expect? Please explain if you think there are other areas the guidance should cover.

Yes No

Comments:

There is a strong emphasis on Fundraising with third parties, as if that was the only/most important aspect of the governance of fundraising. I think there should be more guidance on the other areas including the following:
Fundraising from individuals (including membership schemes) and the tax implications
Remuneration of fundraisers
More information on the different sorts of fundraiser (as already commented on in Section A, Q5) and what that might mean for each organisation.

3. Are there any sections of the draft guidance that you think could be clearer?

Yes No

Comments:

As already noted in Section A, I believe it would be clearer and more helpful to amalgamate the two guides.

4. Are there any sections of the draft guidance that you think should have more detail?

Yes No

Comments:

As already noted in Section A, I believe it would be clearer and more helpful to amalgamate the two guides.

5. We will include case studies and examples in the final guidance. What areas of the trustee duties do you think it would be helpful to have examples on?

Yes No

Comments:

I don't believe that this should just be aimed at trustees. Trustees have the ultimate responsibility and should therefore be given all the relevant information, but this should be aimed at anyone who has a fundraising role.

We also welcome any comments on our revised 2009 Regulations technical guide: <https://www.oscr.org.uk/charities/guidance/consultation-draft-technical-guide-charities-and-benevolent-fundraising-scotland-regulations-2009>

Equality Impact Assessment Equality Impact Assessment (Separate document available on the OSCR [website](#))

6. Do you think the draft Guidance will have an impact (positive or negative) on any of the protected characteristic groups listed? If so, how?

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Choose **one** of the categories which best describes you or the organisation you represent.

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- Charity volunteer
- Charity employee
- Professional Adviser
- Member of the public
- Other, please specify:

Do you agree to your response being made available to the public?

- Yes - please answer A below
- No, not at all - your response will be treated as **confidential**

A. Where confidentiality is not requested, we will make your response available to the public on the following basis (please tick only one of the boxes):

- Yes, make my response, name and address all available
- Yes, make my response available, but not my name or address
- Yes, make my response and name available, but not my address

The Fundraising Guidance: content questions and response form

Section A: Usability questionnaire

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- Extremely easy
- Very easy
- OK
- Difficult
- Very difficult

2. Is the layout of the web-based draft guidance helpful?

- Very helpful
- Fairly helpful
- OK
- Not really helpful
- Not at all helpful

3. Are the different sections (summary and more detail) of the draft guidance useful?

Yes No

Comments:

It gives a good overview of what is included which helps people find the bit they need more quickly.

4. Are the purple links to the explanation of terms helpful?

Yes No

Comments:

Except that we have mono printers, so being shaded would be more useful and show up more easily than just bold type.

5. Can you think of any terms that need explanation?

Yes No

Comments:

The glossary isn't automatically attached to the guidance. Is this just for the draft, or will they be separate? It means people searching for another document.

6. Overall, how easy or difficult did you find the draft guidance to understand?

- Very easy
- Quite easy
- Quite difficult
- Very difficult
- Don't know

7. Any other comments you wish to make about the overall look and feel of the guidance?

Yes No

Comments:

Section B: content questionnaire

1. Is the language used in the guidance easy to understand?

Yes No

Comments:

Again, it would be better if the glossary was attached to the guidance.

2. Do the different sections of the draft guidance cover all of the areas that you would expect? Please explain if you think there are other areas the guidance should cover.

Yes No

Comments:

3. Are there any sections of the draft guidance that you think could be clearer?

Yes No

Comments:

The part on when charities need local authority consent isn't very clear. It suggests that they may need local authority consent to bag pack in a local supermarket, but the Shetland Islands Council tell me they don't. #

Also a section on online fundraising such as Easyfundraising/Just Giving etc would be useful.

4. Are there any sections of the draft guidance that you think should have more detail?

Yes No

Comments:
See above answers.

5. We will include case studies and examples in the final guidance. What areas of the trustee duties do you think it would be helpful to have examples on?

Yes No

Comments:
Sample agreements with fundraising firms such as online ones. Sample suggested wording for publicity material when fundraising to ensure it meets all the legislation.

We also welcome any comments on our revised 2009 Regulations technical guide: <https://www.oscr.org.uk/charities/guidance/consultation-draft-technical-guide-charities-and-benevolent-fundraising-scotland-regulations-2009>

Equality Impact Assessment Equality Impact Assessment (Separate document available on the [OSCR website](#))

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- Age
- Disability
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- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Comments:

Consultation Response Form

Please help us to analyse the responses to our consultation by completing this form.

Name	<input type="text" value="Crispin Longden"/>
Email address	<input type="text" value="[REDACTED]"/>
Charity number (if responding on behalf of a charity)	<input type="text" value="SC011353"/>

Choose **one** of the categories which best describes you or the organisation you represent.

