

Principles for Assessing the Success of Self- Regulation of Fundraising

A consultation paper

Charities Unit
Home Office

14 March 2005

SECTION 1 Summary and questions

Summary

- 1.1 Fundraising often represents the public face of the voluntary and community sector. In its review of the Charitable and Not-for-Profit Sector, the Prime Minister's Strategy Unit found that there was little evidence on the public's perception of fundraising, but what evidence existed suggested a negative public view of fundraising which could present a risk to the high levels of public confidence in the sector¹.
- 1.2 The Strategy Unit went on to recommend a new fundraising self-regulatory body based on a voluntary Code of Practice designed to promote good practice in fundraising, and to raise awareness of the sector's commitment to good practice among the general public. The Government accepted this recommendation.
- 1.3 Self-regulation would sit alongside and complement existing statutory regulation. It would not be expected to directly tackle fraudulent or bogus fundraising, which would remain within the remit of existing regulators and the police.
- 1.4 This paper examines the proposals for self-regulation of fundraising by the voluntary sector, and sets out the criteria with which it is proposed to assess its success.
- 1.5 The regulation of fundraising is a complex area. Laws regulate charity street collections, house-to-house collections, the conduct of lotteries and raffles, and the involvement of professional fundraisers or commercial participators in a fundraising appeal. The Charities Bill, currently before Parliament, will strengthen these existing statutory controls (with the exception of lotteries and raffles which are dealt with in other legislation), whilst enabling self-regulation to complement the statutory controls by promoting good practice and raising public awareness.
- 1.6 The Charities Bill also provides a reserve power for the Home Secretary to make statutory regulations to control fundraising by charities. The intention is that this would only be used should the self-regulation of fundraising fail.
- 1.7 The Institute of Fundraising established an independent Commission, the "Buse Commission" to investigate and consult on an appropriate model for a non-statutory self-regulatory scheme. Following consultation, a Steering Committee has developed the proposals, and published its final paper on the detail of the scheme in January 2005

¹ "Private Action, Public Benefit: The Regulation of Fundraising", Background discussion paper, Strategy Unit, September 2002,

(“The Self-Regulation of Fundraising”, Steering Committee paper, available on the Institute of Fundraising website at www.institute-of-fundraising.org.uk”).

- 1.8 The foremost aim of the Regulation of Fundraising Scheme is to maintain and build on the high levels of public trust and confidence in the voluntary sector’s fundraising activities.
- 1.9 Fundraising is a complex area because of the wide range of methods it encompasses, and the variety of voluntary sector organisations that undertake it in one form or another. One of the aims of the Self-Regulation of Fundraising Scheme is to be inclusive of all types of fundraising organisations and activities.
- 1.10 This paper sets out for consultation what the Government expects from the self-regulation scheme, and the broad principles in accordance with which it is proposed that the Home Secretary will assess the success of the self-regulation of fundraising, for the purposes of determining whether to introduce statutory regulation, if self-regulation does not prove effective.

The Government’s expectations of the Regulation of Fundraising Scheme

- The scheme will need to attract high levels of voluntary participation across the sector, although it is appreciated that it will take time to build up the numbers of participants. Participants should reflect the diversity of the sector.
- The scheme, and its members, must provide the public with a clear guarantee of what they can expect from fundraisers who are members of the scheme, and from the scheme itself.
- The scheme and its members should encourage awareness amongst non-members and the public of the scheme’s existence, and good fundraising practice.
- The scheme should promote openness, transparency, and accountability in fundraising practice.
- The control of the scheme must be independent and impartial. It must include consumer representatives on its governing body, and this representation should be real, not token.
- Compliance with the scheme must be monitored and reported.
- There must be effective and meaningful sanctions for non-compliance,

which are proportionate to the nature and extent of any non-compliance.

- The scheme must be accountable through the publication of an annual report, which details the scheme's performance.
- The scheme must have a clear and effective complaints handling procedure, which is easily accessible to the public, and which provides fair redress.
- The scheme should minimise the regulatory burden to its members.
- The scheme should work effectively with other regulators, where issues are outside its remit.
- The scheme should identify emerging trends in fundraising practice, and the public's perception of it, and be sufficiently flexible to quickly adapt and evolve codes of good practice where necessary.
- The scheme should develop its own meaningful performance indicators, and report against these in its annual report.

