

# **Report on the response to the consultation on Principles for Assessing the Success of Self- Regulation of Fundraising**

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## **Background**

1. This document summarises the responses received from interested parties to a consultation concerning proposed principles for assessing the success of self-regulation of fundraising.
2. The consultation paper was published on 14 March 2005 and circulated to over 100 stakeholders that included a range of charities, key umbrella groups, local licensing representatives and other bodies with interests in fundraising. In addition the consultation was published on the Home Office web-site and publicised in the Sector press. Responses were received from 20 organisations or individuals who are listed at the end of this report.
3. This was a consultation specifically on measuring the success of self-regulation, and was not a consultation on the need for self-regulation. The case for self-regulation, and the proposed model for self-regulation were the subject of two previous separate consultations.

- a. The consultation on the 2002 Strategy Unit recommendation.

78% of the 152 respondents that commented on this recommendation supported the principle that the fundraising sector should be given the opportunity of self-regulation to raise standards, with statutory regulation very much in reserve. Where concerns were raised they were generally either i) questioning the need for self-regulation, or ii) questioning whether self-regulation would be sufficiently robust and effective.

- b. The “Buse Commission” proposals and consultation.

The Institute of Fundraising commissioned an independent analysis of the options for taking forward self-regulation, and developing the proposals. The “Buse Commission” investigated and consulted widely on an appropriate model for a non-statutory self-regulation scheme. Following consultation, a Steering Committee further developed the proposals, and published its final paper on the detail of the scheme in January 2005.

4. It is not the intention that self-regulation replaces existing statutory regulation. The police, Charity Commission, local licensing authorities and others will retain their existing statutory regulatory or enforcement roles. Self-regulation will complement the existing regulation.
5. The scheme will be a voluntary membership scheme, operating on a UK-wide basis. With initial funding from the Home Office and Scottish Executive, the

scheme's aim is to become self-funding through membership subscriptions within five years.

6. Further information on the detail of the self-regulation scheme is available from the Institute of Fundraising ([www.institute-of-fundraising.org.uk](http://www.institute-of-fundraising.org.uk)). The scheme's launch is expected in summer 2006.
7. In addition to the recommendation for self-regulation of fundraising, the Strategy Unit recommended that the Government have a reserve power to regulate fundraising to be used if self-regulation were to fail. The Government accepted this recommendation and has made provision for a reserve power to regulate fundraising in the Charities Bill, which is currently before Parliament. The reserve power could not be used without prior consultation of the sector, and it would also require the affirmative resolution of Parliament. A similar reserve power is contained in the Charities and Trustee Investment (Scotland) Act 2005.
8. A number of organisations called for the publication of the criteria by which the success of self-regulation would be measured, and whether or not the Home Secretary would need to make use of the reserve power. The Government agreed that it would consult on and publish the criteria once details of the scheme emerged.
9. The consultation paper did not present specific targets for determining the success of the Regulation of Fundraising Scheme (RFS). Instead it set out for consultation what the Government expects the scheme to deliver, and how that could be measured when the Government is considering the scheme's success. The assessment of the scheme's success against those principles would also take into account external factors at the time of the assessment. The consultation also recommended that over time the RFS should develop ways of monitoring and assessing its own performance, and report against these.

### **Summary of Responses**

10. Of the 20 responses received 16 were considered supportive of the proposed principles for assessing the success of the scheme. Four responses were considered critical of the proposals.
11. Of those critical of the proposals, three questioned the need for self-regulation and raised concerns about bureaucracy and cost. One cited examples of fundraising scandals and questioned whether self-regulation would be sufficiently robust to prevent similar scandals happening again. Those responses that were critical of the need for self-regulation did not respond to

the specific questions about the principles for assessing the success of self-regulation.

12. The consultation paper invited interested parties to take account of the following questions in considering the proposed principles for measuring the success of the self-regulation scheme:

***Q1. Do you agree that the principal aim of the Regulation of Fundraising Scheme should be to maintain and enhance public trust and confidence in voluntary sector fundraising?***

13. 16 organisations responded to this question and all agreed that this should be an aim of the scheme. Most agreed that it should be its sole aim. Six agreed with this aim but added further suggestions, such as educating the public about fundraising, protecting consumers, or increasing giving. One pointed out that it would be difficult to measure or attribute changes in public confidence in fundraising over time. Whilst one respondent made the point that public confidence in voluntary sector fundraising is already very high, another considered that such confidence needs to be justified.