Are you responding as a:

- Charity trustee
- Charity volunteer
- Charity employee
- Professional Adviser
- Member of the public
- Other, please specify:

Do you agree to your response being made available to the public?

- Yes - please answer A below
- No, not at all - your response will be treated as **confidential**

A. Where confidentiality is not requested, we will make your response available to the public on the following basis (please tick only one of the boxes):

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- Yes, make my response and name available, but not my address

The Fundraising Guidance: content questions and response form

Section A: Usability questionnaire

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- Difficult
- Very difficult

2. Is the layout of the web-based draft guidance helpful?

- Very helpful
- Fairly helpful
- OK
- Not really helpful
- Not at all helpful

3. Are the different sections (summary and more detail) of the draft guidance useful?

Yes No

Comments:

The detail is useful but I suspect many folk won't click on the expand 'More Detail' purple bar. Especially so as the first page 'Introduction' has just one 'Other info' bar with the bare details of further references.

4. Are the purple links to the explanation of terms helpful?

Yes No

Comments:

Not hugely, no, since they take you to the full index of an entire piece of legislation or lengthy document which is a bit intimidating.

5. Can you think of any terms that need explanation?

Yes No

Comments:

6. Overall, how easy or difficult did you find the draft guidance to understand?

- Very easy
- Quite easy
- Quite difficult
- Very difficult
- Don't know

7. Any other comments you wish to make about the overall look and feel of the guidance?

Yes No

Comments:

As a charity employee, I find the guidance fairly easy to understand but I think it might prove more challenging for a trustee without fundraising and/or legal experience.

Section B: content questionnaire

1. Is the language used in the guidance easy to understand?

Yes No

Comments:

Yes it is approachable. Not too jargon-heavy and short sentences

2. Do the different sections of the draft guidance cover all of the areas that you would expect? Please explain if you think there are other areas the guidance should cover.

Yes No

Comments:

Fundraising policies/ethical policies? Role of volunteer fundraisers

3. Are there any sections of the draft guidance that you think could be clearer?

Yes No

Comments:

4. Are there any sections of the draft guidance that you think should have more detail?

Yes No

Comments:

5. We will include case studies and examples in the final guidance. What areas of the trustee duties do you think it would be helpful to have examples on?

Yes No

Comments:

Examples of instances where trustees have had to balance the financial or reputational risks and rewards to a charity. Tie-in with ethical policy.

Examples of complaints and how dealt with/escalated.

Example of a fundraising agreement with a third party

We also welcome any comments on our revised 2009 Regulations technical guide: <https://www.oscr.org.uk/charities/guidance/consultation-draft-technical-guide-charities-and-benevolent-fundraising-scotland-regulations-2009>

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- Race
- Religion or belief
- Sex
- Sexual orientation

Comments:

No

Thank you very much for taking the time to respond.

Miscellaneous comments:

Does the clause "[Scottish Fundraising Standards Panel](#): for charities only registered in Scotland"

mean that it does not apply to charities registered in both England and Scotland?

I have not read all the guidance and so answering the questionnaires seems inappropriate but a few general comments:

I did not find navigating the guidance straightforward. I think people could fail to reach relevant sections because of "diversions" which would be better placed in a "Further Information" section. At present it may well assist a continuation of the temptation to take the view: "That's seems too complicated to follow fully and what we are planning to do won't involve us in these regulations anyway."

To surmount that possibility I suggest a much more positive start to the introduction along the lines - in bold lettering of a different colour:

"If you intend to do any Fundraising it is VITAL that you read the guidance notes relevant to you first of all. If after reading the notes or some of them you have doubts about the appropriateness of your plans send your query to: (and give an on-line link for queries). Failure to do so could have SERIOUS adverse consequences for your charity."

.....

We appreciate that Charity Trustees in Scotland want information relevant to the national context. However, there are a number of inaccuracies and important omissions in the draft version of the guidance regarding the cross-border role of the Fundraising Regulator. In particular, it is vital that our role in setting the Code across the UK, in adjudicating on cases involving cross border charities fundraising in Scotland and in operating the Fundraising Preference Service on behalf of members of the public in Scotland where they wish to suppress cross-border charities is adequately reflected in your final version:

Self-regulation and OSCR's role

- The guidance states: “Charity fundraising across the UK is governed on a self-regulatory basis underpinned by law. This means that the charity sector itself sets the standards for charity fundraising in addition to those set out in law.” This may have been true in the previous tripartite model of fundraising regulation, but it is inaccurate in the current regulatory context. Beyond what is set out in law, the Fundraising Regulator sets the standards for charity fundraising, in consultation with national regulatory and sector bodies, charities and the public. We would ask that the wording is revised to reflect this important distinction.

