

# **FUNDRAISING PREFERENCE SERVICE**

## **FINAL RECOMMENDATIONS**

July 2016

### **Report from the FPS Working Group**

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## Foreword

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Fundraising is core to the activities of charities, campaign groups and others whose work is part of so much that is good. The Report on “Regulating Fundraising for the Future” published in September 2015 highlighted this, while making several recommendations on how the regulatory framework needed to improve. One recommendation was the creation of a Fundraising Preference Service (FPS), as a way to provide the public with a means to stop unwanted fundraising communications. In December 2015 I was asked to chair a working group tasked with developing this recommendation, and specifically to consider how such a service should be designed and operated.

The recommendations in this report are based on the views expressed and lessons learnt during a number of conversations held with the sector, and on the experience of the working group members not only as fundraisers themselves but also as recipients of fundraising communications. Our thinking and assumptions were also tested with the public, through a series of focus groups held across the country. We were delighted by the willingness shown by all quarters to offer information, ideas and opinions.

Our focus has been on the practicalities of delivering a FPS. We have not revisited the rationale for an FPS, or the arguments against it.

The working groups’ assessment is that a FPS, if built on the right lines, could be an important piece of a wider programme of change to build and maintain confidence in fundraising. The group think a FPS can play a valuable role for those individuals who do not want to receive fundraising communications, particularly those who might feel pressurised or overwhelmed by the amount of asks accumulated through time and unable to address this with fundraisers individually.

Within our Terms of Reference some key phrases came to the fore, in particular “giving the public greater control over their interactions”, and “guarding against unintended consequences”. Our proposals aim to be proportionate, and practical. They focus on core channels, on fundraisers who operate on a significant scale, on fundraising communications as opposed to other communications, on the idea of providing an individual as well as universal opt-out, and on ensuring there is a way to test the intentions of those who were donors and who register with a FPS.

A FPS built as a proportionate and nuanced tool would be beneficial to both donors and fundraising organisations:

- Donors would be able to stop fundraising communications they do not want to receive, but would have the power thereafter to give whatever consents they chose to engage with fundraising organisations.
- Fundraising organisations will be able to identify those individuals who will not respond positively to asks, and therefore minimise the unnecessary costs that result by making these asks.
- Fundraisers would also be able to check-in with any donors who might have registered with FPS, to clarify whether they intended to end this relationship.

In its discussions about fundraising communications, the working group agreed that these should be communications designed to generate funds, and flagged the importance of focussing on the purpose of communications, suggesting one might test what a “reasonable person“ would think of the communications.

We similarly hope all the proposals pass this test of reasonableness: one that balances the wishes of fundraisers and the public, that focuses on certain channels and on fundraising above a certain level. In particular, we hope the public will understand and be satisfied by our proposals.

Operationally, the group’s proposals seek to keep things simple: encouraging online registrations wherever possible, providing user-friendly messages to maximise understanding and satisfaction levels, ensuring straightforward and meaningful validation and subscription, and aiming to provide FPS data on a daily basis in ready to use format.

We have made a rough estimate of cost. No national service of this kind can be set up on a shoestring, but we hope that – as we have proposed it – fundraisers will see the FPS as a service that may offer genuine benefit and good value, not only immediately but also over time.

Our approach has not differentiated between particular types of organisations or specific activities. Although we acknowledge and agree that each relationship between a fundraising organisation and its donors (and potential donors) is unique, we thought it important to take a principled approach and keep sight of the big picture. Fundraising communications are those where the purpose is to raise funds. And this does not seem to be different within specific sectors. It is only for practical purposes that we concluded to limit the remit of the FPS to fundraisers above a certain threshold.

When the FPS was first proposed, there was obvious and understandable concerns from many fundraisers and fundraising organisations about what its impact would be. The appointment of this working group was a way of showing that these concerns were being listened tom and the actual establishment of the FPS would happen in consultation with the sector.

Some have assumed that the challenges surrounding the FPS are impossible to address, and that the only solution is the idea of a complete re-set button.

We hope our recommendations and the thought that has gone into them mean that we have delivered something better.

**George Kidd, Chair**

A handwritten signature in black ink, appearing to read 'George Kidd', with a large, sweeping flourish extending from the end of the signature.

## Executive Summary

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This report outlines the recommendations that have been agreed by the FPS working group, and which will be submitted to the board of the Fundraising Regulator for its consideration.

The task of the working group was to make recommendations on how the FPS should be set up and operate in practice. Its main challenge has been to balance the concept of the FPS as a re-set mechanism at the point of registration, with the wish to avoid unintended consequences, the most concerning being the end of fundraising communications by entities from which the registrant did not want to lose contact.

This challenge runs throughout all the key issues identified by the working group as relevant to the creation of the FPS:

- What type of communications it should apply to.
- Which organisations it should apply to.
- Which channels it should apply to.
- How long an FPS registration should last, given that people's circumstances and choices change over time.
- The amount of choice that should be offered to users.
- How to balance the need to protect vulnerable individuals from overwhelming fundraising communications, with the need to respect the rights and decisions of the vulnerable.

The main cause of unintended consequences, and therefore of concern, was seen by all stakeholders to be the requirement that someone going to the FPS would be asked at the point of registration whether they would want to exclude particular fundraisers from their re-set.

The working group is therefore recommending a model based on the idea that charities and other organisations with an existing fundraising relationship with the registrant should have the opportunity to make contact, enabling them to clarify whether the FPS registration was indeed intended to cover them in light of this direct relationship.

Under this approach, individuals registering with the FPS would do so on the basis that this is a "preferences re-set" mechanism. Registrants would not be asked at the point of registration whether they wanted to exempt any particular charity or other fundraising organisation. They would, instead, be told that - as part of completing an understanding of their preferences - their registration will be reported to fundraisers and they might be approached by entities they have given to in the past to clarify the status of the relationship in light of the registration.

This model of FPS:

- Should apply on the basis of the type of fundraising undertaken (direct marketing) and the level of expenditure on such activity, as a reasonable indicator of the volume of activity.
- Should have its own definition of what constitutes a 'fundraising communication', based on communications where the core purpose is to raise funds.
- Should not apply to communications where the core purpose is not fundraising.
- Should be based on individual entities rather than households.
- Should focus on core channels of communications: telephony, mail, texting and e-mail.
- Should provide a signposting function to existing preference services such as the TPS and MPS.
- Should allow registration by a third party of vulnerable individuals only where that third party has the necessary Power of Attorney or equivalent.
- Should not prevent registrants to give fresh consent to being contacted at any point after FPS registration by engaging with charities and other fundraising organisations, which will therefore be able to get in touch for fundraising purposes.
- Should provide a registration that is time-capped to two years.

The working group has also considered the operational issues raised by establishing the FPS. This report makes a number of recommendations aimed at ensuring the FPS is set up as a user-friendly resource that offers the public a simple process. These include providing the appropriate infographics and issuing confirmation messages, so individuals who have registered understand what the consequences of their registration are.

A number of challenges arise due to the potentially sensitive data that an FPS file would contain, and how this can be provided to fundraisers so that they can comply. This report makes a number of recommendations aimed at minimising the risks to the data's security, including the suggestion that hosting and management of the FPS should be outsourced to an experienced contractor. Outsourcing operational responsibilities would offer further advantages such as a shorter time necessary to launch, economies of scale and saved tender costs.

There will inevitably be differing views on the costs and benefits of establishing the FPS. The working group's considers that it is necessary to consider the broader context: the volume of giving in the country, the critical importance of addressing the trust issues currently affecting the charity and fundraising sectors, and the ways in which an FPS built in a way that is proportionate and pragmatic could deliver benefits as well as mitigate harm.

## Introduction

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A key recommendation made by the Review of Fundraising Regulation was the creation of a 'Fundraising Preference Service' (FPS).

Throughout the Review, it was widely reported that members of the public were increasingly frustrated by the lack of control over how and how many times they are approached with fundraising requests. The Review therefore recommended that the new Fundraising Regulator should establish an FPS, as a mechanism whereby individuals could register if they no longer wish to be contacted for fundraising purposes. Any organisation engaging in high volume fundraising would have a responsibility to check their contacts against this suppression list before the start of a fundraising campaign.

The purpose of the FPS would therefore be to enable members of the public to prevent the receipt of unsolicited contact by charities and other fundraising organisations.

As part of the process for implementing this recommendation, it was agreed that a working group would be established with the task of determining how the FPS should be set up and operate in practice.<sup>1</sup>

The working group was envisaged as a short term entity formed by experts in fundraising, data protection and consumer protection, who would engage regularly with the Chair and CEO of the new Fundraising Regulator.

The group operated from January 2016 to June 2016, and reported to the board of the Fundraising Regulator on 13 July 2016.

### The Working Group's approach

In addition to meeting as a group of individuals with relevant expertise, the Working Group engaged with various stakeholders: individual charities and other fundraisers from academia and the arts communities, with charities and consumer voices and others in relation to the issues around vulnerability and with the Institute of Fundraising. Three round-table sessions were held with large, small and medium sized charities and campaigners, with around 100 participants.

The Working Group also commissioned research with the public, which was carried out through a number of focus group sessions across the country. The purpose of this research was to test some of the Working Group's thinking with members of the public (both donors and non-donors), and gather views on the public's expectations in relation to the FPS.<sup>2</sup>

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<sup>1</sup> The Working Group's terms of reference are in Annex I.

<sup>2</sup> An analysis of the findings is available in Annex II.

Alongside these meetings, an online “conversation”<sup>3</sup> was carried out with stakeholders throughout February and March. This was based on the publication of a document setting out some of the key proposals developed by the Working Group and inviting comment on the questions that arise. Almost 150 responses were submitted by a range of charities, independent professional fundraisers, agencies and membership bodies.<sup>4</sup>

The Working Group has operated and developed its recommendations within a changing context, looking at both the regulatory framework and the sector’s culture and general approach to fundraising.

Since the Review of Fundraising Regulation was finalised, a number significant requirements have been added to the Institute of Fundraising’s (IoF) Code of Fundraising Practice, which will directly improve the fundraising experience of donors, giving them much more control over fundraising requests and easy ways to ‘opt out’ that must be respected and acted upon.

The Information Commissioner’s Office (ICO) guidance on direct marketing has also been revised, emphasising that the requirements of the Data Protection Act apply to not-for-profit organisations as well as commercial organisations.

Most importantly, there has been a gradual but meaningful culture change across most parts of the charity fundraising sector. Charities have recognised that in order to maintain public trust they need to take responsibility for a better relationship with their donors and the wider public, and this will require a better balance between the public’s right to be left alone and charities’ ability to ask.

The nature and purpose of the FPS must therefore be a complement to these efforts, aiding those who are conducting themselves in securing clear consents and giving donors and potential donors every opportunity to manage or end a relationship.

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<sup>3</sup> [https://www.ncvo.org.uk/images/documents/about\\_us/media-centre/FPS%20key%20proposals%20and%20questions%20paper.pdf](https://www.ncvo.org.uk/images/documents/about_us/media-centre/FPS%20key%20proposals%20and%20questions%20paper.pdf).

<sup>4</sup> A full list of respondents and analysis of the responses can be found in Annex III.

## Key issues

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### Choice and unintended consequences

The main challenge for the FPS working group has been to balance the concept of the FPS as a re-set mechanism at the point of registration, with the wish to avoid unintended consequences, the most concerning being the end of fundraising communications by entities from which the registrant did not want to lose contact.

This risk is high if the FPS is set up as a simple re-set 'button' with a single stage or moment of activity, because:

- It would not be possible to offer registrants the chance to retain contact with charities and other fundraising organisations they support.
- There would be no mechanic for charities and other fundraising organisations to engage with registrants who are existing donors and have given their consent to receive communications.

The design of the FPS must therefore work in a way that delivers choice to users, and provides them with the right options to enable them to continue to receive fundraising communications from charities they currently support.

One way of doing this is by allowing individuals to choose specific charities that they are still happy to receive fundraising communications from, and name them at the point of registration.

This was the solution initially proposed in conversations with stakeholders, but although the underlying principle was almost unanimously supported, a number of problems were raised:

- It is not reasonable to expect an individual to remember the names of all the charities that they may want to hear from;
- There is a danger that smaller organisations without 'brand' recognition would be forgotten;
- There are practical difficulties in presenting a variety of options and capturing different choices.

### Coverage by type of communication

One of the starting assumptions was that the FPS is a preference scheme for fundraising purposes. It was therefore proposed that registration with the FPS should apply only to fundraising communications, and accordingly should not prevent other forms of communication.



For these purposes, the FPS could have its own definition of what constitutes a 'fundraising communication'. This would be narrower than the Information Commissioner's definition of direct marketing: it would be based on communications where the purpose is to ask for a donation or raise funds. This reflects an important distinction between laws and regulations relating to privacy and data protection and the FPS as a self-regulatory arrangement. The latter does not seek or purport to give effect to legal requirements that are the responsibility of a statutory body. Rather, the FPS seeks to establish arrangements specific to the fundraising community and therefore necessarily has a narrower coverage.

In particular, it was suggested that FPS registration should not prevent the following:

- Administrative communications, including those necessary for the effective administration of any direct debit or other financial arrangements that exist at the point when an individual registers with the FPS (provided however that such correspondence is not used as a means to ask for additional or higher contributions).
- Messages of thanks for donations received, on the understanding such communications do not then take the form of a further 'ask'.
- Content provided as part of a membership or subscription arrangement
- Informational communications about the organisation's activities and services.

Views were sought on whether the following should be classified as 'fundraising communications':

- Lotteries and raffles
- Trading communications

The majority of respondents indicated that communications about lotteries and raffles should be viewed as fundraising communications, in line with the IoF's Code of Fundraising Practice classification of lotteries and raffles as a fundraising technique.

Trading communications on the other hand were largely regarded as significantly different from a fundraising communication, on the basis that an individual is personally benefiting from a product or a service rather than making a donation in support of a cause. That said, it is difficult to argue that a trading communication has any purpose other than to raise funds from the fundraiser's point of view.

Much of the comment and conversation related to hybrid communications: communications such as newsletters, member publications, alumni updates, arts and other activity schedules, campaign updates etc. These are communications where the purpose is not related to fundraising, but it is common for charities and others to include a fundraising message, such as an invite to enter an event and be sponsored, or selling tickets for an event.

It will be for the Fundraising Regulator to decide how restrictive or otherwise the definition of 'fundraising communication' should be, and how it will interpret this concept in practice. The ICO's approach is to view all promotional material as falling within the definition of direct marketing, including material promoting the aims and ideals of not-for-profit

organisations. It also covers messages which include some marketing elements, even if that is not their main purpose. The Working Group's view however is that such broad scope is not appropriate to a self-regulatory regime for fundraising, although fundraisers clearly need to understand how statutory bodies view the matter.

The Working Group suggests that the test should be purposive: what is the core purpose of a piece of communication? If it is not to generate funds, is it clear that any content that does relate to fundraising is incidental? Fundraisers should also consider how a FPS registrant would be likely to regard communications, on the basis of a 'reasonable person' test and what they would expect.

## Coverage by organisation

The working group started from the principle that the rules and standards for fundraising are universally applicable: donors and the public should have the reassurance that any organisation which fundraises is doing so in compliance with the law and good practice.

With regards to the FPS however, there are practical and operational issues that need to be considered in relation to the number of organisations potentially subject to its requirements. Feedback from small and local fundraisers highlighted the impracticality and cost of matching their telephone and mail lists of supporters with a centralised file. The estimated cost to have files structured and checked against the FPS is £700.00 or more per campaign. This appears a disproportionate cost in relation to the volume of fundraising done by such entities and their reliance on volunteers, trustees and others.

There was support in principle in focus group conversations for universal coverage of all fundraisers. But many went on to recognise the cost and burden that would fall on small local entities and a worry that the cost of checking a campaign against FPS might wipe out the money it generates, leaving little support for their work.

In other responses the Working Group was reminded that smaller entities are far less likely, if ever, to have the resources to separate fundraising communications from other communications. In order to minimise their costs, smaller entities integrate all their content in one communication, which is usually sent no more frequently than on a monthly or quarterly basis. Therefore it is possible that any duty to comply with FPS would, in effect, oblige these entities to end all communications on the basis they cannot separate the fundraising communication from other material.

The Working Group's view is that it would be impractical and disproportionate to oblige every entity to use the FPS. The proposition has therefore been that from an operational point of view it is proportionate and necessary to initially limit the scope of the FPS. The options discussed were to base the threshold on fundraising expenditure, or on an organisation's volume of fundraising activity. Data is generally available on an organisation's

level of spend on fundraising activity and, though not perfect, this is a useful indicator of where activity volumes are significant.

This practical limitation of the FPS would not impact on the other duties of fundraisers to comply with the Code of Fundraising and other requirements set by the Fundraising Regulator. It would also not impact other relevant regulatory requirements, such as the duty to comply with the Telephone Preference Service (TPS), and good practice requirements, such as use of the Mail Preference Service (MPS).

The Working Group recognises the risk that a limitation of coverage on the basis proposed could result in FPS registrants continuing to receive some communications from smaller entities and concluding the service was ineffective. This is one of the reasons why it is important that the FPS, whatever the final form decided upon, is clearly explained at the start and finish of a registration process, to avoid any expectations being frustrated.

After the publication of the conversation document, the Working Group explored an additional function that the FPS could provide and help address this issue and deal with fundraisers outside of coverage. The FPS could present a “Small Red Button” option for those coming onto the FPS site and wanting to register their ‘do not communicate’ preference only in relation to specific fundraisers. This would depend on the system being able to record smaller fundraisers and alerting them to the concern being raised.

In any case, if the proposal that there be a threshold below which there is no duty to check activity against the FPS is accepted, there should be no barrier to those below this threshold subscribing to the FPS on a voluntary basis. This would not only be a way for that fundraisers to demonstrate their commitment to good practice, but it would also be a way in which it can improve its suppression data and secure the relevant benefits.