1.11 In its first years, the growth of the participation in the scheme will be one of the key measures of its success. As the number of participants grows, the scheme's penetration of the sector will prove important – for example its ability to attract smaller charities, or charities from a particular sub-sector. Over time, the self-regulation scheme would be expected to develop performance measures of its own, and report its achievements against these in its annual report.

1.12 If the Charities Bill completes its Parliamentary stages, a review of the legislation is proposed to take place five years following enactment. This presents an opportunity to formally review the success of the Regulation of Fundraising Scheme against the Government's expectations, and report to Parliament.

Consultation Questions

- 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?
- 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?
- 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?
- Q4. Are there any other measures of participation capture and sector penetration that should be considered?
- Q5. Should the scheme have a public guarantee setting out what members of the public can expect of it and of scheme participants?
- 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?
- 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?
- 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?
- 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?
- 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?
- 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?
- 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?

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

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?

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?

Q.16 What will be the regulatory impact on organisations participating in the scheme? Would statutory regulation present a greater regulatory burden?

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?

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?

SECTION 2 How to reply

- 2.1 We invite comments by **Friday 3 June** at the latest. Earlier responses would be very welcome. Responses should be sent - by email if possible - to the address below. Copies sent by post should be marked "**Self-regulation of fundraising - Consultation**" on the envelope.

It would be help us analyse responses if you could identify in what capacity you are responding to the consultation. For example, you may be responding on behalf of a charity, a professional fundraising organisation, other professional adviser, or as a member of the public.

Please send responses to:

Henry Wood
Charities Unit
Home Office
3rd Floor
Allington Towers
19 Allington Street
London SW1E 5EB
henry.wood@homeoffice.gsi.gov.uk

Enquiries regarding the contents of this consultation document should be made to:

Ben Harrison at the above address
Tel: 020 7035 5357
Fax: 020 7035 5386
E-mail: ben.harrison7@homeoffice.gsi.gov.uk

- 2.2 All responses will be acknowledged. In accordance with the Code of Practice on Open Government comments will be made publicly available unless respondents specifically request otherwise. If you are replying by e-mail, please make it clear in the body of your response whether or not you wish your comments to be treated as confidential.
- 2.3 Additional copies of this consultation document are available electronically at:
www.homeoffice.gov.uk/comrace/active/charitylaw/index.html
- 2.4 You may also photocopy them if you wish.

E-mail disclaimer

- 2.5 The information you send us may be passed to colleagues within the Home Office and/or published in a summary of responses received in response to this consultation. We will assume that you are content for us to do this, and that if you are replying by e-mail, your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system. However, we will respect any wish for confidentiality that you make in the main text of your submission to us.

Complaints or comments about this consultation paper

- 2.6 This consultation document has been drafted in accordance with the Cabinet Office's Code of Practice on Consultation. The Code aims to increase the involvement of people and groups in public consultations, minimising the burden it imposes on them, and giving them a proper time - a standard minimum of 12 weeks to respond. The Code is available on the Cabinet Office's website at:

<http://www.cabinetoffice.gov.uk/regulation/consultation/introduction.htm>

- 2.7 In undertaking this consultation we have sought to apply the following criteria:

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
- Be clear about what our proposals are, who may be affected, what questions are being asked and the timescale for responses.
- Ensure that our consultation is clear, concise and widely accessible.
- Give feedback regarding the responses received and on how the consultation process influenced the policy.
- Monitor our Department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
- Ensure our consultation follows better regulation practice, including carrying out a Regulatory Impact Assessment if appropriate.

- 2.8 The full code of practice is available at:

<http://www.cabinetoffice.gov.uk/regulation/consultation/introduction.htm>

Consultation Co-ordinator

2.9 If you have any complaints or comments about this consultation process, you should contact the Home Office consultation co-ordinator Pio Smith by e-mail at:

pio.smith31@homeoffice.gsi.gov.uk

2.10 Alternatively, you may wish to write to:

Pio Smith
Consultation Co-ordinator
Performance and Delivery Unit
Home Office
50 Queen Anne's Gate
London SW1H 9AT