***Q2. Is it right that for the scheme to be successful an assessment should include the range of fundraising organisations covered, and the proportion of fundraised income covered, as well as the numbers of participating organisations?***

14. All of the 16 respondents to this question agreed with this principle. There was a general consensus that both the number and range of participants would be critical to the success of the scheme, and that the full breadth of fundraising in the voluntary sector would need to be included. Three respondents considered that there should be specific targets for coverage. One suggested that participation should be mandatory for organisations involved in public fundraising. One respondent commented that the scheme should cover the whole range of fundraising techniques. Two respondents remarked on the importance of involving small charities. One felt that the benefits of participation in the scheme must outweigh any potential burden if it is to generate sufficient levels of participation.

***Q3. Is it reasonable to expect that in the scheme's initial years of building up the number of participants that the focus may be on larger organisations which represent a greater proportion of fundraised income?***

15. There was a mixed response to this question. Six of the 16 respondents to this question felt that it would be reasonable in the initial years to focus on larger organisations to quickly build coverage of fundraised income, and maintain the scheme's momentum. Five respondents felt that small charities ought to attract equal effort and weight from the outset in getting them to join the scheme. Four respondents commented that the focus should be on

building up coverage of the areas of greatest risk or low standards. Several pointed out that the areas of greatest risk of low standards are not likely to include the largest charities. One pointed out that this is only one type of measure that focuses on outputs rather than impact.

***Q4. Are there any other measures of participation capture and sector penetration that should be considered?***

16. Fourteen responses were received to this question. Three respondents suggested an analysis of organisations that do not participate in the scheme, as a means of demonstrating the scheme's impact. Three respondents suggested that measures of participation should be analysed by type of fundraising technique. Two respondents felt that the most important point was to cover the whole range of fundraising organisations. Two respondents argued that the scheme would need publicity within the sector in order to become firmly established. One respondent considered that there were weaknesses in these measures, as organisations could sign up to the scheme but not comply with its standards.

***Q5. Should the scheme have a public guarantee setting out what members of the public can expect of it and of scheme participants?***

17. All 16 respondents agreed with the broad thrust of this principle, however the majority of them (10) felt that a "guarantee" was too strong a description. Two respondents argued that a strongly worded "guarantee" might discourage organisations from joining the scheme. Three respondents suggested a "public promise" would be a better description. One argued that whilst scheme participants would be required to uphold high standards of fundraising practice at all times, it would be wrong to guarantee that this would always occur. Two respondents argued for any public promise to be short and clear. Another added that it should be developed in consultation with participants in the scheme, and consumer groups. Several respondents considered that the scheme's remit needs to be very clear, and that it should also set out what the public should not expect from the scheme.

***Q6. Do you agree that the Codes of Practice underpinning the scheme should go beyond requiring compliance with the law, and set a high standard of good practice? Should this include promoting openness and transparency?***

18. All but one of the 16 respondents to this question agreed that the Codes of Practice underpinning the scheme must go beyond compliance with the law and reflect high standards of fundraising practice. However, several respondents stated that there must be a clear distinction within the Codes between legal requirements and best practice. One respondent stressed the need for consultation on the Codes of Practice, and another suggested that

all the existing Codes should be revisited. Two organisations were concerned about the imposition of best practice on organisations that currently meet the legal requirements but not best practice – the concern was that they would be excluded from joining the scheme. One respondent suggested clarification that the promotion of openness and transparency should be in the field of voluntary sector fundraising –on the basis of the scheme’s remit– and not more generally.

***Q7. Are the measures of public awareness of the RFS reasonable, and do they go far enough to ensure that the scheme is sufficiently public-focused?***

19. 15 responses were received to this question. All were broadly supportive of the measures identified. Five respondents added that research could establish a benchmark, and that ongoing surveys could monitor public awareness of the self-regulation scheme. However, one respondent pointed out that such independent research would be costly. Four respondents suggested that the much of the work in generating public awareness would rest with the participant organisations – for example by promoting the scheme’s logo.

