

Consultation response form

Consultation on draft Code 15

Please complete this form in full and return by email to consultations@psauthority.org.uk or by post to Barbara Limon, Phone-paid Services Authority, 40 Bank Street, London, E14 5NR.

Full name	Charlotte Sherman
Contact phone number	07862026352
Representing	Organisation
Organisation name	Chartered Institute of Fundraising
Email address	charlottes@institute-of-fundraising.org.uk

If you wish to send your response with your company logo, please paste it here:



We plan to publish the outcome of this consultation and to make available all responses received. If you want all or part of your submission to remain confidential, please clearly identify where this applies along with your reasons for doing so.

Personal data, such as your name and contact details, that you give/have given to the PSA is used, stored and otherwise processed, so that the PSA can obtain opinions of members of the public and representatives of organisations or companies about the PSA's subscriptions review and publish the findings.

Further information about the personal data you give to the PSA, including who to complain to, can be found at psauthority.org.uk/privacy-policy.

Confidentiality

We ask for your contact details along with your response so that we can engage with you on

this consultation. For further information about how the PSA handles your personal information and your corresponding rights, please see our [privacy policy](#).

<p>Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential?</p>	Nothing
<p>Your response: Please indicate how much of your response you want to keep confidential.</p>	None
<p>For confidential responses, can the PSA refer to the contents of your response in any statement or other publication? Your identity will remain confidential.</p>	Yes

Your response

Please enter your response to each of the consultation questions in the appropriate box below.

Consultation questions	Your response
Proposed regulatory approach	
<p>Q1 Do you agree with our proposed regulatory approach relating to regulatory standards and requirements? Please provide an explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p>We support the introduction of standards into the code and agree with the themes (integrity, transparency, fairness, customer care, vulnerable consumers, consumer privacy, prevention of harm and offence) the PSA has adopted. These mirror the values of fundraisers and charities.</p>
<p>Q2 Do you agree with our proposed regulatory approach relating to service-specific requirements? Please</p>	<p>Confidential? Yes/No (delete as appropriate)</p>

provide an explanation as to why you agree or disagree.	
Q3 Do you agree with our proposed regulatory approach relating to Guidance? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q4 Are there any areas where you consider that Guidance would assist with compliance with the standards and requirements?	Confidential? Yes/No (delete as appropriate)
Q5 Do you agree with our proposed regulatory approach relating to compliance support? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q6 Do you agree with our proposed regulatory approach relating to Best Practice information? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q7 Are there any areas where you consider that Best Practice information would be helpful?	Confidential? Yes/No (delete as appropriate)
Q8 Do you agree with our proposed regulatory approach relating to supervision and verification? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q9 Do you agree with our proposed regulatory approach relating to Code compliance: engagement and enforcement? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q10 Do you agree with our proposal to tailor our approach to regulation, including introducing Bespoke and General permissions as part of the draft Code? Please provide an	Confidential? Yes/No (delete as appropriate)

explanation as to why you agree or disagree.	
Q11 Do you have any comments about the existing permissions and exemptions under Code 14 and/or our proposed approach to ensuring certainty and clarity on their status under Code 15?	
Q12 Do you agree with our proposed regulatory approach to prior permissions? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Standards and requirements	
Q13 Do you agree with our proposed Integrity standard and requirements? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q14 Do you agree with our assessment against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?	Confidential? Yes/No (delete as appropriate)
Q15 Do you agree with our proposal to introduce a new transparency standard? Please provide an explanation as to why you agree or disagree?	Confidential? Yes/No (delete as appropriate)
Q16 Do you agree with our assessment of the transparency standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?	Confidential? Yes/No (delete as appropriate)
Q17 Do you agree with our proposal to introduce a new fairness standard? Please provide an	Confidential? Yes/No (delete as appropriate)

<p>explanation as to why you agree or disagree?</p>	
<p>Q18 Do you agree with our assessment against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?</p>	<p>Confidential? No</p> <p>Although we agree with the intention behind this new standard, we are concerned that some of the new proposals will impact donor experience and donations, in particular, point 3.3.11 which requires consumer consent to be established every 12 months. Our members are very concerned about the negative impact this will have on the income from regular donations via text and donor experience.</p> <p>We appreciate that this decision was not taken lightly and is based on research with Jigsaw Research that found consumers are open to additional steps when signing-up to subscription services¹ and guidance from the Competition & Markets Authority. Nevertheless, we feel that neither of these pieces of research account for differences between donating to a cause and paying for a service. Between 2019-2020, only 35 charities reported 130 complaints regarding SMS donations to the fundraising regulator, which has decreased by 22% from last year². What’s more, the complaints were not related to signing up in error or donors misunderstanding what they were signing up to, showing us that whilst that is a concern for consumers, this is not the case for donors. Equally, the CMA’s guidance is designed to protect consumers from the loyalty penalty, as supporters are not paying for a service, this is not applicable to charity donations.</p> <p>In addition, other regular payment mechanisms such as direct debits, or subscription services for newspapers or streaming do not require consent to be provided every 12 months – even though these will be likely to be of higher value payments compared to text giving. We question the need to introduce a need to establish consent every 12 months for this service when it is not part of the normal experience of consumers who use a range of regular payments methods in their day to day lives.</p> <p>We believe there are a number of alternatives that could help protect donors without negatively impacting</p>

