

Charity Commission – by email

11 February 2016

Dear Sir,

Consultation on revised CC20 fundraising guidance

On behalf of ICSA I am pleased to respond to your consultation on the revised guidance (CC20) on charity fundraising: a guide to trustees.

ICSA, the governance institute, is the professional body for governance. We have members in all sectors and are required by our Royal Charter to lead 'effective governance and efficient administration of commerce, industry and public affairs'. With 125 years' experience, we work with regulators and policy makers to champion high standards of governance and provide qualifications, training and guidance.

We are the professional body qualifying and supporting Chartered Secretaries, corporate governance, risk and compliance professionals in all sectors of the UK economy. Members are educated in a range of topics including finance, company law, administration and governance, which enables them to add value to any organisation.

ICSA has an extensive pedigree in the governance arena, advising governments and regulators on company law, charity law and corporate governance. The breadth and experience of our membership enables ICSA to access a variety of applied experience in order to provide pragmatic insights into effective practices across a range of organisations. Our members' wealth of expertise and experience, along together with their detailed understanding of charity and company legislation and regulation, has informed our response to this consultation.

General comments

The quick turnaround of this guidance, in light of recent media attention in charity fundraising practice, is to be commended. As the self-regulatory fundraising system is still evolving the document might benefit from further public consultation. There are tracts of text that are not yet completed and good practice examples and case studies omitted, therefore a further opportunity for users and advisers to comment on a more complete version would be helpful. Furthermore, the document would benefit from a thorough proof read before being finalised.



Specific points not covered in the consultation questions include:

- Section 4 (plan effectively) might benefit from being split into sub-sections thereby making it easier to read
- 5.1 should include a reference to reviewing those delegations regularly to ensure they are being observed and to decide whether they remain fit for purpose
- 5.3 - the last point relating to online platforms does not appear to sit within the content of this section
- Section 14 (technical terms), 2.2 states that the terms 'professional fundraiser' and 'commercial participator' are defined at section 14, but are not there.

Responses to specific questions

1. Have you used the current version of our fundraising guidance which is called 'Charities and Fundraising' (CC20)?

As ICSA's members are involved in providing governance guidance and advice to trustees, CC20 has been regularly presented to trustees at appropriate induction and training sessions.

2. The new version is shorter than the current version. Please select whether you think the new version is: too short; too long; or about the right length. Please give reasons why:

The new version is about the right length, though is a little repetitive. It is noted, however, that some aspects of the guidance have yet to be finalised, including case studies and details about the self-regulatory environment. It is therefore likely that the final version is somewhat longer than this draft disseminated for public consultation.

3. In the new version, do you find the explanation of trustee duties in relation to fundraising clear?

The explanation of trustee duties is clear.

4. There are six principles trustees can use to fulfil their responsibility for their charity's fundraising. Do you find these a useful way of describing what trustees need to know and do?

Yes, the six principles are clear, however due consideration might be given to how better to present the principles in the draft to make them easier to identify and read. This would be especially useful for trustees wishing to remind themselves of the principles in a short period of time.

5. The commission has focused less on describing the wider legal rules that apply, in addition to trustee duties, to specific types and aspects of fundraising. For example, the rules on data handling and protection, collections in public spaces, and lotteries. This is so that we can focus on trustee duties which we regulate, to avoid duplicating the free information on these rules which is produced by other regulators, agencies and the Institute of Fundraising, and to reduce the length of our guidance. Should the commission keep this focus on trustee role and duties?

While the focus on detailing the role of trustees in relation to fundraising is welcome, the guidance does not provide the full picture of trustees' legal considerations. Further guidance from the Charity Commission would be welcomed by trustees on the other legal issues of which trustees should be aware and with which they must comply. A linked document dealing with those other matters would therefore be of real benefit to trustees and their advisers.

Annex 3 however, might be sufficient for those trustees suitably interested in pursuing their own private reading and knowledge acquisition.

6. The commission has included two examples to help trustees avoid mistakes. Do you think it is useful to have these examples?

Practical examples and case studies are particularly helpful in enabling trustees to understand complex matters of governance and legal compliance. As with other Charity Commission guidance, it would be beneficial if more and clearly identified examples and case studies are included in the final version of the guidance.

7. The system for regulating fundraising is principally self-regulatory and the final version of the guidance will describe the new self-regulation system, which is currently being developed. This version of the guidance seeks to describe the commission's role and its regulatory expectations of fundraising charities. Does this guidance help you to understand what the commission expects of the trustees of fundraising charities?

The draft guidance does clearly articulate the Commission's expectations of trustees in relation to fundraising. However, as the section on the self-regulatory environment is yet to be completed it is not easy to understand the role of the Commission in this new regulatory framework.

8. Would you use the checklist which is at section 13 of the guidance?

It is anticipated that the checklist will be used by trustees and their advisers in matters relating to fundraising.

9. How do you think the Commission can best help trustees become familiar with how their duties apply to fundraising? How could your organisation help us with this?

It might be appropriate for the Commission to add links to the final document when electronic reminders are sent to trustees about annual reports, returns and accounts. It could also be referred to when CC3 is sent to new trustees.

I trust the above comments add to the development of the draft guidance on trustee duties in relation to fundraising. Should you require any clarification or have further questions, please do not hesitate to contact me directly.

Yours faithfully,

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