SECTION 3 Proposals

Current Regulation

- 3.1 Fundraising is currently regulated in a number of different ways:
- a) specific statutory regulation which applies to of public collections fundraising for charitable, philanthropic or benevolent purposes, and the conduct of lotteries and raffles;
 - b) specific statutory regulation governing the relationships between fundraising organisations and professional fundraisers or commercial participators;
 - c) non-specific statutory (and non-statutory) regulations which apply to fundraising methods, for example data protection, advertising standards, direct mail
 - d) general non-specific statutory regulations which cut across sectors and methods but which may be relevant to fundraising, such as health and safety or national minimum wage;
 - e) limited self-regulation provided by sector umbrella bodies such as the Institute of Fundraising or the Public Fundraising Regulatory Association, both of which have Codes of Practice which members sign up to;

Research on public perceptions of fundraising

- 3.2 Little research has been published on the public's perception of fundraising. A 1998 research study by NCVO² found that, for many, the word charity was equated with 'fundraising', and the increasing competition between charities for scarce funds was viewed with scepticism. It also found that there was a perceived lack of information on which potential donors could base decisions, and a perceived lack of regulation and accountability, particularly in relation to fundraising.
- 3.3 Research on public concerns regarding charities published by NfP Synergy in 2004³ found that spending concerns topped the list; the main concerns were about the amount of a donation that goes to the charity or cause, and the costs of administration and staff salaries. Concerns over fundraising techniques (in descending order) were about direct mail, telephone calls at home, and door to door collections. Face to face (direct debit) fundraising on the street was mentioned as a concern by only 12% of respondents.

² "Blurred Vision: Research Quarterly 1", NCVO, 1998

³ "Disgusted or delighted: What does concern the public about charities?", nfp Synergy, March 2004

Background to the Regulation of Fundraising Scheme

3.4 The proposals for self-regulation of fundraising came out of the Prime Minister's Strategy Unit review of charities and the not-for-profit sector, undertaken in 2001-02.

3.5 The Strategy Unit made a recommendation for self-regulation of fundraising in its report "Private Action: Public Benefit"⁴. The Strategy Unit found that where fundraising organisations did not comply with the current system, this was largely because of a lack of awareness of their duties rather than deliberate avoidance or abuse. It suggested that as well as increasing awareness amongst fundraisers by acting as a single point of contact on fundraising regulation, a self-regulatory body could improve public awareness of fundraising, countering negative perceptions. It would also be able to cover the different aspects of fundraising with codes of good practice which would go beyond the minimum standards required by law. Its recommendation was as follows:

"Government should support, with seed-corn funding, a new fundraising body to develop the self-regulatory initiative. The body would become self-financing, perhaps by a small levy on donated income, although the method of financing would be a matter for the body itself. This would be based on a new voluntary Code of Practice designed to promote good practice in fundraising, and to raise awareness of the sector's commitment to good practice among the general public. The Home Secretary should be given the power to introduce statutory regulation, which he would exercise if he considers self-regulation to have been ineffective or inadequate."

3.6 There was strong support for this proposal on consultation, with 78% of the 152 respondents that commented on this recommendation favouring self-regulation over statutory regulation. However, many supporters questioned the need for self-regulation, given the work already done by existing bodies (such as the Institute of Fundraising). Another reservation expressed by many supporters of the proposal was that self-regulation should not be funded by a levy on donations. Most respondents were charities, or otherwise involved in fundraising. Notably, most local authorities that responded on this proposal felt that statutory regulation was required.

3.7 The Government, in its response to the Strategy Unit report⁵, accepted the Strategy Unit recommendation. It accepted that self-regulation should be the first resort in improving fundraising standards and practices, and agreed that there should be legislation enabling the Secretary of State to introduce statutory regulation, should self-

⁴ "Private Action: Public Benefit, a review of charities and the wider not-for-profit sector", Strategy Unit, September 2002

⁵ "Charities and Not-for-Profits: a modern legal framework", Home Office, July 2003

regulation fail. It identified some key advantages of self-regulation over statutory regulation, including; the involvement and commitment of the sector in devising and implementing the scheme, and the greater flexibility and adaptability of self-regulation over statutory regulation.