## Coverage by channel

The initial proposition was that the FPS should apply on an individual basis, not by household. This is to reflect that the FPS is intended as a mechanism for individuals to reset their preferences.

It was also proposed that the FPS should focus on the following main channels of communication:

- Addressed mail;
- Telephone (landline and mobile);
- Email;
- SMS.

The principle that the FPS should apply on an individual basis also led to the proposition that unaddressed mail should not be included within scope, since the sender is unable to know

the identity of the persons living within that household. Furthermore, there are already a number of measures available for those who want to prevent unaddressed mail:

- The DMA operates “Your Choice”, a preference scheme for unaddressed mail (although coverage is limited).
- Many households use “no junk mail” messaging.

The majority of respondents to the conversation document also reported that very few fundraising campaigns are carried out using unaddressed mail, due to this method being inadequately targeted and receiving a low response rate. The general view was that, while fundraisers would need to review their whole mix of fundraising practices if a FPS is introduced and if there is a significant level of registration, unaddressed mail activity would be unlikely to increase dramatically.

The practicalities of an FPS led to the assumption that the service would not be workable in relation to door to door activity or face to face fundraising, since organisations fundraising through these channels have no means of knowing whether individuals are registered. In addition, individuals faced with these fundraising methods already have easy ways to opt out: either by walking past a fundraiser in the street, or by using ‘no cold calling’ stickers for their household.

The Working Group invited comment on fundraising communications using social media, given the increasing interest in and importance of this channel. The majority of views, however, were that the FPS should not be extended to social media for a number of reasons:

- These channels require an action by individuals to engage, and are then easily manageable by users once their account has been set up.
- Some of this fundraising is akin to broadcasting, rather than being addressed at individuals.

This limitation is another distinction of the FPS from the ICO’s approach to electronic mail, which applies not only to SMS, telephone and email, but also to Facebook Messenger, Snapchat and Whatsapp.

Some stakeholders asked whether the FPS might offer registrants choice in terms of the channels they wished to allow fundraisers to use: perhaps registering to end mail and e-mail but allow calls or vice versa. Although the Working Group is strongly sympathetic towards the case for offering user choice, this level of granularity would be problematic: the legal requirements vary in relation to different channels and capturing and relaying channel preferences as well as the personal data need for FPS to work would add considerable cost and complexity. It would also increase the risks of unintended consequences for fundraisers and frustrated expectations for registrants. The Working Group therefore concluded that such amount of choice should not be attempted in the first instance.

Furthermore, individuals who are frustrated with a particular form of communication (regardless of whether the content is or is not about fundraising) would be more adequately served by ensuring the FPS signposts to existing services such as the TPS and MPS.

In reaching its conclusions the Working Group was alert to the fact that new controls with particular channels of communication and marketing might result in “migration”, i.e. increasing the level of activity in spaces where the FPS does not apply. This issue once again demonstrates that FPS, in and of itself, will not resolve all the past problems caused by aggressive and over-pressurised fundraising. The FPS is only a tool to be used within a wider framework of culture change, and specifically of fundraisers stepping away from practices that many have described as “relentless acquisition”.

Although some expressed concerns about people’s expectations being frustrated by these limitations, on balance these considerations were broadly supported. It was suggested that the issuing of a receipt of registration and what this mean would help address some of these issues, as it would be a way of explaining to users what is covered by the FPS.

## Vulnerable users

One of the thoughts behind the creation of an FPS was to provide a tool to protect the vulnerable from aggressive or overwhelming fundraising communications: the proposition was that if a person is deemed vulnerable and lacking the ability to manage fundraising communications, a family member or appointed individual with a duty of care should be able to register their status on the FPS and therefore ensure that person is no longer contacted.

While there is strong support for the thinking behind this proposition, to ensure people who are vulnerable or in vulnerable circumstances are not put under pressure to give, an examination of current guidance and practice highlighted the strong case for the FPS following the model generally established in relation to lasting power of attorney for health and legal and financial matters. This model is especially relevant given the possibility that some fundraising activity is also carried out for the purposes of wills and legacies. In these situations individuals and the FPS itself could be challenged if disputes arise over action by one person on behalf of another in terms of FPS registration where no lasting power of attorney existed.<sup>5</sup>

The Working Group therefore agreed that:

- The ability to register a ‘vulnerable’ third party must be limited to individuals with a power of attorney or equivalent, as this is the clearest way to ensure that the decision is being made legitimately and with the appropriate safeguards.
- The FPS should not engage in any assessment of a person’s vulnerability, but should refer to existing definitions and guidance.

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<sup>5</sup> <https://www.gov.uk/power-of-attorney/overview>

It was also agreed that this is as far as the FPS can go for legal reasons. It will be a matter for the Fundraising Regulator to explore with relevant bodies if more can be done to address the particular situation of people in vulnerable circumstances and how they can be protected from aggressive or inappropriate fundraising, while still providing them with opportunities to engage.

## Existing preference services

The Working Group's starting assumption has been that the FPS is not any form of over-ride to existing schemes, such as the TPS and the MPS. Charities and other fundraising organisations must in any case respect the preferences expressed by individuals under these schemes.

In order to avoid confusion and duplication, it was therefore proposed that the FPS should have a signposting function, whereby it directs potential registrants to the most appropriate option. This would mean that:

- If the frustration is with the channel of telephony (and specifically nuisance calls), the user will be directed to the TPS;
- If the frustration is with the channel of mail (and specifically junk mail), the user will be directed to the MPS.

Such a signposting function, while helpful, could also raise questions about how the different schemes interact, especially for fundraisers. The Working Group suggests that it should therefore be made clear that:

- If a person registers with the FPS they should not get calls or mail with fundraising communications regardless of whether they are also TPS or MPS registered.
- If a person is on TPS but the charity has been given their overriding consent to make calls, such consent would no longer be valid if that person registers with the FPS.
- Similarly, if a person is on MPS but the charity has been given their overriding consent to send mail, such consent would no longer be valid if that person registers with the FPS.
- If a person is on TPS and also registers on the FPS, but then gives consent to a particular organisation to receive fundraising communications including by telephone, this can be considered as an overriding consent and provide a legitimate basis for the organisation to communicate.

## Delivering choice and capturing preferences

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### The established FPS centralised system

Much of the initial thinking regarding the operational design of the proposed FPS has focused on the establishment of a system that would allow users to submit their details to the database and achieve:

- A complete 'opt-out' from receipt of future specified fundraising communications from any potential fundraising organisation (red reset button); or
- Partial exclusion of receipt of future fundraising communications expressed through the users' choice to register with FPS but exempt specified organisations from the general request not to receive fundraising communications.

This would then place a duty on fundraisers to check against this database and remove all those who have registered based on:

- Their re-set action, and
- Any exceptions they might have made to that re-set.

This level of choice (or "granularity" as it was described in conversations with stakeholders) sought to address the parallel objectives set by the Working Group's Terms of Reference. The Group was asked to bring forward proposals that:

- Give the public greater control over their interactions with charities and genuine choice about whether and how they are approached with fundraising requests, including a simple option to completely opt-out of all fundraising communications.
- Minimise the burden for charities and the public and ensure cost-effective delivery.
- Provide people with the option to remain opted-in to communications from certain organisations or sectors.
- Pay attention to the needs of beneficiaries and charities' need to ask.
- Address the importance of guarding against unintended consequences, and in particular managing the public's expectations of how the new system will work.

The overwhelming feedback from organisations, of all sizes, was that asking users to recall particular entities they would want to favour with an exemption at the point of FPS registration would be the major cause of unintended consequences. This could happen for a number of reasons:

- Registrants might only remember household names or brand charities, forgetting lesser known organisations;
- Registrants might not be aware that entities operating in the arts and education community, or campaigning groups are also fundraisers;

- Registrants might not consider that major fundraising events such as Comic Relief, Sports Relief, and disaster emergency appeals are led by specific fundraising organisations.

In relation to user choice and reducing the risk of unintended consequences, the successful implementation of such a system would therefore rely on the ability of the user to be capable of ‘perfect knowledge’ of both their current and future intentions at the point of registration. But in practice this would likely lead to users unwittingly denying themselves access to future fundraising communications that they would be happy to receive from organisations they have been supporting financially.

Offering registrants the opportunity to exempt some fundraisers from their re-set adds complications from an operational perspective. It would be necessary for the FPS to give each fundraiser-subscriber access to data that was specific to that individual fundraiser. This is to take account of the preferences entered: someone who registered with FPS but exempted ‘charity A’, for example, should not appear in the FPS file given to ‘charity A’. This customisation of the FPS file would have to take account of each exemption. In theory that might mean, over time, that each of fundraiser complying with FPS would be accessing FPS data that was unique to them. Although this is technically possible, it would add to the cost and complexity of the arrangements and might result in FPS updates being released with less frequency.

Given the size and sophistication of the database required for such a system to operate effectively, and the complexity of the range of options that will confront the registrant as part of the user experience, the Working Group concluded that this approach was not the best way of meeting its Terms of Reference.

## **An alternative model: an FPS based on the user-charity relationship**

The Working Group has explored an alternative model based on the idea that charities and other organisations with an existing fundraising relationship with the registrant should have the opportunity to make contact, enabling them to clarify whether the FPS registration was indeed intended to cover them in light of this direct relationship.

Under this approach, individuals registering with the FPS would do so on the basis that this is a “preferences re-set” mechanism. Registrants would not be asked at the point of registration whether they wanted to exempt any particular charity or other fundraising organisation. They would, instead, be told that - as part of completing an understanding of their preferences - their registration will be reported to fundraisers and they might be approached by entities they have given to in the past to clarify the status of the relationship in light of the registration.



This opportunity would be limited, and for the majority of fundraisers FPS registration must be respected as a 'do not contact with fundraising communications' preference.

In order to ensure that the user's expectations are met, upon registration they would receive a confirmation email or other form of acknowledgement that would include the following information:

- A record of the FPS registration;
- An explanation of the types of communication that may continue;
- If the registrant has given to a charity or other fundraiser over the past 24 months, an alert that he or she may be approached by the relevant charity to check the status of the relationship.

It will be the responsibility of the Fundraising Regulator to set the rules on how charities and other fundraising organisations can make this approach. However the recommendations of the Working Group are that:

- Any approach to confirm whether FPS registration was intended to cover that particular charity or fundraising organisation should be operational: aiming to clarify and if possible even improve the consents that already existed. It must not be a further solicitation. The Fundraising Regulator should provide guidance or a checking service on how these statements are worded.
- Contact to confirm whether the FPS registration was intended to cover that particular charity or fundraising organisation could only be made via mail.
- A registrant's lack of response should be interpreted as confirmation that he/she no longer wants to receive fundraising communications from that organisation.
- If organisations received confirmation from the registrant that the FPS re-set was not meant to include them, they should record this evidence of consent and could continue sending fundraising communications.
- If the registrant confirms that the intention was a total reset and that there are no special concessions, the organisation would have to respect that and end any fundraising communications.

There will be some circumstances in which an FPS registrant has given to more than one cause over the 24 month period, and may therefore receive a number of letters from the relevant fundraiser. Rather than a weakness of the FPS, this can be seen as another circumstance in which the FPS can provide a valuable means for both fundraisers and registrants to clarify what relationship they want moving forward.

The Working Group believes this approach is true to the spirit of a preference service: seeking to clarify the wishes of those who have given in the past but who now wish to register with FPS. It would seem largely to address the unintended consequence of most concern to fundraisers: a prohibition on contact with someone who has given without knowing if that was the individual's wish.

The Working Group saw a meaningful distinction between those who have made a donation and those who are on marketing lists from whatever source and status. A person registering with FPS is doing so to stop fundraising communications. That person would hopefully welcome the chance to engage with those she or he has supported in the past in order to make clear his or her preferences going forward. On the contrary, the registrant is unlikely to welcome further contact based on them being on a mailing list or call centre file when they had never responded to these contacts financially.

The operation of the FPS would be relatively simple as a consequence:

- A single FPS file would be released and there would be no need for registrants to have account-type arrangements (log in details such as passwords etc) when they register.
- Charities and other fundraising organisations would have the opportunity to check the FPS file to see if it contained any individuals that were existing donors or people from whom clear consents had been secured. In line with similar services, they would have up to 4 months for mail and 28 days for other channels to flag FPS registrants on their databases as individuals to which fundraising communications should not be sent.

## Recommendations

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The Working Group recommends that the FPS should be established in line with the following core propositions:

1. The FPS should present users with a simple re-set option to express their preference to no longer receive fundraising communications.
2. The FPS should give users the additional option of indicating specific fundraisers from which they do not want to receive fundraising communications.
3. When a registrant has used the re-set option, fundraisers that have an existing relationship with the registrant should have the opportunity to clarify the individual's preferences and enquire about the status of the relationship in light of the registration.
4. For this purpose, the FPS should capture the necessary information and make it readily available to fundraisers.
5. The nature of the existing relationship between the registrant and a charity or other fundraising organisation should be sufficiently robust, and the opportunity to 'check in' should be limited to organisations that have received a donation from that individual over the past 24 months.
6. The application of the FPS should be determined by the type of fundraising undertaken (direct marketing) and the level of expenditure on such activity, as a reasonable indicator of the volume of activity. This threshold should be set by the Fundraising Regulator at a level that ensures the FPS can work in practice, meets public expectations, and significantly reduces the risk of registrants still receiving unwanted fundraising communications.
7. The FPS should have its own definition of what constitutes a 'fundraising communication', which should be narrower than the ICO definition of direct marketing. It should be based on communications where the core purpose is to raise funds.
8. The FPS should not be a barrier to communications that have other purposes and should not prevent other communications where the fundraising content is incidental.
9. The Fundraising regulator will need to consider the case for issuing guidance, and the Working Group suggests that communications about lotteries and raffles should be considered fundraising communications. The working group did not take a view on trading communications: it saw that there is both a case for them being a fundraising

communication (since from the organisation's point of view the purpose is to raise funds) but also for them to be excluded (since from the recipient's point of view they could be seen as an offer to make a transaction).

10. The Working Group was wary of offering a prescriptive list of what would count as a fundraising communication. In line with the principles of self-regulation, it is important that fundraisers think responsibly about whether a communication is designed to generate funds or whether any such element is incidental to some other purpose.
11. The FPS should be based on individual entities rather than households, although some overlap has to be accepted in relation to landline telephony.
12. The FPS should focus on core channels of communications: telephony, mail, texting and e-mail. The FPS should not extend to social media or "door-knock". The FPS might give assistance through leaflets, stickers or guidance in relation to door-knock. The FPS, based on capture of addresses, could be extended to unaddressed mail and door-knock if practices changed causing problems that demanded this response at a later stage.
13. The FPS should provide a signposting function to existing preference services such as the TPS and MPS. This would mean that the FPS:
  - Directs the user to the TPS if the frustration is with nuisance calls;
  - Directs the user to the MPS if the frustration is with junk mail.
  - The FPS should not be seen by fundraisers as some form of over-ride to the TPS and MPS. Charities and other fundraising organisations must in any case respect the preferences expressed by individuals under these schemes and have the necessary consents to contact individuals registered.
14. The FPS should allow registration by a third party of vulnerable individuals only where that third party has the necessary Power of Attorney or equivalent. The FPS should deal differently with these individual cases if the clear need and ask is for all communications to stop and for no direct contact with the vulnerable individual.
15. The registration process has to maximise user understanding of what FPS will deliver and any limitations that exist. This might require infographic material at the start and some form of confirmation or receipt at the end of a registration.
16. The FPS should not prevent registrants to give fresh consent to being contacted at any point after FPS registration by engaging with charities and other fundraising organisations. Equally, the FPS should not prevent charities and other fundraising organisations from getting in touch for fundraising purposes with an individual previously registered on the FPS, if that person engages with them and gives the appropriate consent.

17. The FPS should be accessible as a service by phone as well as online, although efforts should be made to maximise the online option.
18. Registration on the FPS should be time-capped, and expire after two years. The FPS provider would be responsible for sending a communication three months before expiry, asking the individual to refresh and therefore confirm the registration for another two years.
19. The Fundraising Regulator should include compliance with the FPS as a requirement of the Code of Fundraising Practice.

## Operational issues

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This section explores how the FPS should operate from a user's point of view, how it might engage with the fundraising community and how it should be hosted, managed and promoted.

### The user experience

A consistent message throughout the working group's conversations with fundraisers, members of the public and others was the importance of keeping things simple.

This report recognises the endless variety of fundraising entities and forms of fundraising communications and the different communication channels used. It recognises the fact that not all communications by charities and others involve fundraising and the fact that the individuals who have a relationship with charities and other organisations may be donors, beneficiaries, trustees, volunteers with some shared belief or interest.

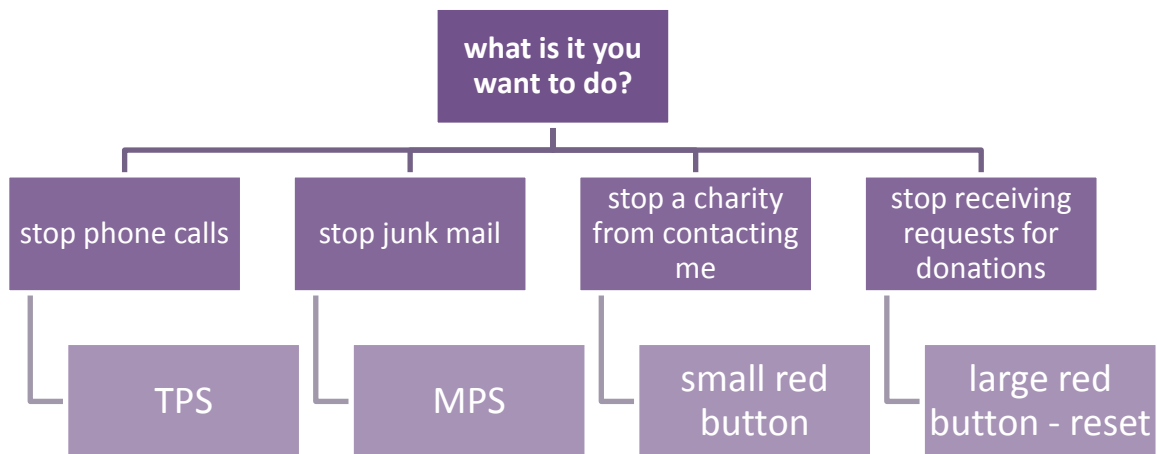
When presenting the FPS and offering to take a registration it is important to try to match the needs of the registrant and, at the same time to be as clear as possible about what the FPS can deliver.