- The diagram refers to Scottish regulation as “Who does it in Scotland?”. Again, this oversimplifies the system in place, which is based on where the charity is primarily registered, not where the fundraising takes place. As agreed in our recent MoU with the Scottish Fundraising Standards Panel, the panel regulates fundraising by charities only registered in Scotland. However fundraising undertaken in Scotland by cross border charities, where the lead regulator for the charity is the Charity Commission in England and Wales, is regulated by the Fundraising Regulator. This point should be made clear.

- This point on the lead regulator model also applies to the table in the “More Detail” section and the “other info” section of your “Introduction”.

- There is currently no reference to the Fundraising Preference Service. While we appreciate that the Service does not apply to Scottish registered charities, it will nonetheless be available to members of the public in Scotland to suppress cross-border charities. This important information should be included in your revised version.

Title and Introduction – “What this guidance doesn’t cover” section

- Regarding the title, is the guidance aimed specifically at Charity Trustees? If so, we would suggest it is called “Fundraising Guidance for Charity Trustees” rather than “Fundraising Guidance” to make your intended primary audience and the scope clearer.

- In your introduction, you refer to the requirements set out in the Code of Fundraising Practice and the Rulebooks for Street and Door Fundraising as “best practice”. We would ask that these are referred to as “professional requirements” rather than “best practice” to avoid any suggestion that adherence is optional.

- We would also advocate that OSCR sets out why it does not intend to cover the Code as part of its guidance, so that Charity Trustees are clear on this point.

- While we appreciate that the document recognises its purpose is to highlight Charity Trustee’s responsibilities in the context of Scottish Charity law, rather than the “full range of laws that apply to different types of fundraising”, this section could usefully reference data protection law and tax law as two prominent examples of the latter.

Public Collections

- The rules in this section state that they apply to Cash collections. However the Street and Door-to-door fundraising rulebooks held by us apply only to Direct Debit fundraisers (ie where they are soliciting a promise to pay at a future date, rather than cash). We would therefore ask that reference to the rulebooks is removed in this section to avoid confusion. If you would like to highlight the standards for cash collections, there is a section “Public collections” in the Code of Fundraising Practice.

Finally, we would welcome the opportunity to discuss any implications your final guidance is likely to have on the Code of Fundraising Practice, including any areas where you feel updates may be required.

OSCR CONSULTATION: (1) FUNDRAISING GUIDANCE & (2) GUIDANCE ON 2009 REGULATION AND BENEVOLENT FUNDRAISING

Institute of Fundraising response - December 2017

ABOUT US

The Institute of Fundraising is the professional membership body for UK fundraising. Our mission is to support fundraisers through leadership, representation, standards-setting and education, and we champion and promote fundraising as a career choice. We have over 575 Organisational members who bring in more than £9 billion in income, and over 6,000 Individual members.

OUR RESPONSE

General Comments

The Institute of Fundraising welcomes the opportunity to contribute to this OSCR consultation on the new draft version of both parts of this guidance. We welcome the steps taken by OSCR to make this guidance clearer, and very much support the engagement with the sector on its development.

As the guidance rightly acknowledges, fundraising is fundamentally important in enabling many organisations to have the resources necessary to achieving their charitable objectives.

CONSULTATION QUESTIONS

PART 1: USABILITY

We appreciate the efforts made to ensure that this guidance is as clear as possible, easy for a range of audiences to use and works well as online guidance. This will hopefully encourage a more flexible and familiar approach.

The length of the guidance is about right. It usefully condenses some of the more detailed guidance provided by OSCR in 'Guidance and good practice for Charity Trustees' but also offers a useful focus on fundraising specific duties.

The presentation, structure and layout could be slightly improved – for example, by providing a more detailed contents list which would more effectively help trustees to navigate the guidance.

We welcome the provision of a glossary/explanation of key terms in this guidance. It is something we have called for elsewhere, and find that it helps to more accurately communicate trustee duties in relation to fundraising.

PART 2: CONTENT

LANGUAGE AND TERMINOLOGY

Generally, we feel that the content, language and format of the guidance is useful, accessible and clear. We hope that this will be a useful resource for trustees and enable them to have the reassurance and confidence in their role to ensure that their organisation is fundraising to a high standard.

tone

We believe that the guidance strikes the right tone in setting the expectation that trustees must be aware of and fulfil their responsibilities appropriately without giving the impression that trusteeship is an unsurmountable task.

If possible, it would be great if the guidance could further emphasise the benefits that fundraising brings for a charity, not just in generation of vital funds, but in raising awareness of the cause and services, as well as details of volunteer and campaigning opportunities and further public benefit.

CLARITY

Generally, we're pleased that this guidance is reasonably balanced in emphasising the need to manage risk and ensure legal and regulatory compliance while also having a duty to act in the best interest of the charity and in line with its current and future needs. This is particularly apparent in section 3 on charity trustee duties and fundraising.

This could be improved further, notably on page 12, by providing more clarity and guidance on the right balance between good governance and oversight of staff and activities, and unnecessary or burdensome involvement in operational detail.