¹ PSA review of Phone-paid Subscriptions, *PSA and Jigsaw Research*, <https://psauthority.org.uk/-/media/Files/PSA/00NEW-website/Research-and-consultations/Research/Jigsaw-consumer-research-19-Feb-2019.pdf?la=en&hash=730898B16BF2197325361FDF6D645D0AF58A8BF4>

² Annual Complaints Report, *Fundraising Regulator*, <https://www.fundraisingregulator.org.uk/sites/default/files/2020-12/Annual-Complaints-Report-2019-20.pdf>

	<p>charities' income. Members feel the current requirement to remind donors on a monthly basis that a donation will be made, which includes options to stop and skip, is sufficient to allow them to opt-out. Should you feel there is still a need for an additional confirmation every 12 months, we recommend adopting a similar 'opt-out' method that mirrors these monthly reminders as this will keep the messaging to donors consistent.</p> <p>Having consulted with our members, we are concerned that should you choose to move forward with this proposal, charities will no longer see regular giving via text as a viable source of income, meaning some will reduce their investment in these areas whilst others will not adopt it altogether. This would be a disappointing outcome for both fundraisers and the PSA and we urge you to consider our suggested alternatives.</p>
<p>Q19 Do you agree with our proposal to introduce a new customer care standard? Please provide an explanation as to why you agree or disagree?</p>	<p>Confidential? Yes/No (delete as appropriate)</p>
<p>Q20 Do you agree with our assessment of the proposed new customer care standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view</p>	<p>Confidential? No</p> <p>We agree with the new standard and believe that it will improve public trust in both the commercial and non-profit sectors. However, returning donations is regulated by the Charity Commission and therefore overlaps with points 3.4.12-3.4.16 regarding refunds. Given supporters are donating relatively low amounts, between £5-£10, we do not see your requirements clashing with current guidelines; we simply ask that you include a provision that states returning donations must be in-line with the Charity Commission's processes to avoid confusion.</p>
<p>Q21 Do you agree with our proposal to introduce a new vulnerable consumers standard? Please provide an explanation as to why you agree or disagree?</p>	<p>Confidential? Yes/No (delete as appropriate)</p>
<p>Q22 Do you agree with our assessment of the proposed new vulnerable consumers standard against the general principles which</p>	<p>Confidential? No</p> <p>Protecting vulnerable supporters is very important to the charity sector. The Code of Fundraising Practice includes specific guidance on treating</p>

<p>we set out in the discussion document? Do you have any further information or evidence which would inform our view?</p>	<p>donors in vulnerable circumstances fairly³ and the Charities Act 2016 includes legal requirements to protect people in vulnerable circumstances⁴, such as including statements in their annual report on how a charity has protected donors in vulnerable circumstances. At the moment your proposals do not contradict any of these regulations, however, we ask that you recognise them and make provisions to support charities in the event of regulation changing.</p>
<p>Q23 Do you agree with our proposal to introduce a new consumer privacy standard? Please provide an explanation as to why you agree or disagree?</p>	<p>Confidential? Yes/No (delete as appropriate)</p>
<p>Q24 Do you agree with our assessment of the proposed new consumer privacy standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?</p>	<p>Confidential? Yes/No (delete as appropriate)</p>
<p>Q25 Do you agree with our proposal to introduce a new prevention of harm and offence standard? Please provide an explanation as to why you agree or disagree?</p>	<p>Confidential? Yes/No (delete as appropriate)</p>
<p>Q26 Do you agree with our assessment of the proposed new prevention of harm and offence standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?</p>	<p>Confidential? Yes/No (delete as appropriate)</p>
<p>Q27 Do you agree with our proposal to introduce a new organisation and service information standard? Please</p>	<p>Confidential? Yes/No (delete as appropriate)</p>

³ The Code of Fundraising Practise, *The Fundraising Regulator*, <https://www.fundraisingregulator.org.uk/code/all-fundraising/behaviour-when-fundraising>