There was universal support for the proposition people should be able to call to register with the FPS but that the process should be web-based to the maximum extent possible. This reduced complexity, cost and the risk of errors as information is collected but retained a telephony option for those individuals, most probably those of greater age, without internet access or the confidence to use this option.

The working group's recommendation is that registration with FPS should be possible online and by telephone but not by other means in the first instance.

## The user journey on the FPS website

The simple graphic below sets out the proposed user journey when using the FPS site to register.



## Choices when engaging with the FPS

The option of a ‘small red button’ gives users the opportunity to simply name the fundraisers that they are frustrated with, and from which they do not want to receive fundraising communications.

This would improve the fundraiser suppression files and remove any need people to FPS register where this was not what they actually wanted to do. In addition to offering a targeted response that meets the user’s wishes, and allows a fundraiser to prevent being the cause of further angst, the process would provide the Fundraising Regulator with additional data and a clearer picture of when, why and where fundraising may be provoking a negative response.

## FPS as a reset: the ‘Big Red Button’

Options for alternative actions must sit alongside a clear explanation and simple process of registration with the FPS by those who want to reset their preferences. The following sections explore how this is presented to users and then managed with subscribers.

## **Online and telephony registration**

There is potentially a considerable amount of information that is needed to complete an application.

It is recommended that efforts should be made to encourage users to use the online option as this is a more accurate and user-friendly form of data-capture, structured to give users the choices being proposed and better at giving a clear consistent explanation of what happens following registration. The web-based approach is also less costly to operate.

The FPS would need to have contingency arrangements in place to deal with a calls if a high percentage of registrants call rather than log-in or if overall demand is high. That might include technological solutions like automated voice recognition systems to manage calls and/or actions that channel as many as possible back to the online service.

The working group agreed that it is not necessary to take registrations by others forms of communication, although this issue could be revisited if usage indicated a need to do so.

## **Explaining the FPS and setting expectations**

The working group agreed on the importance that the FPS does all it can to make sure members of the public understand what the service does and does not prevent, in particular:

- What contact they might have with fundraisers as a result;
- That registering is a form of re-set, which in no way inhibits their choices thereafter to donate and new consents to fundraising communications.

How the FPS operates, and in particular the limited period within which a fundraiser may contact an active donor and the proposed duration period for a registration, need to be explained “up front” and at the end of registration.

A number of charities use short punchy audio-visual and infographic material on their web landing page to get core messages across. It is recommended that the Fundraising Regulator should explore the value to users and the savings to all involved in user-centric audio-visual or infographic material that spells out the options people have on the site, how their data would be used and what registration can deliver.

The working group also recommends that the FPS issues some form of receipt or confirmation of a registration. This might be information presented and available to print at the end of an online registration. There may be benefit, however, in requiring an e-mail address for online registrants and sending the confirmation by e-mail. This is a second opportunity to spell out what FPS is (and is not) designed to do and to make clear what control registrants have after registering. If registration is taken by telephone, it would be necessary to post the confirmation as a follow-up action, rather than seeking to address the issues further on a call.



## **The use to be made of registrant information**

Registrants need to understand that the name, address and telephony and email information they give will be shared with fundraisers and any entities that contract to support their fundraising activities. The FPS must have a clear Privacy Policy addressing these matters.

- Agreement of the FPS Privacy Policy by the individual registering must be a requirement for registration to take effect.
- It must be made clear to registrants and to the fundraisers who use FPS data that the data is provided for only one purpose: to end fundraising communications to those on the Register. It is important this too is supported by appropriate provision in the Code of Practice.

## **Complaints relating to FPS compliance**

The Fundraising Regulator needs to have arrangements in place to deal with complaints over any failure by a fundraiser to comply with people's wishes not to be contacted.

Compliance policy for the FPS will be a matter for the Fundraising Regulator. On grounds of principle and practicality, it will be important to distinguish between individual complaints and issues that might result from a minor operational error at the fundraiser end and cases where complaints by their nature and volume suggest there is a need for action by the Fundraising Regulator.

The working group suggests that the starting assumption should be that the FPS should in the first instance refer complaints to the fundraiser involved with a view to the matter being looked into and the complainant dealt with by that fundraiser. The process should be explicable to the complainant.

Referral to a fundraisers should, however, only happen when the complainant has, indeed, registered. If not it will be for the FPS to encourage registration or use of a small red button opt-out if this meets the complainant's needs.

The FPS file should be set up in ways that allow the FPS to search and identify when and how the files was used by any individual entity and to tie that information to any complaint that is sent out for attention.

## **Operational issues for fundraisers**

It is proposed that the FPS file of registrants would be available to fundraisers after a process of validation and subscription is completed. This validation is intended to ensure that the FPS file is made available only to those with a direct and legitimate interest in its use.

It would seem possible generally to use a charity registration number as a means of validation of the entity as a legitimate fundraiser.

However not all fundraisers are registered charities. It may therefore be necessary for the Fundraising Regulator to set ground-rules on who can and cannot subscribe to use the FPS data-file. This might allow for known categories of not for profit, educational, health, arts of other sectors where it might be for the Fundraising Regulator to agree arrangements under which the FPS will validate non-charity entities who seek to subscribe or under which the Fundraising Regulator will notify the FPS when satisfied a subscription can go forward.

Unless safeguards can be introduced it is recommended that the FPS file should not in the first instance be made available directly to intermediaries and sub-contractors, most obviously those commercial businesses that charities and others may use to out-source fundraising campaigns.

This should not prevent charities and other fundraising organisations from out-sourcing, but it will be important that they take ownership and responsibility, and there must be clarity about the fact that they are accountable. If appropriate to enable contractual relationships to function and give the sector flexibility of operation it would be worth exploring the practicality of co-subscriptions, with fundraising charities and others co-subscribing with their chosen sub-contractor.

Insofar as the FPS is truly a service capturing registrants' preferences, there is merit in referring to charities' and others' "subscription" to the service, rather than use the "licensing" terminology used with the TPS. It has to be made clear, however, that respecting preferences and, therefore, checking against the FPS is a requirement on fundraisers under the Code of Practice. It should also be made clear that the subscription to the FPS and the resulting use of data must be subject to clear and enforceable conditions.

## **Managing subscriptions**

On the basis that the recommendation is to limit the FPS' operation to organisations above a certain expenditure threshold, the working group's preference is to replicate the licensing and validation process operated by the TPS, including for payment arrangement. This is based on confirmed bank details and setting up BACS payments. This is seen to add to assurance over the identities of those paying to access the suppression file. Such a system would with up to 1,500 subscribers. Experience with existing preference services suggests the need for 2-3 members of staff on account set up and support for every 1,000 licensees or subscribers and that there might need to be a similar resource in place on the IT side to manage the range of operational, access and use questions that might arise, particularly in the set-up period.

If FPS coverage is made universal, an e-Commerce solution would be necessary, whereby the subscription is paid through credit card arrangements.

This assessment will be informed by the number of fundraising entities who are not registered charities and who are involved in mass marketing. As the FPS is a start-up

operation, it is recommended that the Fundraising Regulator should err on the side of caution, ensuring it has the capacity to help both fundraisers and members of the public through new processes.

### **The form of the FPS file**

The proposal is for a window in which current donors might be contacted if they FPS register. On this basis the service could operate by making a single file of those who register, leaving it with the fundraisers to identify those who are donors.

This removes the challenge that FPS would have faced in capturing the preferences of every single registrant and giving each fundraiser a customised file that took account of all of these individual preferences. This simplifies the operation, cost and speed at which a FPS would be able to operate.

On this basis, preliminary conversations with IT providers indicate that the file of FPS registrants can be produced in a single version where subscribers can download updated information each day. It might also be possible to search and download information against narrower parameters: by each channel and geographically by region of post coding. This speed of access to data is clearly essential if fundraisers are to identify any donors who have registered and where there is a window of opportunity to confirm their intentions.

In meetings with IT practitioners in the fundraising community, including the Institute of Fundraising Technology Special Interest Group, fundraisers emphasised the major operational advantages of providing each FPS registrant with a Unique Reference Number (URN). This option should be explored as it may help subscribers.

### **File format and security**

Based on practice elsewhere it is recommended that the file be made available in SSH File Transfer Protocol (SFTP) format. This level of security of the data appears proportionate. The reasons why encryption of the file is not considered necessary are that the data is not sensitive personal data, the file has to be capable of relatively wide access and ease of use by subscribers.

This approach appears to give as many as possible the option of matching their data to FPS information without recourse to outside agencies.

The FPS itself would clearly have to have all appropriate safeguards in place to ensure data was securely stored, including dedicated servers, firewall protection and regular penetration testing.

The FPS subscription might require information on the data officer at the fundraiser's end and fundraiser access to the FPS file could be password protected, perhaps with double authentication.

It is recommended that the Fundraising Regulator or any contracted partner take additional measures, most probably, through some form of data file “seeds” which might allow the trace of any improper use of the FPS file.

The working group recognises that much more could be suggested in terms of data security and took the view that it is more appropriate for the Fundraising Regulator to source more detailed and specialist advice from other relevant sources with the necessary expertise.

## **Hosting and operational responsibility for FPS**

There are clear differences between the work of a regulator and a Preference Service, even though compliance with the requirements of the preference service is a regulatory responsibility.

The FPS involves the development and operation of a software programme that can capture data from registrants, issue them with confirmations, make the file of registrants available to licences, and manage contractual relations with these licensees. This involves human and automated contact with licensees, the maintenance of a website where most registrations will be captured and being available to take questions and complaints related to the FPS and the conduct of fundraisers.

These are important technical, operational and administrative roles. They are different in nature from the policy and investigating, adjudicatory and stakeholder-support work of the Fundraising regulator.

Existing preference services use contractual arrangements with partner entities to develop and operate the software, to manage access to the file and related commercial and contractual work and to deal with the generality of public complaints.

The working group’s recommendation is therefore to out-source all operational activity: the design and management of the file, the operation of the FPS website, managing any call centre needs re registration, dealing with technical issues with subscribers and complaints from registrants and administering the subscriptions and any necessary validation processes.

It is also suggested that the Fundraising Regulator should explore an approach based on having one lead partner who will take responsibility for the agreed suite of delegated operational responsibilities. It would not be appropriate for the Fundraising Regulator to delegate policy decisions on the scope of FPS cover by channel, in terms of what is defined as fundraising activity or in terms of the fundraisers covered and the fees they are charged. The Fundraising Regulator must remain accountable for the service to the public, the sector and others.

Irrespective of whether the Fundraising Regulator outsources everything or retains some roles, it will need to reach Service Level Agreement, performance targets and reporting arrangements.

In the case of the TPS and MPS the service sponsors, the DMA, use a lead partner to deliver the design and operation, to manage sub-contract arrangements covering public registration and complaint call centres. The DMA retains responsibility for managing licencing process to the FPS, deals with all promotional and media issues and accounts, in turn, to the statutory regulators, the Information Commissioner's Office and Ofcom. The working group can see merit in this approach and, in extending the package of out-sourced activity to include managing subscriptions and dealing with all complaints in the first instance.

## **Finding a partner**

If a decision is taken to out-source some or all roles in delivering, hosting and running a FPS further decisions are needed on how to put these in place. The working group had exploratory conversations with entities that might be interested in designing and operating the technology end of FPS or in providing the system and arrangements to deal with subscribers-fundraisers, registrants who come via call-centre approaches and with complaints.

It was not part of the working group's terms of reference to enter into exploratory negotiations or to present the Fundraising Regulator with a detailed specification. But the working group was invited to advise on how and where the FPS might be hosted, who should have responsible for day to day operation and on the user experience.

The group identified two particular sets of considerations in terms of possible partnerships:

- Competence and capability;
- Procurement and the importance of delivery.

While there is value in creativity and innovation, it is the group's view that the Fundraising Regulator should pay high regard to the profile of FPS and to the importance for all stakeholders of the service launching as soon as is practical, controlling its costs and operating efficiently from the outset.

In looking to outside partners the regulator should be maximising the assurance it can get in terms of a partner's ability to capture and process data, to validate identities and addresses using multiple data points and against robust data bases they own or can access. The partner should be able to de-duplicate data and present the FPS file in a format that gives all subscribers the highest assurance the information is correct and formatted to agreed national standards (Royal Mail PAF – Postcode address Format).

Exploratory conversations suggest a service could be operational in six months if approached on a negotiated partnership basis that delivered assurance and value, but without the additional and less predictable 4-6 months that comes with a tender process. Others in the data field argue that the system can be built faster and could be open to users in a considerably shorter timeframe.

A tender would take time to prepare and conduct. It would put costs on the bidders and the Regulator. A tender based on a detailed specification that allowed for minimal revision in

negotiation would minimise the risk of mission creep and delay once a deal is reached. It would, however require extensive discovery and design work going far beyond the options analysis in this paper. This is commission and management work that the Regulator would potentially need also to out-source. The alternative option is a tender process based on presenting a series of “outcomes” but no specificity and an invitation to interested parties to bring forward their individual innovative solutions.

In conversations with existing providers, a number of potential advantages were identified if it was possible for the Fundraising Regulator to enter into arrangements with some or all the parties involved in delivering the TPS and MPS. These include:

- Time to launch;
- Operational economies of scale;
- Saved tender costs.

Alongside the pre-existing know-how of the technical providers sits flexibility in deploying staff who would be able to deal with FPS as well as TPS and MPS demand from the public and from licensees. This could materially reduce the risk of employing more than proved necessary, whilst ensuring the possibility of ramping up when demand is greater. Any such approach would have to be based on actions to ensure value-for-money but the potential to deliver an operational FPS by end Quarter One of 2017 at lower cost has attractions.

The working group’s recommendations are:

- That the FPS should not be operated from within the Fundraising Regulator: most if not all operational responsibilities be out-sourced.
- To avoid a tender process, due to the delays implicit in this approach.
- That the Fundraising Regulator should explore the potential for a partnership approach based on one or at most two contractual relationships with the DMA and the lead contractor that already delivers MPS and TPS.
- That the Fundraising Regulator should avoid having itself to manage FPS through a collection of unrelated partners each delivering different aspects of the FPS.
- If this is not wanted or possible, the tender process should be based on a full specification.

## **FPS costs and benefits**

There are obvious variables in terms of the FPS costs:

- The start-up costs of software programmes and web content.
- The front-end cost of giving advice and guidance to fundraisers as they sign-up to use FPS.
- The ongoing cost of call-centre support if people can call to make a FPS registration, as there will be a close link to the volume of registrants and the staffing cost of handling their calls.

- The cost of recording and dealing with any complaints.

Experience with other preference services highlights the need to meet any down-stream cost of substantive enforcement work, any media and other stakeholder interest and the need to review and, if necessary, amend the service based on a period of operational activity.

In advance of decisions on scope and coverage and with scenarios terms of the number of registrants and subscribers and any pre-tender exploration it is hard to give indicative costs.

On the basis of initial discussions with providers, it is possible to forecast that in the first year costs of set up and delivery of the FPS might be in the region of £750,000 plus the variable staffing cost of call centre personnel and the management of a subscription arrangement with over 1,000 fundraisers. Year two fixed costs would be likely to fall considerably if £250,000 of year one spend relates to discovery, design, build and test work that should not need repetition.

An FPS set up and operated in the way proposed delivers against the working group's Terms of Reference. In addition, from a fundraisers' perspective it has apparent benefits:

- Allowing contact with donor registrants to address a risk of unintended consequence.
- Giving fundraisers an opportunity to clarify, amend and re-fresh the consents they have from these individuals.
- Providing fundraisers with a file of individuals that can be suppressed, allowing fundraisers to better target their communications and remove or reduce the cost of contacting those with no intention of responding to these communications.
- Giving fundraisers specific feedback on their individual activities evident from "Small Button" option.
- Demonstrating commitment to responsible fundraising and addressing any negative perceptions.

It will be for the Fundraising Regulator to decide how to meet the start-up and ongoing operational costs of FPS. The working group's view is that it is right that the costs of the FPS should be met by those who use the service to manage their communications with these objectives in mind.

Subscription or licence fees for use of preference data are already in place in relation to TPS and MPS. This is accepted by fundraisers and it is recommended that access to FPS data should be based on an annual subscription.

The working group recommends the subscription should set out clearly the conditions and terms which apply to the use of the data and the responsibilities the parties have for the security of the data.

It is likely that the model proposed will, on occasion, require FPS checks by smaller entities or involve FPS searches under narrower regional or other parameters. The working group

recommends that the Fundraising Regulator should look at the merits of a two-tier structure to reflect the difference between these smaller entities and national and international charities and fundraisers with regular communications and campaigns.

There may be a case for a more innovative and variable subscription arrangement. This may be something the regulator can explore, but it is questionable whether an overly complex arrangement is necessary or appropriate in a start-up situation in which costs will vary.

Based on assumptions over the number of fundraising entities licensing to use the file and on possible costs of the FPS, the working group believes the subscription fee or fees can be set at levels that recover all operational and start-up costs of the FPS without imposing an undue burden on those affected. There are few fixed points and many variables at this stage of consideration. But, if the number of subscriptions reflects the proposal on FPS coverage and the service remains largely on-line with annual subscription rates of around £3,000-£4,000 (perhaps with lower rates for some entities or for different patterns of use) the FPS should cover its expected costs.