DETAIL

It is helpful that the guidance explicitly acknowledges that fundraising varies hugely in scale and covers a wide range of activities. This reflects the fact that trustee responsibility spans all fundraising techniques, including from trusts and foundations, corporate partners, public fundraising and statutory sources – acknowledging this upfront in the guidance is a helpful reminder to trustees that their responsibilities span across all fundraising activity.

AUDIENCE

In Section 1 of the Fundraising Guidance, when explaining who this guidance is for, it says "anyone who fundraises for Scottish Charities in a professional capacity." We suggest that, while this is particularly aimed at trustees or staff at charities registered in Scotland, it would be a useful resource for anyone fundraising for a charity (regardless of whether this is done in a professional capacity). It would be worth reflecting this in the wording of the guidance.

Consultation Response Form

Please help us to analyse the responses to our consultation by completing this form.

Name	<input type="text" value="Gillian Mackay"/>
Email address	<input type="text" value="[REDACTED]"/>
Charity number (if responding on behalf of a charity)	<input type="text" value="N/A"/>

Choose **one** of the categories which best describes you or the organisation you represent.

Are you responding as a:

- Charity trustee
- Charity volunteer
- Charity employee
- Professional Adviser
- Member of the public
- Other, please specify: Scottish Fundraising Standards Panel

Do you agree to your response being made available to the public?

- Yes - please answer A below
- No, not at all - your response will be treated as **confidential**

A. Where confidentiality is not requested, we will make your response available to the public on the following basis (please tick only one of the boxes):

- Yes, make my response, name and address all available
- Yes, make my response available, but not my name or address
- Yes, make my response and name available, but not my address

The Fundraising Guidance: content questions and response form

Section A: Usability questionnaire

Please complete this section on the usability of the web-based draft guidance. If you do not wish to complete the usability questionnaire, please go to [section B](#) on the content of the draft guidance.

1. Is the draft guidance easy to navigate?

- Extremely easy
- Very easy
- OK
- Difficult
- Very difficult

2. Is the layout of the web-based draft guidance helpful?

- Very helpful
- Fairly helpful
- OK
- Not really helpful
- Not at all helpful

3. Are the different sections (summary and more detail) of the draft guidance useful?

Yes No

Comments:

We found that by splitting up the information into 'summary' and 'more detail' sections, it was a more effective way of communicating the content of the guidance. We expect this will be particularly useful for those who are unfamiliar with fundraising regulation in Scotland.

4. Are the purple links to the explanation of terms helpful?

Yes No

Comments:

Yes, we thought this was very useful and will ensure that the guidance is accessible to everyone reading it, particularly those who are new to fundraising.

5. Can you think of any terms that need explanation?

Yes No

Comments:

We consider that all the appropriate terms have been highlighted and explained effectively.

6. Overall, how easy or difficult did you find the draft guidance to understand?

- Very easy
- Quite easy
- Quite difficult
- Very difficult
- Don't know

7. Any other comments you wish to make about the overall look and feel of the guidance?

Yes No

Comments:

There are some links within the guidance that link through to the old complaints hub site rather than our new website. It would be useful if these could be updated to <https://www.goodfundraising.scot/>

Section B: content questionnaire

1. Is the language used in the guidance easy to understand?

Yes No

Comments:

Yes, we find the language accessible to all especially given that many terms are explained within the glossary.

2. Do the different sections of the draft guidance cover all of the areas that you would expect? Please explain if you think there are other areas the guidance should cover.

Yes No

Comments:

We consider that the guidance addresses all of the areas that we would expect.

3. Are there any sections of the draft guidance that you think could be clearer?

Yes No

Comments:

We found that each section provides sufficient clarity of the subject with helpful links to other sources of advice should anyone be looking for further, in-depth information.

4. Are there any sections of the draft guidance that you think should have more detail?

Yes No

Comments:

No, we consider that each section provides a suitable level of detail that will be accessible to everyone.

5. We will include case studies and examples in the final guidance. What areas of the trustee duties do you think it would be helpful to have examples on?

Yes No

Comments:

Responsibility of trustees of charity fundraising – ultimately comes back to them. The Neet Feet case may provide useful case studies or perhaps case studies around small charities.

We also welcome any comments on our revised 2009 Regulations technical guide: <https://www.oscr.org.uk/charities/guidance/consultation-draft-technical-guide-charities-and-benevolent-fundraising-scotland-regulations-2009>

Equality Impact Assessment Equality Impact Assessment (Separate document available on the OSCR [website](#))

6. Do you think the draft Guidance will have an impact (positive or negative) on any of the protected characteristic groups listed? If so, how?

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Comments:

Thank you very much for taking the time to respond.

Please [email](#) or post your response to us.