***Q8. Is it right to judge the extent to which other organisations and regulators take into account participation in the RFS as a measure of the scheme’s success?***

20. Of the 16 responses to this question, all but one agreed in principle with the proposed measure. Several of the respondents argued that it would be important for other regulators to work closely with the RFS, and that this might encourage participation in the scheme. Two respondents considered that the extent to which other regulators should take account of participation should be limited to fundraising matters. Two respondents’ views were that although this measure was worth taking into account, it should be subsidiary to the more important measures of participation and public awareness. One respondent suggested that other regulators may need to improve their standards, and that the RFS should not be judged on the action, or inaction, of other regulators. Another respondent thought that consultation would be required before other regulators or funders could rely on or give weight to participation in the RFS in their decision-making. Finally two respondents commented that for such a principle to work, levels of participation in the scheme would have to be high.

***Q9. Should the Government consider the impact of the RFS on the fundraising practices of organisations that are not members of the scheme as a measure of the scheme's success?***

21. Of the 15 responses to this question, almost all had reservations about this as a measure. Eight respondents thought that this ought not be considered a measure of success – some suggested that it would be worth analysis, but as a side effect of the RFS, not a direct consequence. Four respondents felt that it could be considered as a success measure, but to a limited extent – again this outcome would be seen more as a beneficial side effect of the RFS than a direct consequence. Only three respondents gave unequivocal support to the use of such a measure.

***Q10. How can the scheme best demonstrate that it is not primarily promoting the interests of the fundraising sector? Is it sufficient for the Council membership to include independent and consumer representatives?***

22. All 16 responses agreed that the scheme must be independent if it is to succeed. One respondent outlined ways in which the scheme's independence would be demonstrated which included: fair adjudication of complaints and an Independent Complaints Reviewer; independent governance; published annual reports; the "public promise" with the consumer's interests at heart; codes of practice that placed the consumer's interests first. Several respondents felt that the governance structure of the RFS Council should include consumer representation, and should not be dominated by sector representatives. Other respondents, whilst agreeing that independent governance was important, stressed the need for the Council to include members with fundraising expertise. Three respondents thought that the scheme's complaints process and effective sanctions would provide a good indicator of the scheme's independence.

***Q11. Do you agree with the measures proposed for assessing the extent of compliance by organisations covered by the scheme? Are there any alternative measures which could be used?***

23. 15 organisations responded to this question. All agreed that for the scheme to succeed, compliance would be important. Eight of the respondents argued that although compliance would be central to the success of the scheme, measures to monitor compliance must be proportionate, particularly in relation to small charities. Some respondents expressed concern that any compliance monitoring must not be bureaucratic, for example, by duplicating existing compliance monitoring by other regulators. Three respondents specifically commented that there should be a pro-active element to compliance

monitoring, such as mystery shopping or other forms of spot checks – which could work well if implemented properly.

***Q12. Do you agree that for the scheme to be credible, it must apply effective sanctions that are proportionate to the level and extent of any non-compliance? What should the sanctions include?***

24. All 16 of the organisations that responded to this question agreed the need for the scheme to have effective and proportionate sanctions. Eight of the respondents made the point that in the first instance sanctions should bring about performance improvement, and should not be punitive. Several respondents suggested that punitive sanctions would discourage participation, and could cause long-term damage to a charity. There would have to be an appeals mechanism against the proposed sanction, and one respondent was concerned about potential litigation arising from sanctions and appeals. Three respondents said that the sanctions must have teeth if they are to be credible. Several respondents put forward suggestions for how sanctions might work, including a points-based system similar to penalty points on a driving license, or a system of suspended sanctions giving organisations time to demonstrate improved practice.

***Q13. Do you agree with performance indicators related to the handling of complaints? Are there any alternative measures which could be used?***

25. 14 organisations responded to this question. All respondents agreed that monitoring complaints would be important. Several respondents argued that the number of complaints would not necessarily be a desirable or reliable measure. Four respondents suggested that the response to complaints was a better performance indicator, along with the time taken to respond to a complaint. One respondent felt that complaints against non-members should also be monitored. One respondent was concerned about the damage that complaints monitoring could do to a participant charity's public image.