It would not be appropriate for the Fundraising regulator to seek to recover the costs on any substantive investigation or adjudication related to a fundraisers and their use of the FPS data. This would be a regulatory issue where the costs should fall naturally to the regulator.

## **Compliance costs**

The working group was asked to take account of the burden on fundraisers, and the public. This issue was factored into the working group's thinking at each stage. That thinking has been in terms of the clarity, frequency and ease of action. It has not been within the Working Group's terms of reference to model the consequence in terms of fundraising revenues of different levels of registration.

The working group's aim has been to develop recommendations that offer a system that is easy for the public to access and understand online, available by telephony and simple to use. This approach puts no further duties on registrants. They may be contacted once by the entity they support if they are active donors but are not obliged to respond. Nor need they have to notify FPS if they decide after registration to engage afresh with any or many fundraisers. They might get a notification if their registration is time-limited. The most they would have to do at that point is recomplete the registration material.

The recommendation that there should be the creation of a simple single SFTP formatted FPS file that can be matched against mail, email and telephony lists means that subscribers will already have the necessary internal arrangements in place (since all charities and other fundraisers are already required to comply with the terms of the TPS regime and the consent rules according to data protection legislation).

Additional costs may be any subscription fee for FPS access, and costs on those who out-source file-checks against marketing lists because this cannot be done in-house. However, it can be assumed that these would be marginal, again considering the costs already involved in complying with TPS and data protection legislation.



There will also be staff or volunteer time required to understand the new requirements and engage with the FPS. It is the working group's view that these are reasonable costs and investments in ensuring people's wishes are understood and respected, suppression lists are upgraded, consents potentially refreshed and trust grown in the sector.

## **Promoting the FPS**

Care needs to be given in all communications that the FPS is a file expressing detailed preferences and containing sensitive information.

On this basis the working group does not think the FPS should be "marketed" but that it is right for the Fundraising Regulator to be clear on the existence and purpose of the FPS and for the regulator and charities and others with a consumer advice role to be able to signpost the service to those with a need or interest.

A particular suggestion was that charities with a focus on helping the elderly and those who are vulnerable by others causes might partner in ensuring the FPS is known and understood.

## Conclusion

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This report and its recommendations have been agreed by the working group as a sensible set of proposals on how the FPS should operate in practice.

They will be submitted to the board of the Fundraising Regulator for its consideration, and for its decision on whether and how to establish the FPS.

# Annex I – FPS Working Group Terms of Reference

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## Background

At a meeting held on 12 October 2015, the Minister for Civil Society Rob Wilson and Sir Stuart Etherington, alongside a number of key stakeholders, discussed the process of implementing the recommendations of the report 'Regulating Fundraising for the Future'. It was agreed that a working group would be established to develop recommendations on how to implement the 'Fundraising Preference Service' (FPS).

The following Terms of Reference set out the arrangements for this working group.

## Purpose

The working group is envisaged as a short term, expert group established to determine how the FPS should be set up and operate in practice. The working group will engage with charities of all sizes.

The group will work closely with the Chair and CEO of the new Fundraising Regulator, reporting to them on a regular basis. This will be to ensure that the structures for implementing the recommendations are built into the new body from an early stage.

## Deliverables

The Working Group will:

- consider the design of the FPS, including:
  - how the FPS should interact with existing systems such as the Telephone Preference Service (TPS) and the Mail Preference Service (MPS);
  - how to minimise the burden for charities and the public and ensure cost effective delivery;
  - how to provide people with the option to remain opted-in to communications from certain organisations or sectors;
  - how to best safeguard vulnerable people;
  - how to protect small charities from additional regulatory burdens by, for example, introducing an exemption below a certain income.
- propose solutions to all aspects of the practical implementation of the FPS, including but not limited to:
  - how and where it will be hosted;
  - who will be responsible for its day to day operation;
  - user experiences of the public and charities.

## Guiding principles

In its work, the group will pay particular attention to:

- giving the public greater control over their interactions with charities and genuine choice about whether and how they are approached with fundraising requests, including a simple option to completely opt out of all fundraising communications from all charities;
- the needs of beneficiaries and charities' need to ask;
- the need to protect vulnerable people and respect the wishes of the wider public;
- the importance of guarding against unintended consequences, and in particular managing the public's expectations of how the new systems will work.

## Timetable

The working group should aspire to finalise its recommendations by early Summer 2016, to coincide with the establishment of the new Fundraising Regulator.

In all its work, the group should consider the public's desire for tangible, timely improvement of fundraising alongside the complexity of tasks.

## Meetings

NCVO will provide the secretariat for the Working Group. Occurrence of meetings and other working arrangements will be agreed between the Chair of the Working Group, the secretariat, and the Chair of the Fundraising Regulator.

## Working Group participants

The Working Group will be chaired by George Kidd, chair of the Direct Marketing Commission.

Membership of the Working Group will ensure representation of the charity sector, fundraising experts, the public and commercial operators among other sets of expertise. Individual members will be agreed by the Chair, the secretariat, and the Chair of the Fundraising Regulator.

## Members

- Lynda Thomas, Chief Executive, MacMillan Cancer Support
- Catherine Cottrell, Deputy Executive Director of Fundraising, Unicef
- John Mitchison, Head of Preference Services, Compliance and Legal, Direct Marketing Association
- Ruth Thompson, Deputy Chair and board member, London Travel Watch
- Stephen Lee, Visiting Professor of Voluntary Sector Management, Cass Business School
- Pauline Broomhead, Founder and Chief Executive, Foundation for Social Improvement

## Annex II – Focus groups research findings

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### Introduction

This report was commissioned by the Fundraising Preference Service (FPS) Working Group and work took place in March and April 2016. The aim of the project was to conduct qualitative research via four focus groups with the general public in relation to their views about how the new FPS might work.

### Methods

As the timeframe was quite short, an NCVO consultant was commissioned to undertake the work and a recruitment agency was used to provide a general population sample of participants. The consultant designed a questioning route (see Appendix A) and sample filter which were agreed with the client. Four focus groups were conducted around the country in London, Guildford, Manchester and Bristol. Each focus group aimed to recruit ten participants.

The recruitment agency used was Saros Research and the goal was to have the sample reflect the general population for ethnicity and gender with the following additions:

- We aimed to recruit an older age group with one quarter of the participants aged 21-44 and three quarters aged 45 and older
- We aimed to have 70% of participants who have donated to a charity in the previous 12 months with 30% who did not donate

We had a total of 32 participants in four focus groups give feedback. Of those participants, we had the following demographics:

- 60% were female, 40% were male
- 25% of participants were from a BAME background
- 16% of participants were aged 22-44, 56% were 45-65 and 28% were 66-85
- 31% of participants did not donate any money to organisations in the previous 12 months whereas 69% did contribute to organisations in some way
- 28% of participants were retired while 63% of participants were employed either full time, part time or self employed

Quotes will be used in the report but all respondents were promised anonymity, so the reference will be by region – L (London), M (Manchester), G (Guildford), B (Bristol).

### Findings

While participants were not necessarily familiar with the voluntary sector or how it works, many expressed sophisticated understanding of the tensions between the need to raise money for good causes and the public's right to privacy. In most of the areas below, there

were mixed views on the questions however there were some areas which had wider agreement in the groups.

## General views about fundraising

Many of the participants we spoke to are frustrated with door knocking, phone calls and ‘chuggers’ in particular and this frustration impacts on their views of organisations generally. Numerous participants commented on what they see as a ‘waste’ of money on fundraising materials, paper and the give-away items such as cards, balloons, pens, address labels, etc.

*I've had a phone call at tea time and that really, really got up my nose because that shouldn't be done, I've been donating monthly for quite a few years now and for me, that's how I choose to do it. I don't feel the information, say like your phone number and stuff like that, should be abused in that way because I've already signed up to contribute to that particular one. M*

*I've given to charity and I've done voluntary work. I've done it because I've wanted to. I've gone out of my way to find the opportunity and that's how I prefer to approach it. I don't like being targeted, I don't like direct marketing of any form. B*

Most participants understood why organisations conduct fundraising and there were many ‘sympathetic’ views from attendees along with those less understanding of the needs of organisations. Many saw fundraising as being linked to an organisational or issue need; the need was what was important to them so bigger organisations were perceived as having low need, yet conducting more fundraising communications, which led to frustration.

*Fundraising, I think for some organisations it's vital, they can't function without it. Sometimes it's their main source of income. Some will argue that some organisations shouldn't exist because the government should provide that service. Some people don't like fundraising because they don't want to give. B*

*To me fundraising is about supporting organisations that either don't have, have never had support from the government or any other authority, it's raising money for people or organisations that are in that position, where their source is limited. M*

*So I'm really totally blasé about the organised charities because there's so much waste, but specific fundraising for a certain thing where you can see that that is going to that, I'm all in favour of. But the larger organisations to me if you give a pound, how much of that does actually get there, physically get there? B*

Many of the participants were well aware of the media reports in the last few years which highlighted unfair practices and excessive spending and there was agreement that this has contributed to shifting public views about the voluntary sector. For example AIUK top

salaries, Kids Company financial issues, Help for Heroes fraud and the suicides of vulnerable people in relation to fundraising were all mentioned in the focus groups. There was also an understanding of the need to protect vulnerable people from aggressive and inappropriate fundraising communications.

*This happened in Devon, a chap for Help for Heroes, we all contributed and he took £300,000, he's in prison now and that puts you off giving. G*

*Especially if you're someone who's mentally ill or you've got a mild sense of depression or anything. ...And you can't afford to give and someone's saying, "Well can you give to Shelter, can you give to Amnesty International?" You can be overwhelmed with guilt. B*

## **Fundraising communications**

At the outset of the conversation, participants felt that any communication that was asking for money from an organisation should be classified as a 'fundraising communication' however as the discussion evolved, some attendees brought up examples and situations that they were not sure about. Each group looked at a wide variety of examples of different types of communications from organisations.

An important area of agreement were communications that were uninvited from organisations that the person had never engaged with previously. There was also some agreement that communication which is targeted to a person in their private space should be regulated.

*For me, a fundraising communication is from any organisation that is looking for you to participate and it's one that has been sent to you, not necessarily with your name on it but like I say, it has to have been sent to you in some form, through your door, as junk mail, sent, posted to you specifically, phoned, texted, something that is directed at you. G*

*I see it as anything that's come into my territory, anything that comes through the door, the phone rings or has come onto my computer. Uninvited. G*

*For me it's more things that I feel invade my personal space, so phone calls, things come through my door, emails that are actually ....where they've got my address or my email or my phone number but even to the point of the junk mails, because you don't get a choice in whether or not you receive those. G*

*I think if they ask for money, there's your definition, if there's anywhere, even if it's just "phone this number to donate" then it's fundraising. M*

The discussion highlighted more mixed views when we began to talk about volunteer time and thank-you messages from organisations.

*I'm not sure the volunteering one is, it's invading you in exactly the same way and it's trying to appeal to you but my definition is it's not actually fundraising because it's asking for your time. G*

*It's not fundraising, it's a thank you for fundraising you've already done. L*

*On the face of it, the thank you letter is great because you've raised some money and they've thanked you for it, if you think about it, you're actually in their system now so I think it's what comes next, if they then contact you in six months' time and go, "we've got another challenge, maybe you can help us out with this", so I think on the face of it, it looks fine but in fact it's probably the start of a lifelong association with that particular charity. G*

Again there were mixed views about an organisation sending information in the form of annual reviews, newsletters or factsheets and whether these should be included as a fundraising communication.

*If it's a feedback or a review, then it's actually quite useful, I think it should not be included as it's telling you where your donation, where your contribution has gone. M*

*It's like subscribing to a newsletter isn't it? I mean a lot of them do say at the bottom, "If you'd like to give us money, here's a link to do so." I wouldn't class the whole thing as something I'd want to chuck away because I'd want to read about what that organisation is doing. B*

*I just think that almost all communication by organisations is fundraising. Their motive is to get money out of people. Now it could be very direct or it can be very indirect. Sometimes there are instances where on the face of it they're not asking for money, they're at the very least raising the profile, their own profile so that people if they don't give then, they will give at a later date. B*

During this part of the discussion, many participants identified the complexities involved and there was not a consensus of opinions.

*It's a tricky one though isn't it? Because I mean you've got to have a balanced view about it because charities have to be able to communicate what they do. So if you're going to classify communication as fundraising, how on earth can they do their jobs and how can they raise awareness of their cause? To me I just have a really simple definition like if they're asking for money that's fundraising and anything else isn't fundraising. B*

*I think it depends what they're trying to do. If they're not asking you for money, I think it's them trying to raise awareness of the cause, which is*



*different from fundraising. I think actually raising awareness sometimes is just as important as the charity getting their money. Because people need to know about it. G*

*We don't seem to have differentiated between those things that come to you unsolicited and those things where you've already made contact with an organisation. I support quite a number of charities but I also make it clear that I don't want phone calls but it doesn't necessarily mean that I don't want to be contacted by them and also how do you manage things like.... we've given quite a wide definition of what fundraising communication is and of course, I have two kids at school, schools do a lot of fundraising, that sort of thing and they get the kids to raise money for charity, those are fundraising communications but of course, they have all my contact details because I've got two kids in the school. G*

There was some discussion in several groups about memberships and subscriptions, where people felt that if you had become a member or subscribed to a particular publication from an organisation, that they would not want the regulations to include those types of communications.

## **Communication channels**

Each group discussed the various communication channels that were used by organisations to contact potential supporters, including post, phone, email and text messages as well as door-knocking and other methods. Participants were asked about their preferences as to what should be included in the FPS and it was clear that there is wide variation in the preferred methods of contact from organisations among people. Again, there were many expressions of sympathy for the position this puts organisations in but there was also a thread running through the groups about the guilt felt by people when they receive unwanted communications.

*I think [participant] came up with a very good point, you could end up with a blunt weapon that you stop everything and if the Red Cross decides to put out an appeal for Bangladesh or something, for a national disaster, that they would be stopped in their tracks and it would be nice to think of a way of having some appeal system so you could get through the total block. L*

*I totally agree that [organisations] should be able to, I'm not saying it should stop to the occupier or this and that, I'm saying if people say "I don't want it", they shouldn't have it, I'm not saying that charities shouldn't be able to lobby everybody. M*

*Ban the lot. Nothing should come through your door unless you request it. G*

*The other thing is and it's very evident around the room, is everyone's got their individual preferences how they want to be targeted and how they*

*don't want to be targeted. Which is why the organisations have to have multiple channels to target sometimes the same person more than once. B*

There was no clear agreement about what is intrusive, although phone calls and door-knocking were seen as most frustrating to participants and these areas generated the most discussion along with 'junk mail'. Attendees were satisfied that addressed post and phone calls would be included in FPS but many went further and felt that door-knocking and 'junk mail' should also be included. Most participants acknowledged that it would be impossible for FPS to include certain activity such as on-street fundraising, events, stalls, ads, etc. but were frustrated by what they see as aggressive fundraising techniques.

*I would generally say that post and email is fine but phone calls and texts are more intrusive, even if you've contacted the organisation before, email or post is easier to ignore whereas phones and texts are more intrusive. G*

*I think there's a danger of throwing the baby out with the bath water though. There must be a distinction between targeted fundraising and untargeted. It seems to me that the bad rep fundraising has are the things like the chuggers and the door to door people and the people that are unsolicited, people that you haven't invited to get information from. B*

*So you've talked about email, you've talked about addressed post and you've talked about telephone, but the thing that's causing the problems [chuggers] there's nothing about that. B*

Focus groups had many ways of categorising fundraising communications, such as by 'non-personal' contact (i.e. chuggers, TV, ads, junk mail) versus 'personalised' contact (such as door knocking, letters, texts, phone calls, donations to charity shops) and also via personal networks (sponsoring someone, crowdfunding, school raffles for children, etc.) and those networks are also often local. There was a distinct division among participants between whether you can choose to avoid the communication or not.

With both phone calls and post (including unaddressed post), there was confusion about whether fundraising communications from organisations were already covered by the Mail Preference Service (MPS) and the Telephone Preference Service (TPS), which many people were either registered with or familiar with. There were many questions related to how the FPS would work and if it would work in the same way as the TPS and MPS, which both had mixed opinions as to their effectiveness.

*Many of us will be registered with the Mailing Preference Service and the Telephone Preference Service, people have found clever ways to get around those, is there any likelihood of this being any different? L*

*The Mail Preference Service is supposed to cut that sort of thing out but that doesn't work a lot of the time as well. M*

*The TPS does not work and if you're setting this up, you need to have some teeth, you need to have some way of policing it. The government knows*

*who they are, there's been a statistic that X thousand complaints and they've only made 14 prosecutions, it's not good enough. M*

*The TPS does work unless you are donating and then they've got your number. L*

In regard to post, while most attendees were happy for addressed post to be included in FPS, there were vigorous discussions about unaddressed post or 'junk mail'. Some feel overwhelmed by 'junk mail' generally and others pointed out that they get quite a lot of 'charity junk mail' via others, for example DHL. Many others expressed doubt about the possibility that the 'junk mail' tide could ever be stemmed. Some made clear distinctions between private sector post ('junk') and post that was from a 'worthy cause'. Many were frustrated at what they see as an extreme waste of resources. There was also a certain amount of fear that if addressed post is regulated while unaddressed post is not, there will be a huge increase in 'junk mail' from organisations.

*I don't want another coaster or another bookmark so I throw them away and then I feel bad, not only do I have the guilt that I'm not donating, I then have the guilt that I'm wasting what they've spent money on to send me. G*

*I think there's a wider issue here and that is it annoys me when I get that stuff, yes of course you can put it in the recycle bin but what a waste of the environment. M*

*I think you need to look at what the objective here is so if there is a really great fundraising cause, earthquake in the Philippines and there's a person with money in the UK who really wants to donate to that cause, whatever way you could connect the two is the right way and if you impose any restriction to say this is junk mail and be regulated out, I think we risk establishing a way of connecting a supporter in London who could easily be willing to donate to this charity, if he only got that one, the charity doesn't know his name and he's not on the database, it's unfair of the charity to him that they won't ever connect them. L*

Participants had mixed views about email, text, door-knocking and the use of social media, which are each described below.