Consultation on OSCR's Fundraising Guidance and Technical Guide

Response from the Scottish Fundraising Standards Panel ('the Panel')

Background

The Panel was established in December 2016 for the purposes of overseeing the enhanced system of self-regulation of fundraising by charities registered in Scotland. The Panel's main functions are to:

- to oversee fundraising standards in Scotland; and
- to oversee fundraising complaints made about Scottish charities.

The Panel welcome this opportunity to comment on OSCR's consultation. If you have any questions about our response, please contact Gillian Mackay, Secretariat to the Panel on fundraisingsecretariat@outlook.com.

Consultation Response

Having had the opportunity to contribute to the draft fundraising guidance and technical guide through representation on your Fundraising Reference Group, we are content that any comments previously made have been incorporated into the final drafts.

Overall, we consider the draft fundraising guidance to be clear, concise and accessible. All the relevant topics are covered within the draft and there are very helpful links to further support and sources of advice. We also consider the draft technical guidance to be very helpful. The guide successfully communicates a complex subject in a user-friendly format.

For completeness, we have also completed the usability questionnaire where we have highlighted a minor error in links to our website which we would very much appreciate being updated.

Conclusion

It is important to us that those involved in fundraising in Scottish registered charities understand their responsibilities under the self-regulatory system. We therefore welcome this opportunity respond to this consultation and would be delighted to work with OSCR on relevant matters going forward.

Consultation Response Form

Please help us to analyse the responses to our consultation by completing this form.

Name	<input type="text" value="Charity Law sub-committee, Law Society of Scotland"/>
Email address	<input type="text" value="policy@lawscot.org.uk"/>
Charity number (if responding on behalf of a charity)	<input type="text"/>

Choose **one** of the categories which best describes you or the organisation you represent.

Are you responding as a:

- Charity trustee
- Charity volunteer
- Charity employee
- Professional Adviser
- Member of the public
- Other, please specify: Professional association

Do you agree to your response being made available to the public?

- Yes - please answer A below
- No, not at all - your response will be treated as **confidential**

A. Where confidentiality is not requested, we will make your response available to the public on the following basis (please tick only one of the boxes):

- Yes, make my response, name and address all available
- Yes, make my response available, but not my name or address
- Yes, make my response and name available, but not my address

The Fundraising Guidance: content questions and response form

Section A: Usability questionnaire

Please complete this section on the usability of the web-based draft guidance. If you do not wish to complete the usability questionnaire, please go to [section B](#) on the content of the draft guidance.

1. Is the draft guidance easy to navigate?

- Extremely easy
- Very easy
- OK
- Difficult
- Very difficult

2. Is the layout of the web-based draft guidance helpful?

- Very helpful
- Fairly helpful
- OK
- Not really helpful
- Not at all helpful

3. Are the different sections (summary and more detail) of the draft guidance useful?

Yes No

Comments:

We are not convinced that taking that approach (summary section, and then section giving more detail) is helpful in this particular context. As a general point, our view is that there is insufficient detail in each of the detailed sections (see our comments under B below), and the summary sections are therefore even more scanty as regards practical guidance (as distinct from signposting or very high-level statements).

To take one example, in the “MORE DETAIL” section on page 7, there is a statement, under the heading of “Other laws”, that “...there are a range of rules that you should be aware of that

apply to different types of fundraising activities which are not covered in this guidance.” A statement of that kind – without any outline of what those rules might cover, nor even what the relevant activities falling under the rules might be - is likely to cause significant concern to charity trustees who are conscientious about their responsibilities, but without giving them any assistance in assessing when these additional legal rules might apply or what the rules might require. The sentence that follows simply refers to getting advice “if you need to” – but of course a charity trustee, looking at this paragraph for guidance, is given no information on which he/she could form a view on whether the charity does or does not “need” to get advice in relation to any given type of fundraising activity.

4. Are the purple links to the explanation of terms helpful?

Yes No

Comments:

5. Can you think of any terms that need explanation?

Yes No

Comments:

The use of the expression “third parties” on page 15 may need explanation (or perhaps it would be better just to formulate this in a different way).

The reference on page 18 to “public place” is quite critical as regards the practical application of the relevant rules – so a detailed explanation of what is or is not regarded as a public place for this purpose would be very worthwhile. It might also be helpful to say a bit more about what would be considered to fall within benevolent or philanthropic purposes.

6. Overall, how easy or difficult did you find the draft guidance to understand?

- Very easy
- Quite easy
- Quite difficult

- Very difficult
 Don't know

7. Any other comments you wish to make about the overall look and feel of the guidance?

Yes No

Comments:

This overlaps with our comments on content (section B below), but as a general point the look and feel of the guidance is consistent with trying to achieve something that gives charity trustees an easy-read overview of the regulatory framework and the various bodies who are relevant as regulators or sources of further guidance – but it is not appropriate for professional fundraisers or for advisers (who are mentioned in the introductory section as being part of the audience for this guidance).

