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By email

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Dear Elizabeth,

Fundraising Regulator's response to 'ICO consultation on the draft direct marketing code of practice'

About the Fundraising Regulator

The Fundraising Regulator is the independent non-statutory regulator of charitable fundraising undertaken by or on behalf of charitable, philanthropic and benevolent organisations in England, Wales and Northern Ireland. We also regulate fundraising in Scotland carried out by charities primarily registered in those three countries. Our role includes maintaining and developing the UK-wide Code of Fundraising Practice and investigating complaints from members of the public about fundraising practice where these cannot be resolved by the charities themselves.

We work in partnership with other regulators and representative bodies in the charitable and fundraising sectors to build public confidence and ensure consistent fundraising standards across the UK.

Our commitment to working with the ICO is set out in our joint Memorandum of Understanding, which can be accessed here:
<https://www.fundraisingregulator.org.uk/sites/default/files/2019-03/ICO-MOU-2019.pdf>.

Our Interest

Direct marketing is a key part of how many charities communicate with their supporters and raise funds. We regularly advise members of the fundraising community about direct marketing and data protection practices, and we have a number of resources to help the sector to meet the legal requirements. These were developed in collaboration with the ICO, and include:

- The Code of Fundraising Practice. Standards about processing personal data can be found in section 3 of the code: <https://www.fundraisingregulator.org.uk/code/all-fundraising/processing-personal-data>. However, many sections on specific fundraising practices include considerations around data protection and direct marketing, such as telephone fundraising, direct mail and online advertising.

- The Fundraising Preference Service (FPS). This service enables members of the public to control the direct marketing they receive from charities by phone, direct mail, email and SMS.
- Guidance. We have a GDPR library to provide signposting to relevant guidance and resources. We also have a series of bitesize guidance pieces on the requirements of GDPR within the context of different fundraising practices, which are co-badged with the ICO.

The Draft Direct Marketing Code of Practice

We welcome the ICO's consultation on the direct marketing code of practice. We welcome the clarity the draft code provides for the fundraising sector, in particular about the types of activities that count as direct marketing, and what the requirements around these are:

- We support the clearer definitions used within the draft code. The new definitions provide clarity on the status of fundraising as direct marketing, and we welcome the use of fundraising-based examples throughout the draft code to illustrate some of the types of direct marketing.
- The addition of a specific section (page 11) on how charities and not-for-profits should use the code is particularly welcome. This acknowledgement that requirements for charities are the same as they are for public and private sector bodies provides much needed clarity for the sector.
- The life-cycle approach to direct marketing taken in this guidance is helpful. This clearly shows how direct marketing campaigns should be planned and delivered, and how personal data can be processed compliantly throughout the campaign.
- We welcome the inclusion of the Fundraising Regulator in the list of 'other resources outside this code' on page 9. This signposting will help relevant organisations within the fundraising sector to access our standards as a complement to the ICO's code.
- We also welcome the inclusion of the FPS as the code's example of a third party service that can be used to withdraw consent for direct marketing.

If you would like to discuss any of these points in more detail, please do get in touch. In the meantime, I look forward to our organisations continuing to work together closely in future.

Yours sincerely,