In regard to text messages, most were happy to have it included in FPS, with some noting how much they like being able to support organisations by text.

*I'm used to getting all sorts of junk in my email, whereas I think a text is normally you associate it with somebody that at some point, you have provided your telephone number to who can contact you but when you get somebody who we don't know from a completely different organisation that's got your mobile number, I find that annoying. G*

*And I want to do it with my phone but then I'm frightened of the consequences because I've heard that then they start bombarding you. L*

*For instance with Amnesty International I get texts which say 'somebody's on death row, it was a very biased racially ...' You know for example 'Please text Action and then your name'. So it's very quick for me, I know it costs me, 45p, I don't care, because that's the fundraising element for Amnesty International to do that work. It also adds my name to their list for petitioning against all that Amnesty International do. So it's fundraising because I know my text costs, but then it's also action which in the past I've been writing letters, but I was never very good at that. B*

There were mixed views about email communications, partly because of the variety of knowledge among participants about how to unsubscribe. Those who are confident and skilled in using the internet and email are happy to manage this themselves, others have a real problem with managing their email.

*With emails, I'd quite happily just unsubscribe, it's the easiest thing. L*

*But I don't think everybody's as clued up to the opting out of... There's always two things on any kind of literature that you get on fundraising. One is opting out. B*

*Do I have a problem with the information going out? I don't think I do, but if I get an email and it says this so and so and so and so and you think, "Oh I didn't know that was going on, my god." Then you look at it and you think, "Oh right yeah I will." B*

The groups all mentioned social media as another communication channel being used by organisations for fundraising and most felt that social media could be managed individually by the user. However there were some participants who were using social media but did not understand how to prevent unwanted communications from reaching them. There were some distinctions between private and public space on social media also.

*Yeah, if an advert pops up on your Facebook, you get a choice, "I don't want to see any more from this organisation", done. M*

*Yeah, it's easy but it's a bit like it's easy to throw that in the bin, it's the same issue really, that you're just binning a communication. M*

With regard to door-knocking, there were mixed views about whether this should be regulated by FPS and also how realistic it might be to implement restrictions. Most participants were in favour of including door-knocking in FPS as they felt that it carried many risks for residents, was particularly annoying and aggressive, especially for vulnerable people and that organisations should be able to monitor the addresses approached.

*You don't know who they are, they could be anyone and to come to your door, for all you know, they could be surveying your property, seeing if you live by yourself, they can judge if you're vulnerable or not. L*

*It's harder to say no to someone if somebody is literally right there in front of you, especially if you're not the kind of person who likes to cause a fuss or cause offence or whatever. B*

*If it's included it gives everybody the freedom of choice to exercise that choice. They can say, "Yes I want it, no I don't." And the people that want someone to knock on their door can allow it. Equally the people that don't can prevent it. So it has to be on there to give everybody the option of exercising their right. B*

Those not in favour of including door-knocking expressed worry that smaller and local organisations would be disproportionately impacted or that it would be too high a regulatory burden to enforce (some of these issues are included in the next section about which organisations to include in FPS).

*I don't know how they could put that into practice could they? They can't do it, people could just come round your door anyway. L*

*It's not realistic because to do that would impose a huge regulatory burden, it would cease to become functional and all the money we are donating to charity would go to the regulators! L*

*[Participant name] screwed me up now because I would have said everyone. But then like you say if somebody three streets away has got a problem are they going to be allowed to come and knock on the door and say, "Look we have a problem locally." B*

*I mean I must admit like Christmas the local Lions come round and it's got a Father Christmas, but they knock on my door and we give them coins, are they not allowed to do that? B*

There is a deep understanding among many people that fundraising is necessary if we want to have a robust voluntary sector and that individuals must be willing to make some sacrifices for civil society however there is a limit to those sacrifices and the edges in particular are around phone calls and door-knocking as well as concerns about protecting vulnerable people.

## **Types of organisations in FPS**

The groups all discussed what type of organisations that FPS should apply to and this discussion found mixed views in most of these questions, however many people made clear distinctions between large organisations and smaller more locally based efforts. Some attendees were happy to have smaller organisations exempt and others felt that all organisations should be regulated, to create a 'level playing field'. Income came up frequently as a possible criteria, with participants suggesting a variety of income levels which ranged from £200,000 to £15 million as the cut-off. Another frequent suggested criteria

were registered charities, with attendees not always understanding that many organisations who fundraise are not necessarily registered with the Charity Commission. Staffing levels were mentioned by participants as a possible criteria, particularly number of staff who are engaged in fundraising activities.

*You can't stop the local nursery from sending you a flyer because that nursery is so small, 30 students, they don't have the money to register themselves with whatever system you have. L*

*I think everyone should be regulated, if they're a charity. G*

*If I tick your boxes of no phone, no email, whatever and something came from a smaller organisation, I think that would be acceptable. L*

*I don't think you can start discriminating, you only get £1000 a year so it's all right, you can go round knocking on people's doors. G*

Those in favour of smaller organisations being exempt from FPS felt that it would place an undue burden on organisations with few resources and would be a waste of resources.

*To use an analogy from the corporate world, only companies of a certain size are required to file Companies House accounts because it would be unfair to a corner store to ask them to file Companies House accounts, so I think it would be unfair and these companies don't have the resources to have a person to handle that. L*

*Would you then be happy to pay a fee to be regulated in this small charity of five people, all volunteers and suddenly the money that you're raising has got to be paid to regulate and maintain a database? I'm not sure if they should be included from a pragmatic point of view, it sounds ridiculous, it's a bit like all these people wasting money on all this paper and sending it to you when you're throwing it straight in the bin, it doesn't make sense. M*

Another theme within this discussion was in relation to local efforts being exempt such as schools, scout groups, local branches run by local volunteers, community efforts, etc. but there were still mixed views about this. Some felt that smaller locally based organisations were not using the type of fundraising communications that we were discussing, so FPS would not apply to them anyway yet others felt that they could still be aggressively targeted by smaller organisations.

*It's how local they are and how big they are. M*

*Yeah, like a local youth club or something, you wouldn't expect them to go through the process of registration. M*

*Small local organisations, where I live in Liverpool, there's quite a lot of small community organisations and they do put leaflets round, I suppose just letting people know they exist. M*

*I think you're a lot more emotionally involved with something local I feel. M*

*I think it becomes like going back to your earlier point about how far do you drill down. Because you either have to say no to big fundraising, so whatever the criteria is. Yes to local fundraising but then be mindful the local fundraising isn't just going to be little Annie who needs a wheelchair.*

*B*

Schools were mentioned many times specifically and participants view schools in a 'special' category on its own, although attendees noted that some schools were also charities and that most schools encourage and support their students to raise money on behalf of other organisations as well as having links with parent organisations and the like.

*I might be biased but I don't feel like schools should be involved. I don't feel they should be regulated in the same way. G*

*If the school is a charity for themselves and they are fundraising for themselves, then they should be regulated in the same way but if they're running Mufti Day where they are raising money for a charity, I think that's a different kettle of fish. G*

Local branches of larger organisations were also discussed in more detail. There was a particularly detailed conversation about MIND, with participants on both sides of the issue where the feeling was that if a local branch is not getting any support from the 'parent' organisation, then they should be exempt, but others felt that just using the MIND national logo was support enough to include them in FPS.

*I think that's difficult because these are mostly local people that are interested in trying to help and do something and if there's lots of rules and regulations, will they show interest? Will they be bothered? L*

*How does that cover the vulnerable person who feels they need to give to everything that comes through their door, even if it benefits the local community, they'd feel under even more pressure. G*

*If they're doing something as a fundraising thing on their own, fine, if they're fundraising for MIND, the national organisation [it's different]. G*

*But that's what they use in the fundraising, is the national symbol of MIND, however when you go to the organisation, it's MIND in Salford and that will be different from say MIND in Liverpool or Stockport, so they do different things. So it's a really hard one. M*

Most participants felt that any individual volunteer fundraising on behalf of organisations should be excluded from FPS (i.e. staffing a stall or knocking on a local door about a

sponsorship, running a marathon or a Facebook or crowdfunding page). There was also a certain amount of cynicism that the larger organisations would find ways around any regulations and that any regulation would harm smaller and more locally based charities.

Lastly, there was wide agreement for the need to keep the system and the criteria simple and easy to understand and implement although it was acknowledged that defining criteria is a difficult task.

*There's clearly an appetite where people want to be targeted, they want to be approached by certain organisations, so therefore the FPS should be able to cater for that. I think the problem you're going to have is ring fencing who's in and who's out. It's not going to be very easy to define criteria. The other thing is you're going to get unscrupulous organisations at whatever size. B*

### **1.1. Is fundraising in the voluntary sector different to sales?**

There were discussions about similarities and differences between not-for-profit organisations and private businesses. Participants had mixed views on this question, with some feeling the two are the same, partly because they are annoyed to get any type of 'cold calls' while others spoke about the burden of guilt for not supporting charities. Those that viewed no distinction between the voluntary and private sector were likely to want more regulation and fewer exceptions to FPS while those who felt the two were distinct were more likely to support organisations being able to contact current or previous supporters within the FPS rules.

*But with a charity, I don't necessarily approve of that but at least they're not trying to flog you a dead horse. L*

*But then you never know if they are charities, I just don't want cold calling, if I want to give, I will give in my own way, I don't want people phoning up and making you feel guilty, that you feel you have to. L*

*You pick the telephone up, they are identical because they have disturbed me when I didn't want disturbing, they're giving me information I haven't asked for and trying to take something away from me. G*

*I would say on a scale of annoyance, your cold call sales from a business is worse than a cold call from a charity, if we're going to rank them but I don't really want to receive either. G*

*I'd rank it the other way round because I think it's emotional blackmail, I think if it's a commercial thing then they're trying to sell you some double glazing. G*



*I think there's no difference, it's slightly better if you've contacted them before, as long as once you tell them you don't want any more phone calls, they respect that. Which in my experience, they do. G*

Some felt that 'charities are different' and the discussions linked to feeling that organisations with whom people were already engaged with or donating to would be an exception to any regulation.

*But I think there's also a little bit of protecting the weaker; we're a democratic society so the reason why a charitable organisation has no tax is because we as a society have deemed that they're doing a social good, they are helping the weaker part of society whereas a window seller is not, they're out to make a commercial profit and society deems that to be taxable, not protected, so I think there is a difference in the way we as a society treat them, I think we can be a little bit more lax and lenient with a charitable organisation and we shouldn't be that much imposing new rules on them, whereas with a window seller, we should impose all the rules we can. L*

## **1.2. Views about how FPS might work**

The final section of the discussions focused on how the FPS might work, if participants would register for it and their motivations. There were extensive discussions about how to handle organisations which have an ongoing relationship with a supporter (this links to the previous discussion) and views on this were completely mixed. Many people expressed the view that if they donate to a charity, they want to be able to receive communications from them and updates however others felt that making a donation did not constitute consent for continued contact.

*Even though I've ticked I don't want to hear communication, somebody I've previously donated to, I would expect to get a letter from them, that letter itself will have enough information for me to unsubscribe to them in particular, somebody I've donated to in the past should be able to contact me again. L*

*Because I'd be worried if I ticked a box like this and one of my son's school charities stopped reaching out to me and I was a rich millionaire, I would miss that opportunity to fundraise for something I really wanted to fundraise, so I think something I've donated to in the past, I'd expect them to ... again if I don't want them to call me, I can always tick a box and send them a letter or phone them up and tell them "no communication". L*

*I want a total stop and I would want the opportunity to react to events on the day where I decided whether to make a donation, so if it was for something like a tsunami or something of that kind, we would know the*

*Red Cross would be doing something about that and we might well make, and I did make a contribution to the funds of the Red Cross, specifically because of that world event. But I don't think I'd want to be approached just because I made a previous contribution to something. L*

*Right now all the mail I receive from charities and organisations is in one big pile that gets tossed because I don't want any of it. If I've ticked that box and gone to preferences then anything then gets my serious attention because I know it's made it through the filter and really now needs to be opened, that's one reason why it would help me actually, as a sort of automated concierge service. L*

*No you'd have to re-contact and say, "You are free to contact me whenever you want me to." B*

*So what I wouldn't want to do if I'm giving regularly to a charity and I'm getting the newsletter I wouldn't want to automatically be included in the FPS and suddenly have everything stopped, all my communication stopped. So you'd have to be careful about...? B*

*But if it's a charity like Whales and Dolphin Conservation Society I'd pay an annual subscription. So it's a charity but I'm already paying, so that shouldn't be included. B*

*Yeah otherwise if it meant that I'm not going to get my regular communication from the charity that I support regularly, I'm not going to join the service. So actually all the other charities that I don't want to contact me will still be able to contact me. B*

Groups had extensive discussion about an opt-in versus an opt-out model for FPS, with some participants quite vocal that fundraising communications should be opt-in only.

*I think if you want to make this so it works for everybody and people don't find loopholes, it should be an opt-in system rather than an opt-out system, as long as there is an opt-out system, there will be vulnerable people that are taken advantage of. G*

*I agree with what you're saying but there is a little part of my heart strings that this is a charity and I don't want to rule out all communication ever in any way, shape or form, I just want to have a bit more say over it for myself, that's my personal feeling, I'd want more say over when I'm contacted and how I'm contacted. G*

*But then you could opt in. G*

*Yes I know but the chances of opting in are very slim. G*

*So the starting point is that everyone doesn't get anything unless you opt in to say I want to receive it. Or this is what's probably more likely, everybody*

*receives everything unless you register to say you don't want it. It depends how you approach it. I know which I would prefer, I would like to opt-in to it, like the default. A bit like the blood donor card, the organ donor card. B*

There was wide agreement that the FPS is a good idea generally and when asked if they would register for FPS if they could, a majority of participants said they would. The motivations expressed by attendees who would register for FPS were varied and much of it was to do with personal choice and freedom as well as feeling overwhelmed by the amount of information coming into their space. Others felt that the communications were wasteful and some were motivated by environmental reasons.

*Posters, pens, stickers and it's almost as if you feel guilty because you've got those things and I just hate that, I do donate now and again to causes but I'll decide. L*

*I want to make the decision, it's like a door to door salesman coming along and saying, "we've got this wonderful idea", I'm thinking if I didn't think of it before, I don't really need it. L*

*It's an invasion of privacy. Watching your favourite soap opera in the evening and you get a phone call. L*

*Just to save the planet, I don't want letters that I'm going to throw in the bin. L*

*I feel bombarded by charities so I would just like to make the choice as to what I receive and don't receive and then secondly, if I'm going to do something for a charity, I'd rather give my time than my money and therefore I would go and contact them. G*

*I find that life is chaotic enough as it is and there's stuff going on all the time and I don't need all this extra stuff to think about. B*

*It's just to minimise the amount of information we have in our lives because we have too much. B*

For those that would not register for the service, it was mainly because they do not feel bothered that they are getting swamped with communications and they feel that they are able to manage the communication flow themselves. One person appreciated the 'giveaway' items sent by charities.

*Not an issue, doesn't bother me. I've not signed up to the Telephone Preference Service or the Mail Preference Service, don't mind who phones me, who mails me, absolutely fine. G*

*I'm not getting a load of junk at home, I'm not getting an annoying phone call that I have to either answer or try and block, I'm getting email and I can easily unsubscribe whenever I choose to, that said, I'd like there to be a*

*clause as to how often I'd prefer that email from that particular charity, that would help. M*

*I mean I don't mind for the charities and I know the reasons why and I know that it actually encourages other people to give, that might not. When they give you little gifts and cards, birthday cards, I always use those. It's because rather than going to Clinton's and paying for people to get money from my cards, I will give birthday cards which come from charities and give them the money. So I do give them the money, but I'm paying for the birthday cards I send. So I quite like that, I don't like cold calling when that has been unsolicited which are charities. B*

Participants talked about and questioned what the options would be if they registered for FPS and many wanted to have the ability to choose both which types of communications they received and to be able to choose what type of organisation they would want contact with (i.e. environmental groups, animal rights, international relief) and how it gets updated. Others felt that the most important thing is to keep the process simple and easy to use.

*I would opt-in two or three organisations for the reasons that [participant] just mentioned but also the point you made about annual updates on accounts and how things are going, even if I don't plan to contribute to them in the future, I have put money in, in the past and I just want to see how this progresses, I want to see how it goes. L*

*So I could say for my preference, I just want to hear about animal charities and not overseas, not interested in the slightest. G*

*I would never, ever want text messages because I attend a lot of meetings and I don't want my phone going off, when my phone goes off, it's important. That's just me personally. So to me, if you're going to say "yes I will take this", you should also be able to say, "and I want the communication to come by ABCDE". G*

*If you're going to give people a choice then I think that choice must be as easy as possible for the person making the choice. What I don't want to do is either very complicated online form that I need to fill out to express my preferences about how I want to be targeted. I want it to be very simple. The TPS and the MPS it's very simple, you provide your contact details and that's it and that means you're then any organisation that's associated with the Direct Marketing Association cannot send you any information, it's as simple as that. B*

*I want it as simple as possible, I don't want a complicated form, I don't want many options. But if you want to talk about options I can, you can have a white list, you could have a black list. You could define the channels, you could define the types of materials. But once you start going down that line it starts to get very complicated for the end user. B*

*I would love to be able to just tick a box and say, "I don't want anything coming through the post," because I try to go as paperless as possible because I'm quite environmentally conscious. So I'd want to hear about the environment, whether that's a global thing or a national thing, or just a local thing on the corner. B*

*I might be quite happy to give to my regular charity, but I don't want every other charity on the block to communicate with me. So you need to be able to isolate, you know not override the opt-ins. B*

*But every individual charity who's registered with this group would still have to provide the opt-in and opt-out for the individual communications wouldn't they? So surely the Fundraising Preference Service thing should only come into play if that particular charity has abused what that donor is saying to this charity. If I've told that charity I don't want to receive any more communication from them, I should stop getting communication from them. If they continue to give me communication and I'm registered with the FPS then that's the role of the FPS. B*

*The only point I would make is that the Telephone Preference Service and the Mail Preference Service, because I've registered with both, is all or nothing. You don't get a choice, you don't say, "I'll have this correspondence, I'm happy to be rung by these people," it's all or nothing. So my preference would be the same for the FPS. B*

Some participants were concerned about data protection and how organisations might share their data with others.