Section B: content questionnaire

1. Is the language used in the guidance easy to understand?

Yes No

Comments:

The language in the guidance is generally easy to understand – but we have concerns in relation to the following:

- in one or two cases, the guidance departs from the language in the 2005 Act in ways that may be unhelpful/misleading eg (page 7) the reference to “mismanagement or misconduct” and (page 12) the reference to doing what is best for the charity “and beneficiaries”;
- the reference on page 15 to “third parties” may be unclear for some people making use of the guidance.

2. Do the different sections of the draft guidance cover all of the areas that you would expect? Please explain if you think there are other areas the guidance should cover.

Yes No

Comments:

In fairness, the guidance itself refers to a list of matters closely associated with fundraising which are not covered in the guidance. Out of that list, we would suggest that it would actually be quite helpful to say a bit more about “the full range of laws that apply to different types of fundraising” (where else would a typical charity trustee think to look, to try to find out what these legal requirements might be?); within that, an outline of the rules relating to lotteries etc; “rules about the collection of goods” (we are not sure what legal requirements are being referred to there); and a broad summary of the kinds of requirements associated with local authorities regulation of public collections. It might also be useful to refer to the regime associated with national collections; and also (in the list of relevant legislation) s119 of the 1982 Act.

Signposting to more detailed sources of advice is fine in principle – but at the end of the day, what then emerges is an intimidating list of bodies; it is probably unrealistic to expect a charity trustee trying to get an overall picture of what the key requirements (and key risks) are, to have to trawl through that number of websites.

A further point is that the introduction states that fundraising “...covers a wide range of activities”. The reference to “Applying for grants” should be deleted from that list (it is not covered by the guidance, and is “fundraising” only in a very different sense); and the references to “Working with businesses” and “Working with a consultant or freelancer” should be clarified, as in each case the engagement may be focused on matters other than fundraising (or a commercial participator arrangement).

On page 7 there is a reference to the basis on which OSCR will become involved. It might be helpful to make reference to the corresponding principles as regards involvement of other regulators.

Finally, it might be helpful to include some reference to the requirements associated with use of volunteers under the age of 16 as collectors.

3. Are there any sections of the draft guidance that you think could be clearer?

Yes No

Comments:

A key issue which emerges at various points this guidance is the implication which is given that charity trustees have personal legal liability if things go wrong in relation to fundraising. Firstly, there is the point that many aspects of fundraising are outwith the charity trustees’ reasonable control (eg they can ensure that a formal agreement is put in place with a professional fundraiser, but they can only enforce remedies under that agreement if the

professional fundraiser breaches that contract), and secondly many elements of the fundraising regulatory framework are (rightly) directed towards making professional fundraisers or commercial participators, not the charity or charity trustees, liable where there are breaches.

The introductory section states that the guidance follows the rules that charity trustees must follow when their charity carries out fundraising activities. Again, that could be misleading – given that much of the regulatory framework is directed towards directly regulating the activities of professional fundraisers (and indeed later on in that introductory section, reference is made to professional fundraisers as part of the intended audience for this guidance).

Use of inappropriate terminology suggesting personal liability for the charity trustees for any breach of requirements can cause significant anxiety among charity trustees who are already concerned about the legal burdens which they are taking on. While in fairness there is a paragraph within the guidance that refers to OSCR’s likely approach where charity trustees acted reasonably and honestly (and which also mentions the principle of proportionality), this does not entirely redress the overall impression that this is risky territory from the point of view of potential liability for charity trustees.

On page 10, the use of the wording “As charity trustees, you must...” overstates the legal position. It might suggest to a nervous charity trustee that if, for example, a particular volunteer pocketed money out of a collecting tin, that the charity trustees would have to make up that loss. The reference to the 2005 Act providing charities with control over those who fundraise for them is also slightly misleading; it requires a legal agreement to be put in place with a professional fundraiser, but of course if there is a failure for whatever reason to put that agreement in place, or if the agreement is insufficiently robust as regards obligations or remedies, the legislation in itself will not in fact give the charity control over the fundraiser’s activities.

4. Are there any sections of the draft guidance that you think should have more detail?

Yes No

Comments:

As noted above, we have a general concern that the (understandable) focus on signposting to other agencies/organisations and to other sources of guidance, has meant that this guidance is just too stripped-back and lacking in the kind of practical advice that a charity trustee would be expecting to access by going through the document. It is probably too much of an ask to expect a charity trustee to trawl through the various websites that are mentioned, to try to get a more complete picture. If – as stated in the introductory section – the guidance is also meant to address the needs of professional fundraisers and also advisers, that would suggest that much more substantive content would be appropriate.

