

Launch of the Fundraising Preference Scheme

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In 2015 a cross-party parliamentary review committee conducted a review of the way charity fundraising is regulated. This identified a need for a service to allow members of the public to control the nature and frequency of communications that individuals receive from charities, including fundraising communications. Under this proposed regime fundraising organisations would have a responsibility to ensure that individuals who use the service were not sent further communications.

The Fundraising Preference Service (FPS) has, therefore, been created to give members of the public control over the communications they receive from charities.

In the first instance, members of the public are encouraged to contact charities directly to stop communications. However, they may prefer to use the FPS when: there are difficulties in communication between donor and the charity; when there is a need to deal with multiple charities efficiently; when there is a lack of clarity about how to stop communications from a charity and/or uncertainty exists as to whether consent has been given or needs to be removed.

The connection to the FPS is mainly by the website (although there is also a telephone helpline). This was launched on 6 July 2017. A member of the public can register with the website (or via the helpline) and identify charities from which they wish to suppress direct marketing communications. Once all details have been submitted the charity(ies) in question will be notified within 28 days.

Three charities can be identified in any one request. If a member of the public has to identify more a further request will need to be submitted.

On the day of the launch of the FPS suppression requests were submitted at the rate of 2 per minute (so the initial demand for the service appears to be quite high and necessary).

An FPS request can be submitted on behalf of someone else (i.e. a vulnerable person) with confirmation that they have authority to act for the individual concerned.

Large charities that spend more than £100,000 a year on public fundraising have been invited to enrol with the FPS – and the charity can decide how it reviews notifications. Smaller charities that spend less or no money on public fundraising will be set up on the FPS when/if they receive an FPS request from a member of the public. It is likely that many small charities will never receive an FPS request and will not have to be set up on the FPS.

Once an FPS request has been received, the charity must remove the selected individuals from the selected direct marketing communications within 28 days of

the request. There should be no further direct marketing communication with the individual, except for non-marketing reasons (i.e. processing an existing gift). Only if the individual proactively chooses to re-engage with the charity should communication resume. The charity must retain lists of all FPS requests and ensure they are adhered to.

If a charity cannot find an individual's details it must use reasonable endeavours to do so, and if still not able to locate details, it must hold the individual's information in a suppression list for future reference. The charity may need to use judgement to try to match information but should not contact the individual to confirm personal information.

If an individual receives another direct marketing communication more than 28 days after submitting an FPS request they can revisit the FPS website (using the reference code provided) and the charity will be advised. If such communications continue, the individual can make a complaint to the Fundraising Regulator – The Code of Fundraising Practice specifies that charities must stop sending direct marketing communications to individuals where a request is made through the FPS. If the charity continues contact this is a breach of the code and the Fundraising Regulator may take action. If instructed by the individual the Fundraising Regulator may also make a request to a charity in accordance with the Data Protection Act 1998 (section 11 request) and the ICO has the power to fine charities for misuse of data (as has already happened to a number of charities earlier this year).

If an individual member of the public changes his/her mind and would like to resume communications with one or all of the specified charities, the individual will need to contact the charity directly, stating that consent is now given. The FPS request will no longer be in effect and the charity can resume direct marketing communications. The individual does not need to inform the FPS of his/her decision. If there is a dispute the charity will need to provide evidence that consent was given.

The Fundraising Regulator has commented that the volume of early requests indicates that many charities have some way to go in how they communicate with individuals. Although charities are now taking heed in ensuring the wishes of donors are complied with.

The Fundraising Regulator has stated that the FPS is due to be reviewed once it has been operational for between 12 and 18 months.

For further information contact Mark Harvey (mark.harvey@crsblaw.com).