*It's down to the issue of who's got your details and who's selling your details because a lot of the time it's not the charities doing it, it could be a market research organisation, it could be DVLA, they're very easy with passing on people's details these days. M*

*I don't know if the bombardment starts when you actually respond and sign up for something and there's lists of, "Yeah go on XX gives stuff." I'm on a list somewhere and they swap lists, I don't know. If I give to Macmillan do I get something off Marie Curie or RNLI? B*

There was wide agreement that if an organisation falls foul of the rules, they should face consequences that have 'teeth' and there should be clear consequences for organisations.

*In terms of having teeth, it would need to be enshrined in law. M*

*I hope it works and I really think going back to what I said in the first place, you need to give it teeth, if you register for it and you still get the mail, you complain, if that same organisation carries on sending it to you, they should be fined, there should be something to really stop them doing it. M*

*If the disciplinary body, whatever you're going to call it, does have teeth, that any sanctions imposed should not go to government, they should go back to abiding charities. M*

There was also much concern about how to protect vulnerable people (as discussed previously) from fundraising communications including people who just feel quite guilty and anxious about issues raised and the need expressed by organisations.

*I think the people that this is trying to protect are the ones that are vulnerable and hard to reach, how do you get them to phone up, how do you get them to understand that this is what it's about? L*

*Not really a problem for me because I can deal with things anyway but I think for vulnerable elderly people, the fact that their relations, like I put my mum on the TPS service because she was getting constant phone calls, somebody who can do this, can put them on this register, then that would be a bit of a God send for them. M*

Generally participants were quite positive about the FPS with a few feeling cynical about implementation.

*She just said everything I'm thinking, I'm inclined to agree with all of that, I think it's a really good thing to do and I think it could ultimately have quite a positive effect but it is a tricky thing to do, but I do think it needs doing. G*

*If you took a snapshot of what the situation is now and you took another snapshot once it had been introduced, we'll be in a better place once it's introduced, so I think it's not going to be perfect at the start but it's not just going to have one go at it, you will change it and amend it over time and ultimately, you need to protect the more vulnerable members of society who feel almost obligated to support every single charity that approaches them and if you could do that and then reduce the annoyance that other people are experiencing, then I think you've achieved the objectives of it. G*

*I feel quite positive about it just purely from the fact that I'd feel I'm more in control with who I'm getting communications from, I'm not being bombarded with emails and post through the door because ... and also a lot of literature in the brochure because I just don't have the time to read through it, it just goes straight in the bin, so if I can opt into receive communications from charities that I specifically want to hear from and then not hear from the rest, that would be good for me. G*

## **Conclusions**

The focus groups provided a snapshot view of the general population, with many opposing views in relation to the implementation of the FPS. However, the FPS was seen widely as a positive action which is needed by the public. Many participants expressed frustration with

what is seen as an invasion of their privacy by organisations and businesses, particularly with phone calls and door-knocking and being overwhelmed with information.

The groups were satisfied that addressed post, phone and email would be included in FPS but expressed high levels of interest to include door-knocking and 'junk mail'. There was wide variation in preferred methods of contact but door-knocking, phone and 'junk mail' were seen as most problematic. Addressed letters which include 'giveaways' were seen as wasteful and created high levels of anxiety and guilt among receivers. Social media was not seen as problematic by most due to the ability to manage and filter contact. There were mixed views about other forms of communications such as those thanking donors, asking for volunteer time and newsletters or annual reviews, with some feeling that these types of communications should not be included in FPS. Raffles and lotteries were seen as fundraising communications but as with gifts and experiences, were seen as somewhat different.

The TPS and MPS were discussed, with mixed reviews as to their effectiveness and there were concerns about how FPS would link with or complement these existing services.

Participants felt that small and local organisations should not have the same regulatory burdens as larger, national and international organisations. Some see voluntary sector organisations the same as private sector businesses and others understand the unique characteristics of not-for-profit organisations.

Most people would register for FPS but many would want to name specific organisations to stay in touch with and they want to be able to choose which communication channels to use and which types of organisations they want contact with.

The FPS system needs to be designed in a simple and easy to use structure which is accessible to all but which has 'teeth' and serious consequences for organisations who do not abide by the regulations. If there are no consequences, the service will be seen as a waste of time.

Many expressed concerns about vulnerable people and the elderly, some of whom may not be classified as 'vulnerable' or see themselves as vulnerable. Fundraising communications can ignite extreme feelings of guilt and anxiety for those who are already feeling stressed or isolated. There are also concerns about data protection and questions about how organisations share personal data and what level of agreement is needed.

These findings may also indicate a shift in how the public prefer to donate to charities. Choice came out as a high priority for people along with privacy but also the ability of the public to do their own research on the internet, with so much information available. Additionally, social media may be setting the tone of how people want to be communicated with in future – control and choice about who communicates with us.

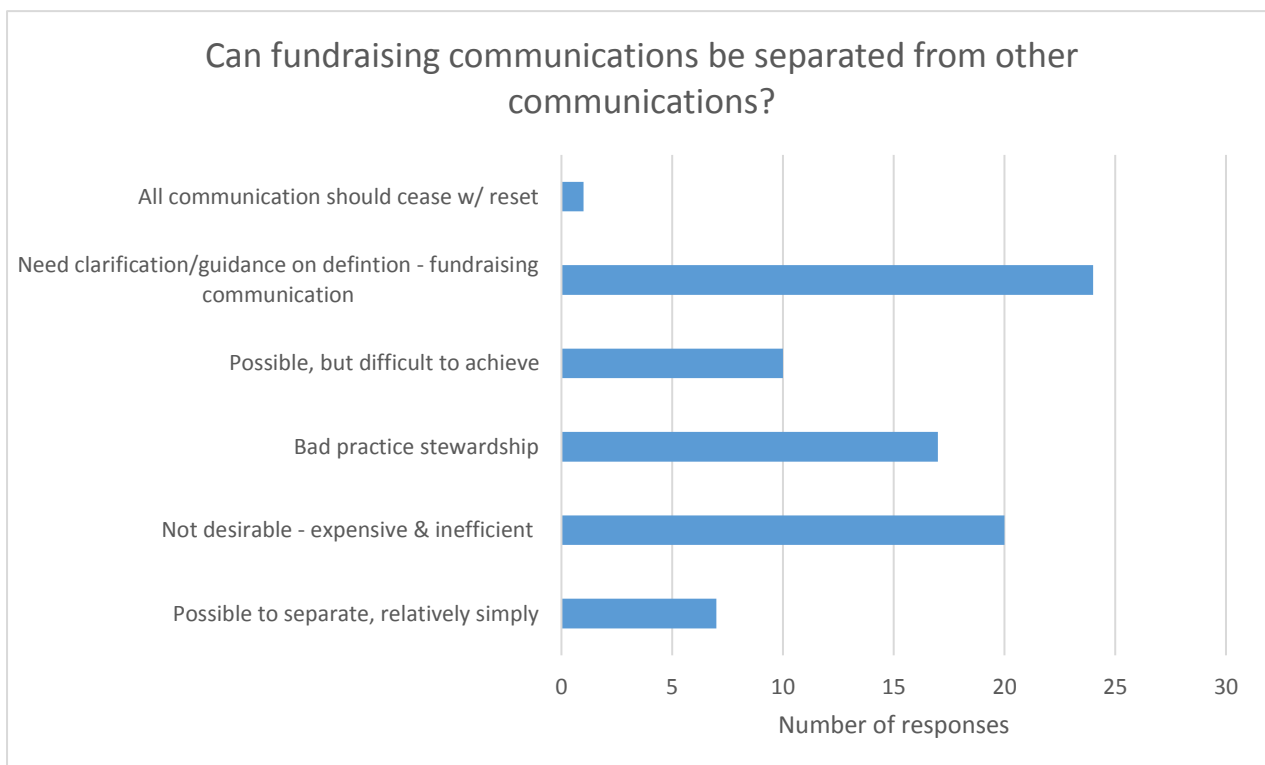
## Annex III – Analysis of responses

The following analysis is based on 147 responses to the consultation on the potential design, scope and implementation of the Fundraising Preference Service (FPS), which ran from 1 to 31 March 2016. Of the total responses, 115 (78%) were from charities, including universities, schools and arts organisations. 9 of the responses (6%) were from individuals, 4 (3%) from CRM providers, 10 (7%) from fundraising consultancies and 4 (3%) from regulators. 4 responses (3%) are categorised as ‘other’.

For a concise insight into the submissions, the analysis presents the most common responses to the questions asked, their frequency and the prevailing concerns of the respondents.

### Q1 Separating fundraising communications

- The working group’s proposal that the FPS should only apply to fundraising communications was widely welcomed. 77% of the respondents agreed with the recommendation, 22% did not comment and 1% felt all communications should be within the scope of FPS.
- However, respondents’ called for a more detailed definition of the term ‘wholly and primarily’ engaged in soliciting funds. Twenty-three submissions requested illustrative examples of what this term would mean in practice.



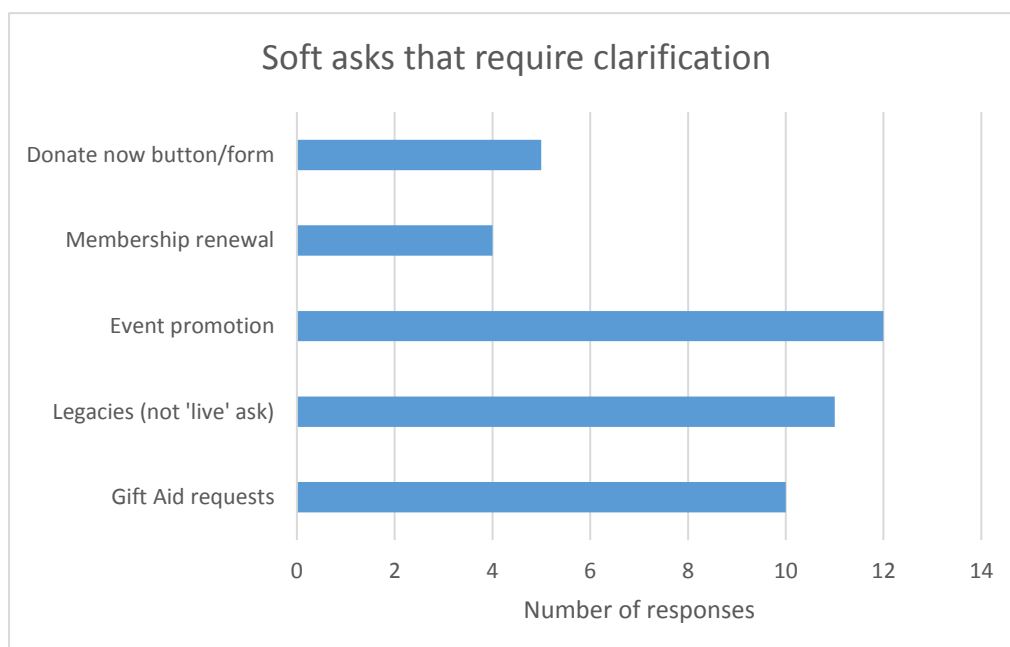


- Equally, there was debate as to whether fundraising communications could be separated from other communications. Twenty respondents believed it was undesirable to separate communications, as it would increase costs whilst reducing efficiency. 10 submissions claimed it was possible to achieve, but with difficulty.
- Respondents felt it was not clear whether 'soft' asks in newsletters and administrative communications, particularly with existing supporters, qualified as fundraising communications.

*"We believe there needs to be clearer distinction made between "cold" marketing (donor acquisition) and communications with/and further solicitation of existing supporters by charities."*

- Two respondents suggested a limit on soft asks in general communications: *"A simple (even if arbitrary-seeming) rule may be required, like: A multi-page charity communication where <10% of the pages include or refer to donation asks should not be considered primarily fundraising communications."*

*"Many general charity newsletters etc. contain a few mentions of fundraising appeals. So in practice I would set a de minimis limit of say up to 20% appeal content, with 80% non-fundraising content."*

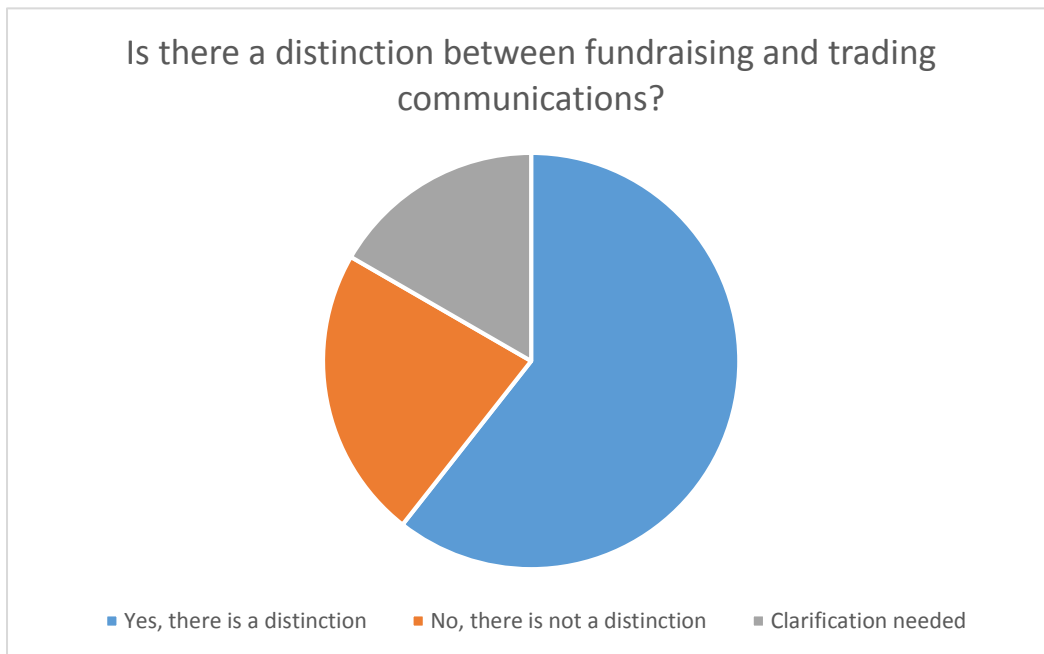


- Exemptions for Gift Aid and legacy requests featured frequently, as they do not ask for additional funds until a later date.

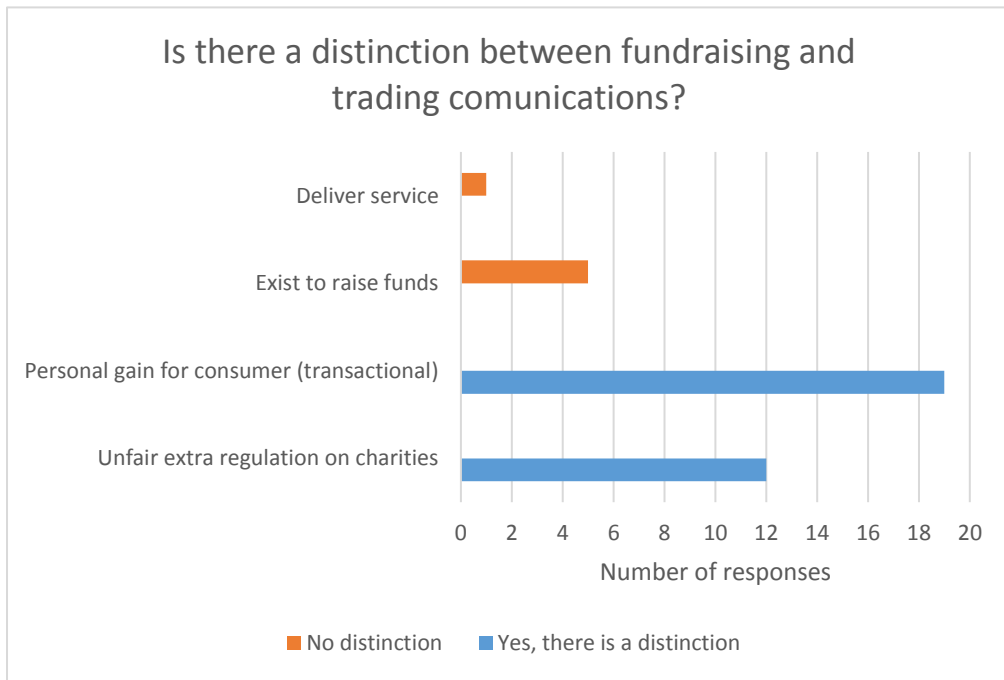
## Q2 Fundraising and trading

- Trading was seen as distinct from fundraising. Donations are a gift, differing from purchasing a product, which is a mutually beneficial exchange. Equally, regulating charity trading communications would put charities at a disadvantage to for-profit companies, subjecting them to undue regulation.