- 3.8 Self-regulation would sit alongside and complement existing statutory regulation, much of which the Strategy Unit recommended strengthening. It is not the intention that self-regulation replaces existing statutory regulation. The police will retain responsibility for tackling fraudulent or bogus fundraising. The Charity Commission's role as regulator of charities in England and Wales includes the protection of charitable funds. Under the proposals for the licensing of public collections in the Charities Bill, the Commission will have a new role in the statutory regulation of public collections. Local authorities will retain a key role in licensing and enforcement of public collections.
- 3.9 The Institute of Fundraising took the lead in developing the self-regulation scheme. In 2003, it established an independent Commission, the "Buse Commission", to investigate and consult on potential models for the scheme, and to identify the preferred model. The Buse Commission published its report in September 2003⁶, and went on to look at possible governance models.
- 3.10 Following the consultation and recommendations of the Buse Commission, a Steering Committee was established, chaired by the Charities Aid Foundation, acting as honest broker. It comprised representatives of from the Institute of Fundraising, the Public Fundraising Regulatory Association, the National Council for Voluntary Organisations, the Association of Chief Executives of Voluntary Organisations, the Scottish Council for Voluntary Organisations, the Charity Law Association, and the Charity Commission. The Steering Committee has now published details of how the self-regulatory scheme would work, which are available on the Institute of Fundraising's website (www.institute-of-fundraising.org.uk).

The Regulation of Fundraising Scheme (RFS)

- 3.11 The proposed RFS comprises three main elements:
- a) Standards,
 - b) Administration and control,
 - c) Membership scheme and complaints procedure,
- 3.12 The paragraphs below provide a brief summary of the proposals for the self-regulation scheme.

⁶ "The Future of the self-regulation of charity fundraising: phase I report", Buse Commission, September 2003 (www.busecommission.org.uk)

Donor's Charter and Codes of Practice

- 3.13 The RFS would initially adopt and disseminate the Institute of Fundraising's Codes of Fundraising Practice and Donors' Charter. The Donor's Charter presents a guarantee of what the public can expect from members of the self-regulation scheme, and the scheme itself. The RFS would seek improvements to the Codes of Practice, for example as a result of complaints about a particular type of fundraising, or as fundraising methodology evolves.
- 3.14 The Donors' Charter will explain to the public the existence and principles of the RFS, and the Codes of Fundraising Practice. It would also explain what the public could expect from members of the scheme, and how complaints should be raised and would be dealt with. It is expected that the RFS will initially use the Donors' Charter already developed and published by the Institute of Fundraising⁷.
- 3.15 The Institute-of-Fundraising has developed and publishes the Codes of Fundraising Practice. It urges fundraising organisations to adopt the Codes and commit to the standards within them. The Codes of Fundraising Practice are best described in the Institute's own words:

"The Codes of Fundraising Practice represent the standards set for fundraisers in the UK. Each Code covers a separate fundraising technique and provides not only information on areas of the law and guidance on the techniques themselves but also the best practice that the fundraising sector has set itself to ensure the highest standards."

Administration and Control

- 3.16 The RFS would be run by a council that has public representation through its Chair and the majority of council members. The voluntary sector and fundraising community would be in a minority role. Initially the RFS would be a part of the Institute of Fundraising in order to facilitate the rapid establishment of the scheme, however it would be intended to separate the two organisations within a declared timeframe and subject to funding issues.

Participation in the scheme and complaints procedure

- 3.17 Participation in the scheme would be open to any fundraising charity (or philanthropic or benevolent organisation), fundraising consultants and advisers, and professional fundraisers. Participation would not be restricted to or linked with membership of any other body, and

⁷ <http://www.institute-of-fundraising.org.uk/documents/Conor%27s%20Charter%202004.pdf>

organisations would apply directly to the RFS to participate. The fee structure would be graded to enable all types and sizes of organisation to join the scheme. Fees would enable the scheme to become self-financing over a period of several years.

3.18 Bodies applying to join the RFS would be required to provide evidence that their governing body had resolved to adhere to the rules of the scheme, including adhering to the Codes of Fundraising Practice, use of the scheme logo, providing information to donors, monitoring adherence to the Codes, establishing complaints procedures, submission of an annual return, agreeing to abide by the decisions of the scheme, and payment of the participation fee. In return the benefits would include the right to use the RFS logo, help and guidance from RFS including tool-kits and telephone advice, and access to an independent complaints structure.