We do appreciate that there is a lot of material to be covered, but arguably if the “Summary/More detail” split was eliminated, that would provide more space. Also, we are not sure why it is felt that there is a compelling need to keep the guidance as short as this; there is

of course a balance to be struck, but (a) the guidance on charity trustee duties is much longer, and is something that all charity trustees are expected to access and (b) in balancing the benefits of comprehensive coverage against length/accessibility, ensuring that the guidance meets the needs of a high proportion of the intended user-groups should have priority.

Particular areas where more detail would be helpful include:

- The reference on page 7 to “Other laws” (see previous comments on this)
- More detail on the need for charities to put in place a proper complaints procedure
- More detail (page 12) on exactly what charities should be looking for, as regards the key terms for a satisfactory agreement with a professional fundraiser (rather than just the word “favourable”); and particularly as regards ongoing monitoring of the fundraiser’s effectiveness and mechanisms for termination in the event of breach or just poor performance (the reference to carrying out proper checks on third party fundraisers does not distinguish between due diligence prior to the fundraiser being engaged, and ongoing monitoring after the fundraiser has been engaged);
- More detail on the implications of tying an appeal to a particular project (page 13) ie as regards the principles applying to restricted funds
- More detail on the implications of an exempt promoter breaking the relationship with a charity, particularly where a public collection is in progress at the time.

5. We will include case studies and examples in the final guidance. What areas of the trustee duties do you think it would be helpful to have examples on?

Yes No

Comments:

We very much endorse the benefits of including case studies and examples.

ADDITIONAL COMMENTS

Comments:

We have the following additional comments:

- The introduction to the guidance is misleading, in the sense that it suggests – under the heading “What this Guidance covers” – that the only items of legislation which “...[set] out the rules for fundraising in Scotland...” are the 2005 Act and the 2009 Regulations. That is not the case, and indeed that is clear from what the Guidance says in subsequent sections.
- It is not clear what the rationale is, as regards the order in which sources of help and

advice is given

- Page 3 – erroneous reference to “The Charity Commission *in* England and Wales”
- Page 6 – we appreciate the need for brevity where a table format is used – but “Who does it in Scotland” is a bit broad brush given cross-border charities, charities based in one jurisdiction engaging with fundraisers in another jurisdiction etc etc; we also have misgivings in relation to the statement that the Fundraising Regulator “holds” the Code of Fundraising Practice.
- Page 7 – we are not sure that “self-regulation” is accurately described as involving the sector setting standards which cover “legal” requirements.
- Page 8 – the Public Fundraising Association has now merged with the Institute of Fundraising
- Page 12 – the references to “Commercial organisations” and “Trading subsidiaries” need some further explanation; presumably the first reference is to commercial participation arrangements, but the reason for including the second is not clear.
- Page 12 – references to money spent on fundraising should be clarified, recognising that in most cases professional fundraisers deduct their remuneration from donations

We also welcome any comments on our revised 2009 Regulations technical guide: <https://www.oscr.org.uk/charities/guidance/consultation-draft-technical-guide-charities-and-benevolent-fundraising-scotland-regulations-2009>

The communication launching the consultation exercise also invited comments on the draft Technical Guide to the Charities and Benevolent Fundraising (Scotland) Regulations 2009. As a general comment, the Technical Guide seems to us to be easier to work with, and rather more informative than the draft fundraising guidance – in fairness, that partly relates to the more limited scope.

We would also endorse the general look and feel of the Technical Guide, and in particular the use of icons to flag requirements where breach would represent a criminal offence and those which tie in with charity trustee duties; also, the tables are very helpful in our view to enable the user to identify at a glance certain features of the requirements which can be hard for a layperson to tease out from the formal wording of the regulations.

In addition to the above general comments, we have a few more detailed points which we would want to raise in relation to the draft Technical Guide, as follows:

Page 2 – we are not sure that the 2009 regulations do in fact require the fundraising agreement to state, in relation to more than one benevolent body “how [monies] will be paid”

Page 4 – it might be as well to make it clear that professional fundraisers and commercial participators have a legal obligation to make records available if asked. This is implied, but not stated expressly; and the reference in the 2009 Regulations to making records available might be interpreted as including an obligation to supply copies rather than being limited to allowing inspection.

Also, some explanation of what an “interdict” is might be useful for those using the Guide.

The use of the “charity trustee duty” icon on page 4 is perhaps slightly questionable. As regards the right to ask for records, it might be better to add in a sentence stating that charity trustees would be expected to exercise this right if they are not satisfied with the information being provided by a commercial fundraiser or commercial participator – and the icon could then sit beside that sentence. Similarly, the ability of a benevolent body’s right to take steps to stop unauthorised fundraising does not connect directly with the charity trustees’ duty; rather, the icon seems more appropriate against the statement on page 5 that charity trustees must take action if they become aware of unauthorised fundraising.

Page 5 - the reference to being found guilty of misconduct relates to the charity trustees, not the charity; it would be as well to re-phrase that sentence to avoid any confusion.