*“From our own research we can evidence attitudinal differences the public has between making a donation and buying retail product. Retail merchandise is typically bought to express support (being seen as a badge of honour) or as a gift. There is greater personal engagement and a direct value exchange. A donation is given to the cause.”*

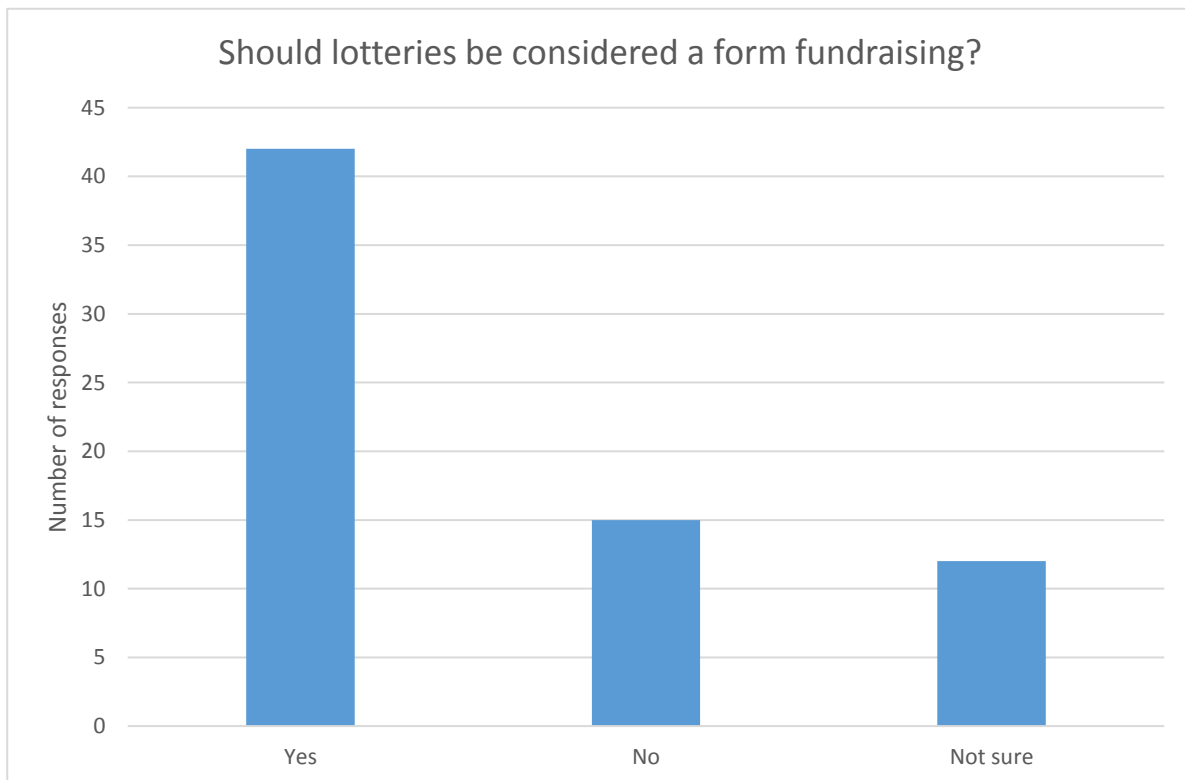


- However, there was some concern that the public would view trading messages as fundraising, as it funds the same work.



### Q3 Lotteries and Fundraising

- Forty respondents believed charity-run lotteries and raffles are a form of fundraising. However, they also offer supporters the chance to win a prize and this tension was noted. Twelve participants felt this was unclear and needed further consultation to determine whether the public perceive lotteries and raffles as a game or as fundraising.



*“Harris Interactive Market Research reports that raffles are the 7th most preferred way of making a donation to a charity. This research clearly confirms they are seen as a way the general public can support charities and should be viewed as fundraising communications.”*

*“Society Lotteries and Raffles are different from normal fundraising as they offer a genuine exchange of value for the player in terms of a chance to win. As such whilst they may be considered to be “incentivised fundraising” and treated as part of a general charity fundraising strategy they have a different status in the eyes of supporters.”*

- Eleven responses called for the exemption of lotteries and raffles, on the basis that they are subject to VAT, not eligible for Gift Aid and are regulated by the Gambling Commission.

## **Q4 Thanking donors**

- Thanking donors was largely viewed as separate to fundraising communications, as an essential courtesy to donors and a confirmation of the safe receipt of funds. However, nineteen responses stressed that thank you letters should not contain a further ask for funds.
- Nine submissions suggested that charities should offer an ‘opt-out’ from thank you letters as best practice for those who wish to end all contact.

*“It is a common courtesy and best practice to thank people who provide us with the money we need to help animals, and if we then receive a request for no further thanks then we will respect that and record it as appropriate on our database. As this is not a fundraising communication, then it should be made clear to the registrant that this form of communication may still be sent – they are after all signing up to a Fundraising Preference Service, which should only be concerned with fundraising communications.”*

- Nine respondents were concerned that demonstrating the impact of a donation could be interpreted as a call to action. Four respondents believed FPS guidance must make clear what can be included in a thank you communication.

*“In thanking supporters, it’s vital to tell them where their money has been spent. In doing so, you’re potentially creating a new ask as this often involves communicating the ongoing need for support.”*



## Q5 Perception of FPS effectiveness

- Managing expectations was seen as crucial to ensuring the FPS will be perceived to be working well. Thirty-four respondents highlighted this, and suggested clear messaging at sign up and on the website would help registrants to understand what is covered.

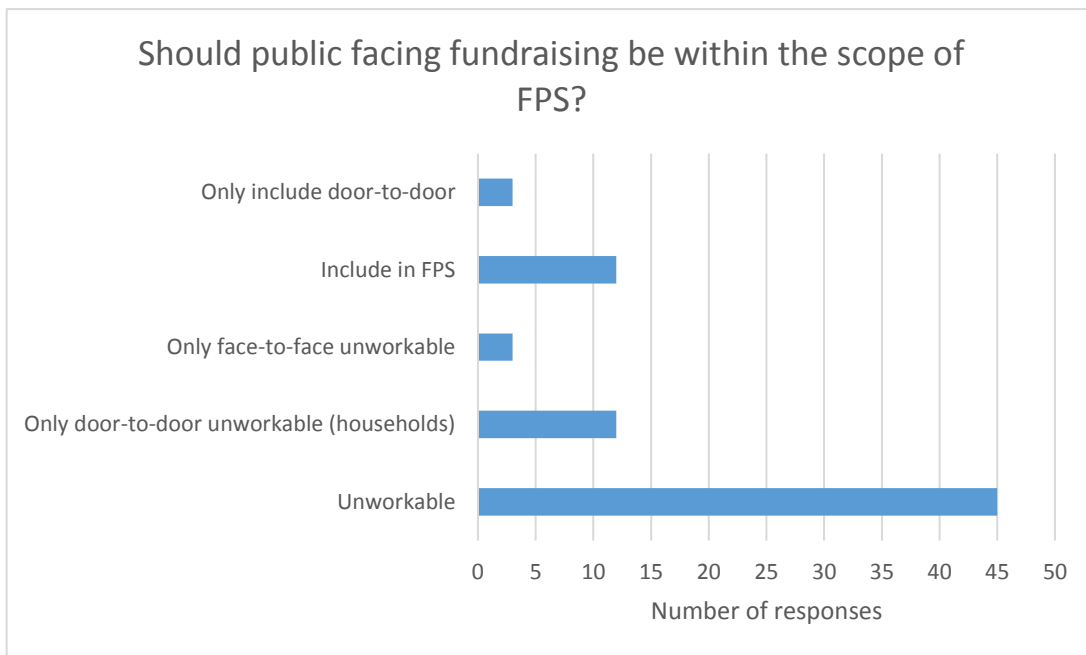
*“The FPS will need to be clear what is and is not included as a fundraising communication. This will be need to be explicitly detailed to supporters when they are signing up to the service. There will need to be clear timescales provided and explanations of any exceptions (if there are any). As part of FPS communications supporters should be encouraged to communicate with charities in the first instance to ensure that if they would like to continue receiving communications from specific charities this can be arranged. Supporters should be encouraged to approach the charities directly if they continue to receive communications where they have expected not to.”*

## Q6 Public facing fundraising

- Forty-five submissions indicated that door-to-door and face-to-face fundraising could not be regulated by the FPS. They specified workable solutions that already exist in

regards to both methods, including ‘no cold calling zones’ and ‘no cold calling’ stickers for households.

*“We agree that FPS would be impractical in relation to door to door and face to face fundraising. There are significant existing restrictions in this area with door to door fundraising already subjected to both no cold calling zones and the ability of households to post no cold calling notices on their door, while councils are [sic] already regulate where, when and how face to face fundraising can take place in their jurisdiction. Given also the Public Fundraising Association’s [PFRA] continued oversight of these channels, we do not believe that the FPS could or should apply.”*

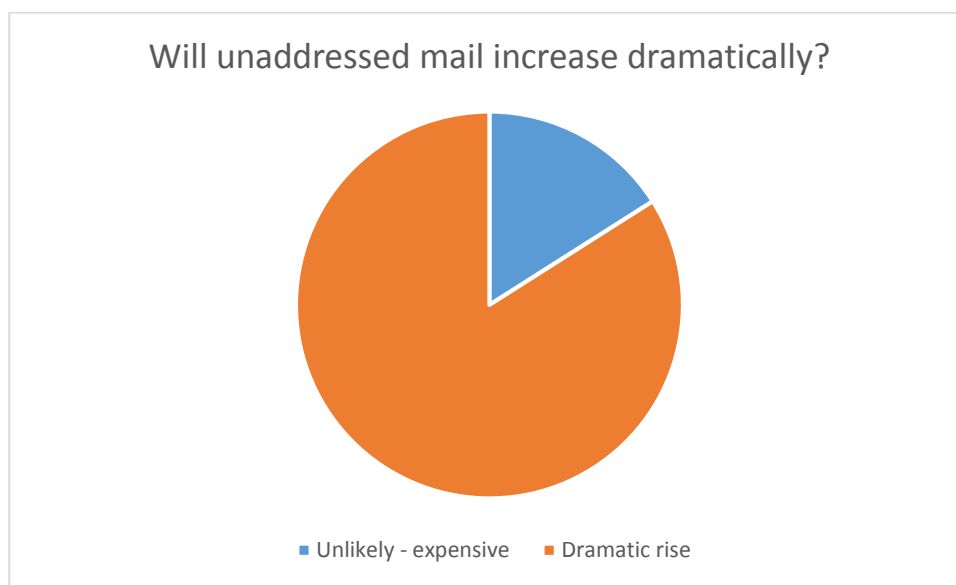


- Equally, as FPS will apply to individuals, it would be unworkable to include door-to-door fundraising, which is based on households. This was mentioned by twelve participants.

*“We are in agreement that individuals, rather than households, should register with the FPS. Although it would be possible for door to door fundraising activity to screen addresses against the FPS, this would operate at the household level rather than the individual level, therefore we wouldn’t recommend door to door activity is included.”*

## Q7 Unaddressed mail

- Forty-two respondents felt that unaddressed mail will increase in light of restrictions to other fundraising methods. There was concern that this will negatively impact small charities, as larger charities will crowd them out of this market. Eight respondents believed the low return on investment and high cost of unaddressed mail will stop any dramatic increase in this method.



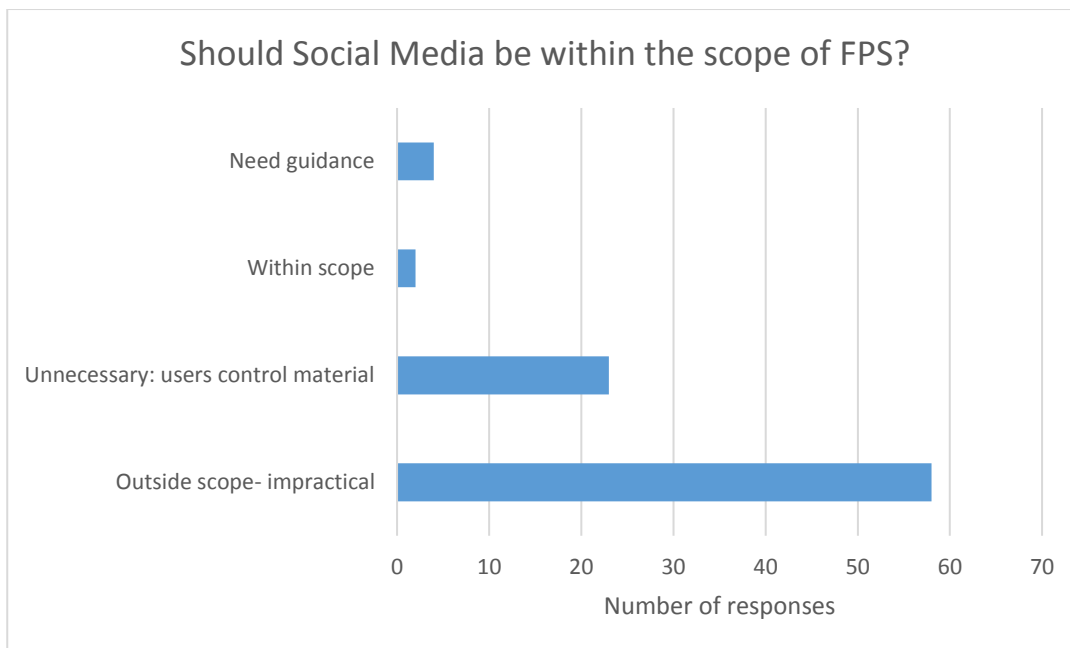
- However, they did not consider the FPS to have a relevant role in mitigating unaddressed mail. There is already a mechanism for opting-out of unaddressed mail. As responses to Q5 emphasised, it is crucial that the FPS makes clear which material is not covered by its service. The Fundraising Regulator should clearly signpost and promote this service to preserve confidence in the FPS.
- *“Undoubtedly this will be the case as this will be one of the few options left available to charities. However, the anticipated dramatic reduction in addressed mail should help to mitigate supporters feeling ‘overwhelmed’ with charity mail. Supporters can also opt-out from receiving unaddressed mail by registering with the Royal Mail [optout@royalmail.com](mailto:optout@royalmail.com).”*
- *“We do not believe that it is the role of the Fundraising Preference Service to safeguard against the risk of an increased level of unaddressed mail from the charity sector as a whole. Royal Mail is legally obliged to deliver all addressed mail from all sectors, which includes mail that is addressed “To the Occupier” (or with any other generic recipient information).”*

## Q8 Social Media

- A significant proportion of respondents believed social media is outside of the scope of the FPS. Particular attention was given to users control over their preferences and the ability to ‘unfollow’ a charity at any time. Equally, there is concern that social media users often do not use their real names, making it unworkable to check an individual’s identity.

*“Facebook and Twitter feeds are already based upon people's preferences either through 'likes' or activity. These platforms are highly sophisticated and actively “police” activity to protect their members against unwanted behaviours. We believe these channels are adequately protected and should be excluded from the FPS.”*

- Others noted that fundraising messages are ‘broadcast’ on social media, similarly to billboard advertising, whilst FPS will regulate ‘targeted’ communications.



## Q9 Multiple Addresses

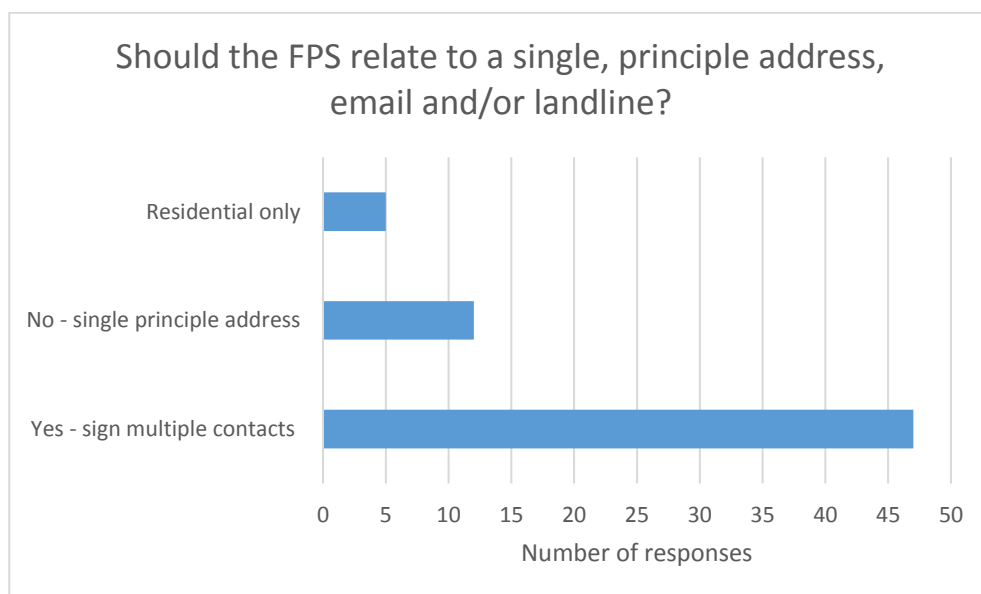
- There was significant support for the FPS to apply to as many addresses, emails or phone numbers as desired. Forty-seven responses reflected this, with customer choice and control cited as important.

*“Individuals should be able to express and confirm a choice over which contact addresses they wish to register with the FPS at the point of registration.”*

- However, there was concern from corporate fundraisers and faith groups that individual contacts may inadvertently bar communications for their entire workplace

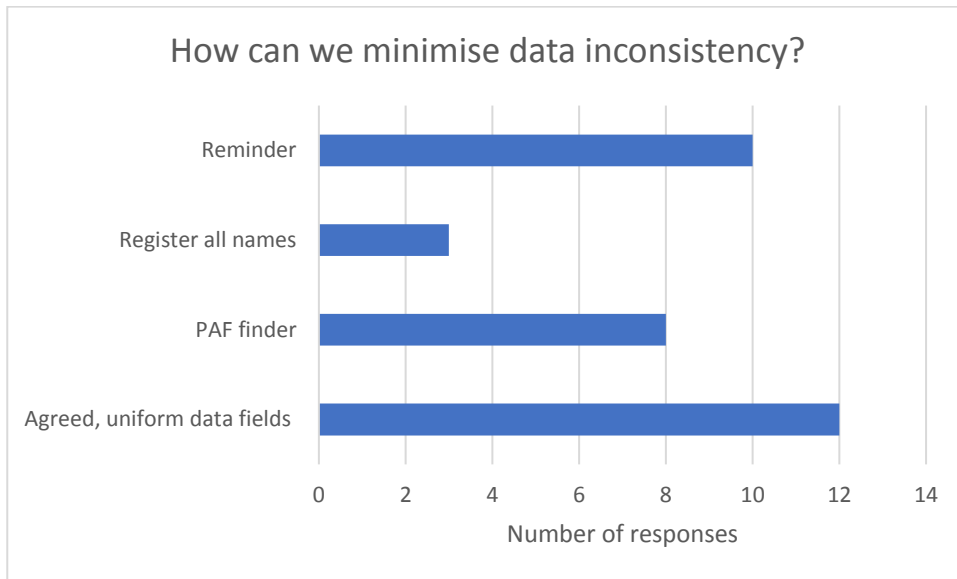


or place of worship. Five respondents called for FPS to apply only to residential addresses.