3.19 There would be a formal complaints procedure, which would operate as follows:

- The first stage would involve the complainant writing to the body for which the funds were being raised.
- If dissatisfied with the response to that complaint, the complainant could then complain to the RFU. The RFU would acknowledge receipt of all complaints, provide details of the RFS complaints procedure, and sift those complaints that relate to the RFS from those that do not. Where a complaint does not relate to the RFS (for example it might raise other legal or regulatory issues), then the RFU would still reply to the complainant informing them of this and advising of any alternative avenues that they might consider (for example contacting the Charity Commission). Eligible complaints would be dealt with by RFU staff, which would write to both the complainant and the body subject to the complaint with the outcome of the complaint, and the action or sanction (if any) arising from the complaint.
- Where the complainant or the body subject to the complaint dispute the determination of the complaint by the RFU, then they may request that the complaint be reviewed by an Independent Complaints Reviewer (ICR). The ICR would report back to the RFS Council, which may include recommendations for action in relation to the complaint, or more generally for example to one of the Fundraising Codes.

3.20 The RFS Council would consider the ICR's report and accept its findings as independent and impartial. A summary of the determination would be sent to both parties, and published on the RFS website.

3.21 All stages of the complaints process would be monitored and reported

against. Where complaints recur on a particular method of fundraising, the RFS Council may also liaise with the Institute of Fundraising concerning changes to the relevant Code(s).

Reserve Power for Statutory Regulation

- 3.22 Clause 65 of the Charities Bill published in December 2004, and currently before Parliament, provides a reserve power for the Home Secretary to make regulations to control fundraising by charities. The intention is that this clause would only be used should the self-regulation of fundraising fail.
- 3.23 Much of the evidence to the Joint Committee on the draft Charities Bill supported self-regulation, and the need for a reserve power for the Home Secretary to intervene should it fail. However, 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.

Performance Indicators

- 3.24 This paper does not present specific targets for determining the success of the RFS, rather it sets out for consultation what the Government expects from the scheme, and how that could be measured when the Government is considering the scheme's success. It is envisaged that there will be specific targets within the broad headings identified below. The assessment of the scheme's success against the criteria would take into consideration external factors at the time of the assessment. It is also considered that over time the RFS should develop ways of monitoring and assessing its own performance, and report against these.
- 3.25 The principal aim of the scheme is to maintain high levels of public confidence in fundraising, through encouraging best practice, raising awareness, ensuring an effective response to complaints, and sanctions for non-compliance. Public confidence in the charity sector is already high; research conducted by nfp Synergy in July 2003 into public confidence placed charities third behind 'armed forces' and 'schools' out of 16 types of public institutions⁸.
- 3.26 It is right to bring in self-regulation at a time when public confidence in charities is high, as it will guard against a collapse in confidence, and will provide the sector with a platform from which it can robustly defend

⁸ www.nfpsynergy.net

itself against criticism. Waiting until a crisis which threatened, or had already damaged, the public's confidence in fundraising before tackling the problem could be leaving it too late.

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?

3.27 Criteria for assessing the scheme's effectiveness should reflect the Government's expectations of the scheme:

- The scheme will need to attract high levels of voluntary participation across the sector, although it is appreciated that it will take time to build up levels of participation. Participation should reflect the diversity of the sector.
- The scheme, and its members, must provide the public with a clear guarantee of what they can expect from fundraisers who are members of the scheme, and from the scheme itself. The Codes of Practice underpinning the scheme should go beyond requiring compliance with the law, and should set a high standard of good practice.
- The scheme and its members should encourage awareness amongst non-members and the public of the scheme's existence, and good fundraising practice.
- The scheme should promote openness, transparency, and accountability in fundraising practice.
- The control of the scheme must be independent and impartial. It must include consumer representatives on its governing body, and this representation should be real, not token.
- Compliance with the scheme must be monitored and reported.
- There must be effective and meaningful sanctions for non-compliance, which are proportionate to the nature and extent of any non-compliance.
- The scheme must have a clear and effective complaints handling procedure, which is easily accessible to the public, and which provides fair redress.
- The scheme should work effectively with other regulators, where issues are outside its remit.
- The scheme must be accountable through the publication of an annual report, which details the scheme's performance.
- The scheme should identify emerging trends in fundraising practice, and the public's perception of it, and be sufficiently flexible to quickly adapt and evolve Codes of Practice where necessary.
- The scheme should develop its own meaningful performance indicators, and report against these in its annual report.
- The scheme should minimise the regulatory burden to its members.

Each of these points is addressed in more detail below.