⁴ Charities (Protection and Social Investment) Act 2016, *The Charity Commission*, <https://www.legislation.gov.uk/ukpga/2016/4/contents/enacted/data.htm>

provide an explanation as to why you agree or disagree?	
Q28 Do you agree with our assessment of the proposed new organisation and service information standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?	<p>Confidential? No</p> <p>We understand why a comprehensive registration process in this area is necessary for the private sector, given the fast-growing number of organisations in this space. Regarding charity registrations, we request that you include charities in point 3.8.9 as one of the categories exempt from registration and from re-registering every 12 months. Charities already go through a rigorous registration process by the Charity Commission which includes giving detailed information on governance and finances, we therefore feel that if an organisation has a valid charity number, this should be sufficient proof that they are meeting your organisational standards.</p>
Q29 Do you agree with our proposal to introduce a new DDRAC standard? Please provide an explanation as to why you agree or disagree?	Confidential? Yes/No (delete as appropriate)
Q30 Do you agree with our assessment of the proposed new DDRAC standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?	Confidential? Yes/No (delete as appropriate)
Q31 Do you agree with our proposal to introduce a new systems standard? Please provide an explanation as to why you agree or disagree?	Confidential? Yes/No (delete as appropriate)
Q32 Do you agree with our assessment of the proposed new systems standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?	Confidential? Yes/No (delete as appropriate)

Supervision	
Q33 Do you agree with our proposed general approach to supervision? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q34 Do you agree with our proposed compliance monitoring methods? Please provide an explanation as to why you agree or disagree.	Confidential? No Although our members support improved compliance and monitoring in this area and believe that it will protect donors and consumers, they have raised with us that they are unclear on their responsibilities. Smaller charities in particular often do not have compliance teams, meaning due diligence can be timely and costly. Although they are keen to be compliant, they want to do efficiently, we therefore ask that you provide clarification on the responsibilities of the charities and the responsibilities of their service providers.
Q35 Do you agree with our proposals on reporting and notification requirements? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q36 Do you agree with our assessment of our proposed new supervisory function against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?	Confidential? Yes/No (delete as appropriate)
Engagement and enforcement	
Q37 Do you agree with our proposed approach on engagement and enforcement? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q38 Do you agree with our proposed changes to settlement?	Confidential? Yes/No (delete as appropriate)

Please provide an explanation as to why you agree or disagree.	
Q39 Do you agree with our proposals to strengthen the existing interim measures regime? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q40 Do you agree with our proposals to introduce a new “single decision maker” as an alternative to the full Tribunal for more straightforward cases? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q41 Do you agree with our proposal to reduce the range of circumstances in which a provider can request an oral hearing? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q42 Do you agree with our proposal to expand the test for prohibiting a relevant individual from the industry? Please provide an explanation as to why you agree or disagree	Confidential? Yes/No (delete as appropriate)
Q43 Do you agree with our proposal to strengthen and expand our information gathering powers (including for the purpose of supervision/engagement and enforcement)? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q44 Do you agree with our provisional assessment of our proposals relating to: (i) engagement and enforcement proposals; and (ii) additional powers, responsibilities and obligations – against the general principles which we set out in the	Confidential? Yes/No (delete as appropriate)

discussion document? Do you have any further information or evidence which would inform our view?	
Other general Code considerations	
Q45 Do you agree with our proposals on general funding arrangements? Do you have any further information or evidence which would inform our assessment of our proposals on general funding arrangements?	Confidential? Yes/No (delete as appropriate)
Q46 Do you agree with our proposals on amending our current terminology to better reflect the current phone-paid services value chain? Please provide an explanation as to why you agree or disagree?	
Q47 Do you agree with our proposal to retain the rules of the current Notice of specific service charges and durations of calls within Annex 1 of Code 15? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q48 Do you agree with our proposal to include a broad amendment power in Code 15 to facilitate more efficient amendments to single or small numbers of specific Code provisions? Please provide an explanation as to why you agree or disagree.	
Impact assessment	
Q49 Are there other impacts which we have not considered in relation to our proposal to move from a regulatory approach based on outcomes to one based on standards? If so, please provide	Confidential? Yes/No (delete as appropriate)

appropriate evidence of the likely impact of the change.	
Q50 Are there other impacts which we have not considered in relation to our proposal to focus on prevention of harm rather than cure? If so, please provide appropriate evidence of the likely impact of the change.	Confidential? Yes/No (delete as appropriate)
Q51 Are there other impacts which we have not considered in relation to our proposal to move to a new Code which is simpler and easier to comply with? If so, please provide appropriate evidence of the likely impact of the change.	Confidential? Yes/No (delete as appropriate)
Q52 Are there other impacts which we have not considered in relation to our proposed changes to our investigations and sanctions policies and procedures? If so, please provide appropriate evidence of the likely impact of the change.	Confidential? Yes/No (delete as appropriate)
Equality impact assessment	
Q53 Do you agree with our provisional assessment on the impact of our proposals in relation to equality? Do you have any further information or evidence which would inform our view?	Confidential? Yes/No (delete as appropriate)
Next Steps	
Q54 Do you agree with our proposal to set out transitional arrangements that allow the new Code procedures to apply from the commencement date to all investigations and/or complaints or monitoring which commenced under Code 14?	

Submit your response

To send your responses to the PSA please email this completed form to consultations@psauthority.org.uk or by post to Barbara Limon, Phone-paid Services Authority, 40 Bank Street, London, E14 5NR.