***Q14. Do you agree that for the RFS to succeed it must have effective liaison arrangements with other regulators? If so do you agree with the proposed performance criteria?***

26. All 16 respondents to this question agreed with the need for the RFS to have effective liaison arrangements with other regulators. One respondent commented on the importance of joined up working in preventing consumer confusion. However, there were different opinions about how liaison arrangements could be measured. Several respondents considered that clear lines of responsibility would be required, particularly if there were any areas of overlap between the RFS and other regulators. Three respondents argued that effective liaison arrangements involved a two-way process, and that it would be wrong to judge the RFS on the failure of another regulator (e.g. local

authority) to engage in effective liaison. Two respondents suggested monitoring complaints that had been referred to the regulator from the RFS.

***Q15. Should the RFS be able to consider the development of its own performance indicators, and report against its performance in its annual report? What should its annual report include?***

27. 16 organisations that responded to this question. All agreed that the RFS should develop its own performance indicators, and were generally supportive of the proposals for the annual report. Five respondents stated that the development of performance indicators should be in consultation with interested parties. One went further, and said that there should be external agreement of performance indicators identified by the RFS. One respondent's view was that it was not clear who the RFS would be accountable to.

***Q16. What will be the regulatory impact on organisations participating in the scheme? Would statutory regulation present a greater regulatory burden?***

28. All 15 respondents to this question argued that the RFS should operate proportionately. Seven respondents believed that self-regulation would be more flexible and responsive to need than statutory regulation. Three respondents suggested that the requirements of the RFS should be brought in gradually to give new participants, and particularly smaller organisations, time to meet the new standards. Two respondents indicated that the scheme would not represent a burden on those organisations that already complied with the Institute of Fundraising's Codes of Practice. Several respondents suggested that participation in the scheme would represent a slight additional burden for organisations. Two respondents felt that the costs of complying with the scheme's requirements should be given consideration, and that the scheme should not drive up fundraising costs as this could have a negative impact on public confidence.

***Q17. In the first years as the scheme builds up numbers of participants, should assessment focus on capture and market penetration? If not, what criteria should be used to assess the scheme in its first years?***

29. All 14 respondents to this question agreed that participation would be an important measure in the scheme's first years. However, most argued that whilst measures of participation (both numbers and size) would be important, there would be other measures that should be considered as the scheme develops. Three specifically suggested analysis of complaints. Two felt that independent research and benchmarking would also be important in the initial years. Feedback from scheme participants was another suggestion.

***Q18. Should the review of the impact of the Charities legislation, due to take place within five years of enactment, include a formal assessment of the Regulation of Fundraising Scheme? If not, when should this assessment take place?***

30. 16 organisations responded to this question with mixed views on when there should be a formal assessment, and whether or not the assessment should be linked to the evaluation of the Charities Bill's impact. 10 respondents felt that a review of the self-regulation scheme could take place with the evaluation of the Charities Bill (which is due to take place within five years of that legislation gaining Royal Assent), although some did not believe there was a particular need for the review of the RFS to be linked to the evaluation of the Charities Bill. Six respondents argued that there should be more frequent assessments of the RFS – most suggesting annual assessments. Some of the respondents argued for both annual assessment and a more formal assessment taking place within five years.

**Other comments**

31. Two organisations argued that any success criteria should be UK-wide, as the scheme will operate on a UK-wide basis. Two respondents felt that more research was necessary in the area of public confidence in fundraising. One organisation wanted it to be clear that self-regulation of fundraising should not extend to charity trading. One organisation was concerned that its views had not been properly considered from previous consultations. One respondent suggested that Government carry out mystery shopping exercises for both scheme participants and non-participants. One organisation commented that the participation fee structure should be linked to a charity's fundraised income, not its total income. Another respondent argued that the scheme should be wholly paid for by Government, rather than rely on subscriptions

**Respondents**

32. The following organisations and individuals responded to this consultation:

Umbrella Bodies:

Institute of Fundraising  
National Council for Voluntary Organisations  
Association of Charity Shops  
Association of Fundraising Consultants

Public Fundraising Regulatory Association

Others:

Which? (consumer interest organisation)

Dialogue Direct (professional fundraising organisation)

Fundraising Initiatives (professional fundraising organisation)

Charities:

NSPCC

Royal National Lifeboat Institution

RSPCA

Peoples Dispensary for Sick Animals

The Children's Society

Barnados

Diabeties UK

British Red Cross

Samaritans

Individuals:

Professor Adrian Sargeant

Paul Edwards

Robert Winter

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