Participation

- *The scheme will need to attract high levels of voluntary participation across the sector, although it is appreciated that it will take time to build up levels of participation. Participation should reflect the diversity of the sector.*

The number of fundraising organisations covered by the scheme

3.28 This will be a key indicator of the success of the scheme. Research undertaken for the Institute of Fundraising has identified a core market of approximately 24,000 charities which are actively involved in fundraising activity. Coverage in this context would include the number of fundraising organisations that are members of the scheme, or smaller organisations that are covered by an umbrella or national organisation which is a member of the scheme and has undertaken to monitor their compliance.

The range of fundraising organisations covered by the scheme

3.29 The diversity of the fundraising sector must be recognised. For the scheme to be a success it must be accessible to all types of fundraising organisation, regardless of the size of the organisation, the areas it operates in, or the causes it pursues.

3.30 Initially the scheme's emphasis may be on signing up the top fundraising charities, to ensure that a good proportion of fundraising income is covered. However, as the scheme develops it will be important for it to develop the extent to which coverage includes medium-sized and smaller fundraising organisations, and organisations from particular sub-sectors. The RFS Council would be expected over time to monitor and report on the scheme's reach into different market segments, in terms of size of organisation, geographical area, and particular sub-sectors of fundraising organisation (for example educational institutions, arts charities, etc.).

The proportion of fundraising organisations' fundraised income covered by the scheme

3.31 The segmentation of the sector is an important consideration here. It

may be relatively straightforward to recruit at an early stage a small number of organisations that represent a significant proportion of sector income. It is likely to be more difficult to attract the very large numbers of small organisations which between them make up a smaller proportion of overall sector income.

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

Public Guarantee, Standards, and awareness of the scheme

- *The scheme, and its members, must provide the public with a clear guarantee of what they can expect from fundraisers who are members of the scheme, and from the scheme itself. The Codes of Practice underpinning the scheme should go beyond requiring compliance with the law, and should set a high standard of good practice.*
- *The scheme and its members should encourage awareness amongst non-members and the public of the scheme's existence, and good fundraising practice.*
- *The scheme should promote openness, transparency, and accountability in fundraising practice.*

Public Guarantee and Standards

3.32 The RFS envisages using and developing a "Donor's Charter", which would be a public promise about what the public should expect from the members in their fundraising activities, and what they should expect from the self-regulation scheme. This needs to be sufficiently robust to give the public confidence in fundraising practice, and the knowledge that should something go wrong, they can rely on the self-regulation scheme to treat a complaint fairly and impartially, and if necessary apply appropriate and proportionate sanctions.

3.33 The standards which underpin the public guarantee need to do more

than require compliance with the law. They should reflect a high standard of fundraising practice. They should reflect the public's concerns about fundraising practice, encourage openness and transparency, and should evolve as fundraising methodology evolves.

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

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?*

Awareness and perception of the scheme

- 3.34 For the scheme to be judged a success, it will need to be recognised as an effective self-regulation scheme, within the sector, by other regulators, and by the public.
- 3.35 The Strategy Unit found that where fundraising organisations did not comply with existing regulation, this was largely due to a lack of awareness of requirements, rather than a deliberate avoidance or abuse. So one of the first objectives of the scheme will be to improve awareness of the regulations governing fundraising within the sector itself, to both members and non-members.
- 3.36 The Strategy Unit also found that work needs to be done to address the lack of public awareness and understanding of fundraising. It saw one of the roles of the self-regulation scheme as countering negative perceptions of fundraising which may arise from media coverage of rare cases of abuse or fraud. In order to achieve this, the public will need to be aware of the self-regulation scheme and its purpose.
- 3.37 Use of the scheme's logo demonstrates to the public the member organisations' commitment to the "Donors' Charter" and codes of good practice. Over time it should be possible to monitor the number of fundraising organisations using the scheme's logo, and the extent to which member organisations disseminate information about the scheme to donors and the public. Public awareness of the scheme could also be monitored by the number of general enquiries received by telephone, e-mail, and post, the number of complaints received, and the extent of press coverage the scheme receives.
- 3.38 Research has indicated that one of the public's main concerns with fundraising is about openness and transparency. Donors want to know that the money they donate is going to the cause to which they gave.

The scheme will have an important role in educating the public about fundraising, and the fact that a proportion of their donation is used for administration or re-invested in future fundraising appeals. Members of the scheme should lead the way in the sector in openness and transparency in this respect.