The references to solicitation do not follow the approach under the 2009 Regulations, where solicitation is limited to professional fundraisers, while commercial participators make representations, and benevolent fundraisers are simply referred to as carrying out benevolent fundraising. While we endorse the benefit of using a single expression in the Guide, it might be as well to expand the definition of solicitation in the glossary to make it clear that all three activities are intended to be included.

Pages 7 & 8 – while we appreciate the desire to keep the material to a manageable length, it might be as well to make some reference to the rules about making oral statements on remuneration available in writing in certain circumstances. Also, while we appreciate that OSCR is not necessarily able to fully address the uncertainties implicit in the 2009 Regulations, some commentary might usefully be included on what is meant by the actual or estimated amount of remuneration in this context (e.g. is it the remuneration relative to that particular donation, relative to the aggregate amount of donations in a given year, or relative to the full term of the fundraising agreement, that needs to be stated?).

Page 8 – there is a reference at the foot of the page to “fundraising agreement”, rather than “agreement”, which might cause confusion.

Page 9 – it would be helpful for the Guide to give some kind of outline of the “other statutory rights to refunds” which are referred to here. Also, technically, the 2009 Regulations require a request for a refund to be made “in writing”, and while that would include email it presumably does not include a request made by phone; it might be as well to make that clear.

Page 10 – this may be a moot point but is there an argument that the charity trustees would have difficulty in justifying the making of a refund where that was not required under the 2009 Regulations, i.e. how could that be said to be in the best interests of the charity (unless, of course, there were significant reputational risks associated with not making the refund)?

Equality Impact Assessment Equality Impact Assessment (Separate document available on the [OSCR website](#))

6. Do you think the draft Guidance will have an impact (positive or negative) on any of the protected characteristic groups listed? If so, how?

- Age
- Disability

- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Comments:

The guidance will of course be of relevance to a number of charities working with, or governed by people drawn from, these protected characteristic groups – but we do not envisage any impact directly on these groups.

Thank you very much for taking the time to respond.

Please [email](#) or post your response to us.

Consultation Response

The Office of the Scottish Charity Regulator

Consultation: The Fundraising Guidance

Response by Turcan Connell's
Charities Legal Team

December 2017

We are pleased to present our Charities Legal Team's statement in response to OSCR's consultation on its draft Fundraising Guidance and Technical Guide.

In this refresh of the existing guidance, we would like to make the following general comments:

- Usability

The web-based version of the guidance follows the same format as existing guidance on the OSCR website which immediately feels familiar to the user, and consistency with such matters is always a good approach to adopt. The use of purple links to the glossary is helpful, particularly to those new to the topic. The content is generally quite easy to understand; there are points where the language used is potentially too simplistic.

The draft guidance was issued along with a technical guide to the 2009 Regulations. The guidance introduces a few topics then refers to the technical guide for more details. We would suggest that instead of splitting the guidance over the two documents, the user is referred in the guidance to the technical guide at the outset and duplication should be prevented.

- Fundraising 'Rules'

It should be made clear that the relevant provisions of the 2005 Act and 2009 Regulations are not the only source of fundraising rules. For example, on an initial review of 'What this guidance covers', on page 2, it appears to suggest that the fundraising rules are only contained in the 2005 Act and 2009 Regulations, which is misleading. Although it is noted on the next page that this guidance 'does not tell you about the full range of laws that apply', the issue could be made less misleading in the opening wording of this section.

The guidance does not cover a number of material fundraising topics (as narrated in page 3). We assume that this is because OSCR have chosen to concentrate on a high level review and this information can be obtained elsewhere. We respectfully suggest, if that is the case, that OSCR explain that this guidance note is an introduction to fundraising and should be only used as a reference document in order to find the information the user is looking for. The impression should not be given that the document is full guidance on the entire topic of fundraising.

- Scotland and the UK

There are a number of references throughout the draft guidance to the fundraising rules in Scotland and/or in the UK. Due to the different systems in place north and south of the border, it should be

made clear at the outset that the rules in the jurisdictions are different. Also, it should be made clear in the guidance when OSCR is referring to Scottish-specific rules.

- Use of Links

While we appreciate the benefit to the use of links generally, many of the links in the guidance take the user to the Code of Fundraising Practice (“the Code”). Rather than pepper the guidance with many links, it may be better to include a paragraph about the Code and endorse its contents to simplify the guidance.

- Consistency/use of terms

We believe that it would be in the interests of the users if this guidance adopted a similar approach as the Code when referring to legal requirements and best practice through the use of ‘must’ and ‘should’ with an appropriate legend. (This compares with the Code’s use of ‘MUST’ either with or without an asterisk to indicate the difference between legal obligation and best practice.) Consistent capitalisation of terms/words and glossary links could also be adopted throughout the guidance.

We will be pleased to expand on any comments made in this response. Please contact the Charities Legal Team on 0131 228 8111 or at charities@turcanconnell.com.