- 3.39 One measure of the success of the scheme will be in its value to other organisations, such as funders and other regulators. Participation in the self-regulation scheme should provide a reliable assurance about the fundraising activities and practices of member organisations. The scheme should therefore be encouraged by funders and other regulators, and a measure of its success will be the extent to which these organisations promote participation in the scheme, and take it into consideration in their decision-making.

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?*

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

Effectiveness of the scheme in spreading good practice to organisations not covered by the scheme

- 3.40 The scheme may have a positive impact on the practices of fundraising organisations which are not members of the scheme, as it is envisaged that the scheme's material will be publicly available. The impact of the scheme on non-members could provide an indication of the scheme's success. However the RFS would not be able to impose sanctions on non-members, and including an assessment of the impact of the scheme on non-members might act as a potential disincentive to join the scheme.

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?*

Independence and Impartiality

- *The control of the scheme must be independent and impartial. It must include consumer representatives on its governing body, and this representation should be real, not token.*
- 3.41 It is proposed that the RFS will be located within the Institute of Fundraising, and will (initially at least) use the Institute's "Donors' Charter" and codes of practice.
- 3.42 For the scheme to be judged a success it must not promote the interests of the fundraising sector above the interests of the public. The RFS Council must be, and be seen to be, independent and to act impartially in dealing with complaints and applying sanctions. The Council must therefore have sufficient independent representation to enable it to rebut allegations that it is promoting the interests of the fundraising sector, for example through setting low standards, not tackling the issues of public concern, or failing to apply appropriate sanctions.
- 3.43 In setting the standards, the RFS Council must consider the public's concerns about fundraising methods and practice, and ensure that these are addressed.

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?*

Compliance, Complaints, and Sanctions

- *Compliance with the scheme must be monitored and reported.*
- *There must be effective and meaningful sanctions for non-compliance, which are proportionate to the nature and extent of any non-compliance.*
- *The scheme must have a clear and effective complaints handling procedure, which is easily accessible to the public, and which provides fair redress.*

The extent of awareness and compliance by organisations covered by the scheme

- 3.44 The scheme must have proper mechanisms in place for monitoring compliance. Initially this might simply be a letter from the Chair and Chief Executive of fundraising organisations attesting to their

compliance with the scheme. As the scheme develops a more sophisticated approach would be expected. Members' annual returns should indicate the number and type of complaints dealt with. Another indicator of compliance could be the proportion of annual returns submitted by the deadline.

- 3.45 The use of mystery shoppers is a cost effective way of monitoring compliance. Their use could be targeted to areas of particular risk, for example in areas where it becomes apparent that the public has particular concerns, or where routine monitoring indicates that compliance is poor.
- 3.46 Other ways of monitoring compliance, which could be considered as the scheme develops include the extent to which non-compliance is followed up, including the imposition of sanctions where appropriate. Similarly, the use of the telephone advice line, and advice workshops on the dissemination of best practice could be monitored and reported against.

Meaningful Sanctions

- 3.47 If the scheme is to be credible to the public, it must have a range of effective sanctions that it can use where non-compliance is identified, either through routine monitoring or the complaints process. These sanctions must be proportionate and appropriate to the nature and extent of the non-compliance. Sanctions should include measures which seek performance improvement, such as action plans, or "naming and shaming" non-compliant organisations. For more serious matters, suspending or expelling organisations from the scheme should be available options. Sanctions should not be imposed against an organisation without it having an opportunity to make representations to the RFS Council.

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?

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?

An effective response to complaints

- 3.48 The scheme should ensure that the complaints process is easily accessible to the public. The process should be fair and impartial. It should not be bureaucratic, and should provide complainants with a timely response to their complaints.
- 3.49 Performance indicators related to the handling of complaints should include the numbers of complaints received, analysed by fundraising method. It will be important to measure the number and proportion of complaints that are resolved at the various stages, and the average time taken to deal with complaints. This will provide a measure of the effectiveness of the complaints process.
- 3.50 Feedback on the outcome of complaints can be biased, as one party can still feel aggrieved if the complaint was not resolved to their liking. However the information should still be recorded. Feedback from complainants and member organisations on their experience of the complaints process itself will be valuable.
- 3.51 A reduction in the number of complaints would not necessarily provide an indicator of the scheme's success, particularly in the scheme's early years. Complaints may increase as a result of the scheme generating public awareness through promotional work.

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

Effective Liaison with other regulators

- *The scheme should work effectively with other regulators, where issues are outside its remit.*

Effective liaison with other regulators and independence of the scheme

- 3.52 Self-regulation will not enforce the law by tackling bogus fundraising or fraud, but as well as driving up standards and practice within the sector, it will help to expose those organisations that do not follow good practice. Liaison with other regulators will therefore be important.
- 3.53 There are diverse methods of fundraising involving different regulators. These include, direct mail, telephone canvassing, street collections, television and radio advertising, for which there are a number of different regulators. The role of the RFS will be limited, and in some cases complaints received by the scheme would be more appropriate

to statutory regulators. In these circumstances complainants would be directed to the relevant regulator. Effective liaison arrangements will be required with these other regulators, and monitoring of the complaint's progress and resolution with the relevant regulator.

- 3.54 Performance criteria could include; the development of protocols for joint working with other regulators, figures on the number of complaints directed to other regulators, and the monitoring of responses to complaints that had been directed to other regulators.
- 3.55 Self-regulation goes hand in hand with improving the statutory regulation of public collections. The Charities Bill introduces a new regulatory scheme for licensing public collections, which aims to maintain high levels of public confidence. In consultation and pre-legislative scrutiny evidence has suggested that enforcement of the law is patchy. The self-regulation scheme should promote enforcement of the law, and the tackling of fundraising abuse.

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?

Accountability and reporting

- *The scheme must be accountable through the publication of an annual report, which details the scheme's performance.*
- *The scheme should identify emerging trends in fundraising practice, and the public's perception of it, and be sufficiently flexible to quickly adapt and evolve Codes of Practice where necessary.*
- *The scheme should develop its own meaningful performance indicators, and report against these in its annual report.*

Effective monitoring and reporting

- 3.56 The RFS should be committed to monitoring its own performance, and to continuous improvement in service delivery. It will be expected to publish an annual report detailing the scheme's operation each year, and its proposals for the forthcoming year. This would include reporting against specific targets, and use of performance indicators such as those identified in this paper, but would also look at the development of new performance indicators, and at areas where the scheme could be improved.
- 3.57 The scheme's annual report should include an analysis of changes in fundraising methods and practice, and the public's perception of these.

It should identify how the scheme proposes to tackle these issues in its forthcoming year.

- 3.58 The RFS Council should assess the appropriateness of performance indicators set, ensure that any research or performance monitoring was robust, and make recommendations about how future performance could be better monitored and evaluated.

Q.15. 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?

Regulatory Burden

- *The scheme should minimise the regulatory burden to its members.*
- 3.59 The RFS Council should assess the regulatory burden of the scheme to its members. This should include an impact assessment of the costs and benefits of the scheme. Reporting and monitoring requirements for members, should aim to keep the burden of regulation to a minimum.

Q.16 What will be the regulatory impact on organisations participating in the scheme? Would statutory regulation present a greater regulatory burden?

Undertaking the Review

- 3.60 The Charities Bill specifies neither when nor how often the Home Secretary would review the effectiveness of the self-regulation scheme. It will be difficult to make an assessment of the success of the scheme against some of the criteria detailed in this paper in its early stages, whilst it is in the process of building up participation. However, there will be some criteria, particularly those around building up participation and awareness that could usefully be measured in the initial few years of the scheme's operation.
- 3.61 It is proposed that there will be specific targets for the numbers of organisations (by income), which the self-regulation scheme signs up to participate in its first years. These targets would be reviewed annually.
- 3.62 The annual report of the RFS will assess its performance against targets, and identify areas where further work needs to be undertaken – for example, where a particular class of charity is under-represented

in the scheme's participants. Similarly, over time, the RFS may identify new performance criteria which could be used to demonstrate the scheme's progress

- 3.63 One of the recommendations of the Joint Committee on the draft Charities Bill⁹ was that the Home Office conduct a review of the impact of the legislation no later than five years following enactment, and report to Parliament. This would provide a sensible opportunity to formally review and report on the success of the self-regulation scheme, and whether statutory regulation would be required.

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?

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?

Home Office
March 2005

⁹ "The draft Charities Bill", The Joint Committee on the draft Charities Bill, September 2004, HL Paper 167-I, HC 660-I