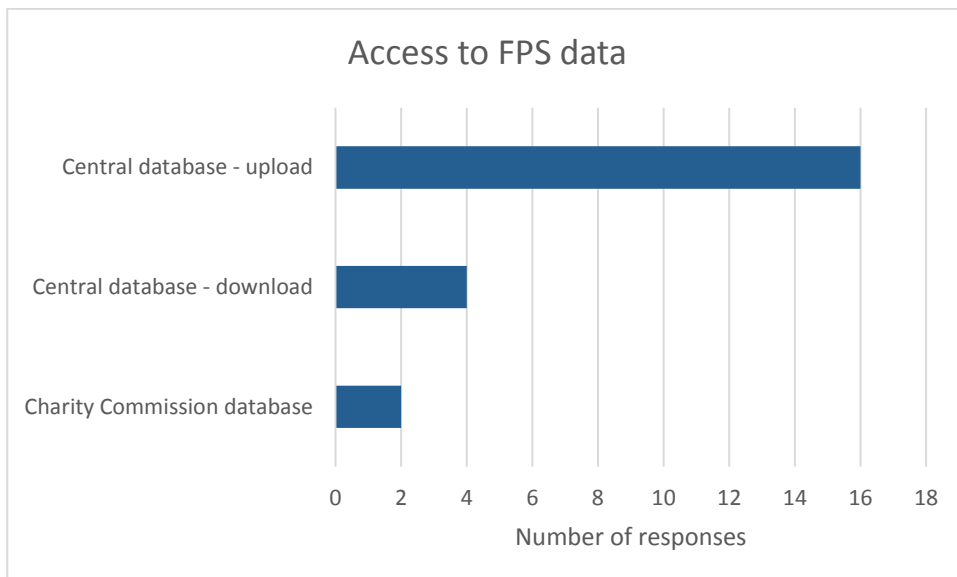
## Q10 Data inconsistencies

- Data inconsistencies were a significant concern but respondents were unsure how to tackle this. For addresses, eight contributors suggested using the Royal Mail Postcode Address File (PAF) to ensure consistency across databases. Equally, twelve respondents stressed that the Fundraising Regulator must agree uniform data fields including identity signifiers such as date of birth. Others, felt the Fundraising Regulator should encourage customers to sign up all of their known names to enable more accurate matching.
- Some respondents recommended issuing reminders as a solution to data decay. Responses to Q14 explore this more thoroughly.



## Q11 Access to FPS data files and exemptions

- 16 responses addressed this issue, indicating a preference for a central, secure database, which allows charities to upload their data was the most popular response.



- A key concern was that supporters would forget to include specific charities or organisations in their exemption list. Smaller charities were concerned that their low brand recognition would put them at a particular disadvantage.
- Some respondents felt this could be avoided by creating a more granulated re-set.

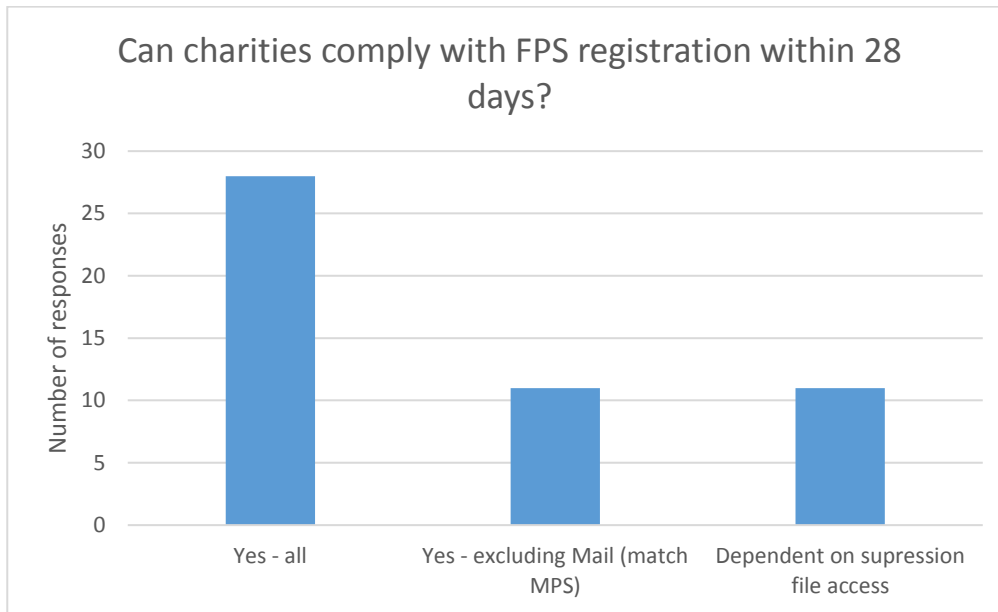
- Sixteen responses from schools, universities, churches, arts and cultural organisations highlighted that the public are not always aware that they are charities and will be covered by the FPS. Ten of the respondents called for an exemption of universities from the scope of FPS for this reason, eight of them from the higher education sector.

*“There will be a considerable challenge getting registrants to realise they need to name organisations which are outside their common conception of charities. These include arts organisations, universities and schools they have attended, their professional membership bodies and also larger churches. All of these may well spend more than £100k each year on fundraising and so in principle will be covered by the new Regulator. But it may well be outside the public’s expectation that they will be covered by the new Regulation.”*

- Some respondents called for guidance that outlines what constitutes valid re-engagement with a charity. Fifteen respondents believe date stamps will be necessary to prove that an individual got in touch with a charity after they registered with the FPS.

## **Q12 Compliance with FPS requests**

- 28 days was considered a reasonable timeframe for FPS compliance by twenty-eight respondents. This is in line with the rules for the TPS. However, eleven saw this as unreasonable for mail and feel that four months would be more appropriate. This would be consistent with the MPS.
- Eleven respondents believed Q13 cannot be answered until charities know how they will access the suppression file.
- Some respondents did not believe small charities would be able to comply within 28 days due to less sophisticated database systems. Others highlighted that charities must already comply with TPS within 28 days. Responses to Q16 look at this in more detail.



### Q13 Receipts after FPS registration

- Charities were unanimous in their support for issuing receipts after FPS registration.

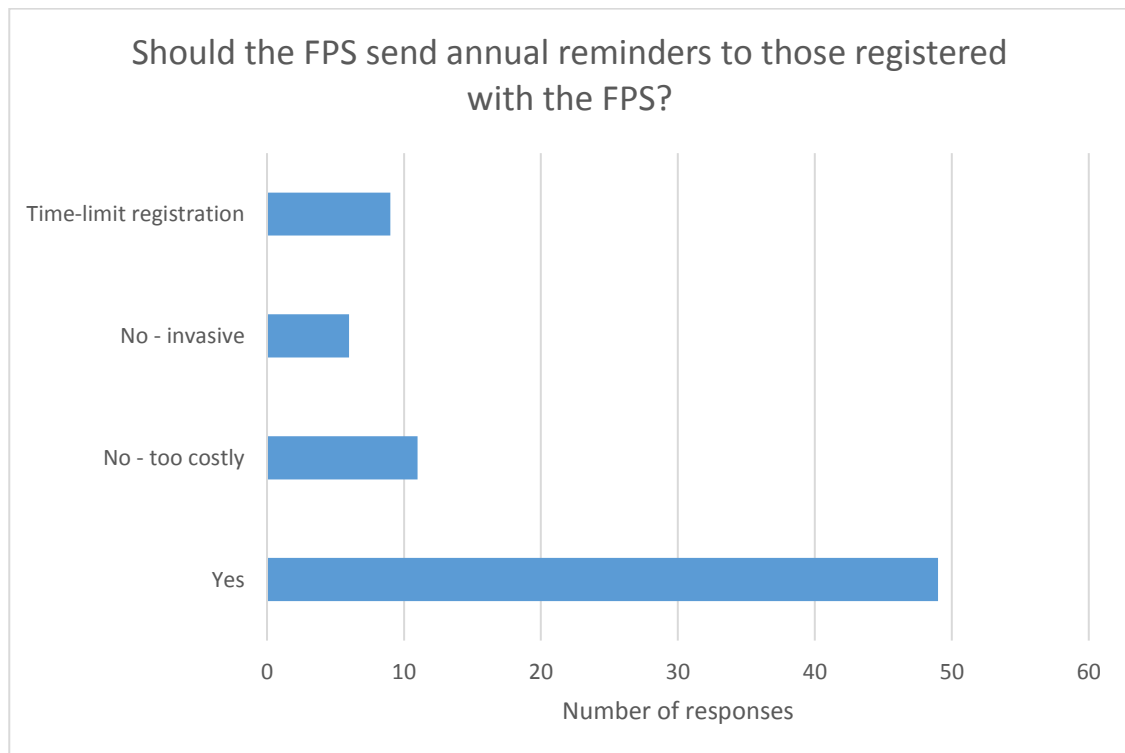
*“Yes, this should be done. This communication will be key to informing the registrant.”*

*“This sounds like a good idea, and the channel for these ‘receipts’ might follow the same channel that the individual used to register – e.g. email response to those who’ve registered electronically.”*

- Seven respondents requested one final opportunity to contact supporters once registered as a check against accidental sign-ups.

### Q14 Annual Reminders

- Sending annual reminders was a popular proposition. Respondents saw this as an effective mechanism to help prevent data decay. However, eleven respondents ruled this out due to cost. Some suggested FPS be time limited instead, making the individual responsible for updating their preferences.
- Others view annual reminders as counterproductive, particularly if the reminder were via post. This could irritate those who requested a total re-set.



- Although forty-nine respondents supported annual reminders, cost was a common concern.

### Q15 Maintaining data accuracy

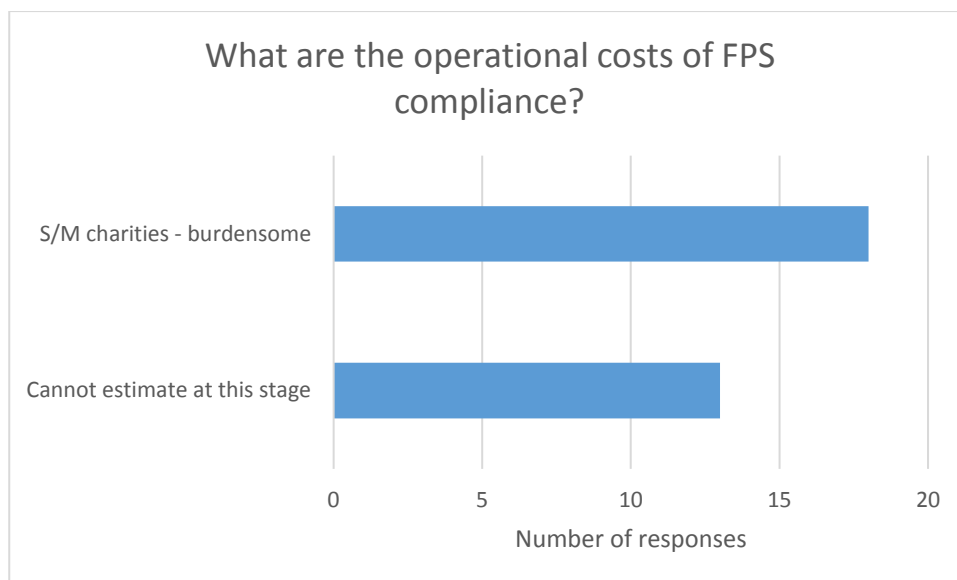
- Respondents recognised that relying on individuals to remember is a risk. There was no clear answer as to how this could be resolved.

*“Maintaining the accuracy of FPS will be complex. Five per cent of the population moves house each year, almost 600,000 people pass away, over 30 million email addresses are launched and 15 per cent of people change their mobile number. Consequently within 12 months between 20 and 33 per cent of the FPS could be out of date.”*

- Three respondents suggested looking to the TPS and MPS for best practice and learning in this area. Others recommended scanning the National Crime Officers Association (NCOA), the Bereavement Register and the Royal Mail ‘change of address’ system.

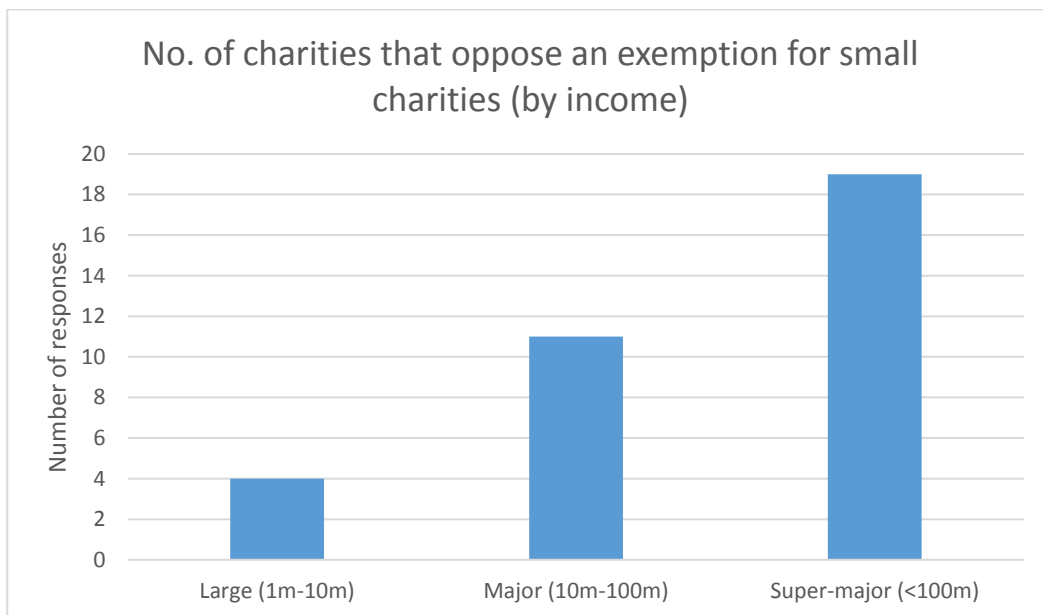
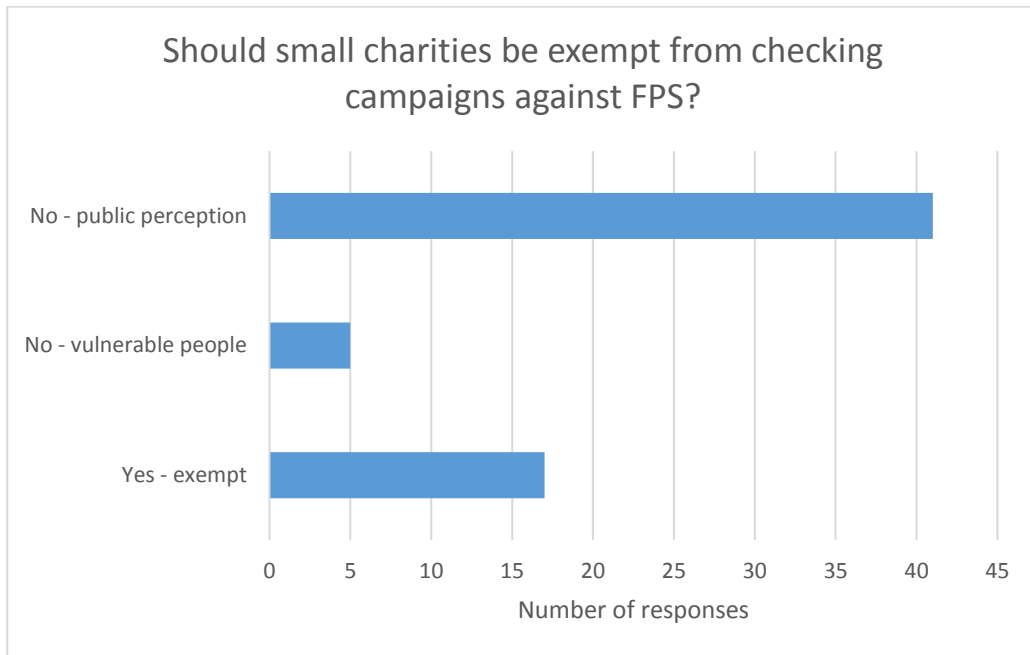
## Q16 Operational implications and costs of FPS on small charities

- Small and medium sized charities expressed concerns about the potential costs for complying with the FPS, and referenced the research undertaken by the Institute of Fundraising and Small Charities Coalition.



## Q17 & Q18 Exemption for small charities (income >1m)

- Despite acknowledging that the FPS would impose an operational burden on small charities, there was strong support for the FPS having universal application.
- Forty-one respondents felt any exemption could undermine public trust and confidence in the FPS. Thirty-four of these responses were submitted by large charities (with an income above £1m). Other responses were concerned that vulnerable people would not be sufficiently protected.



- Eleven respondents suggested that charities with fundraising expenditure under £1 million should be exempt.
- Four respondents suggested that the cost of FPS for smaller charities should be subsidised by larger charities.

## Q19-22 FPS a tool for vulnerable people

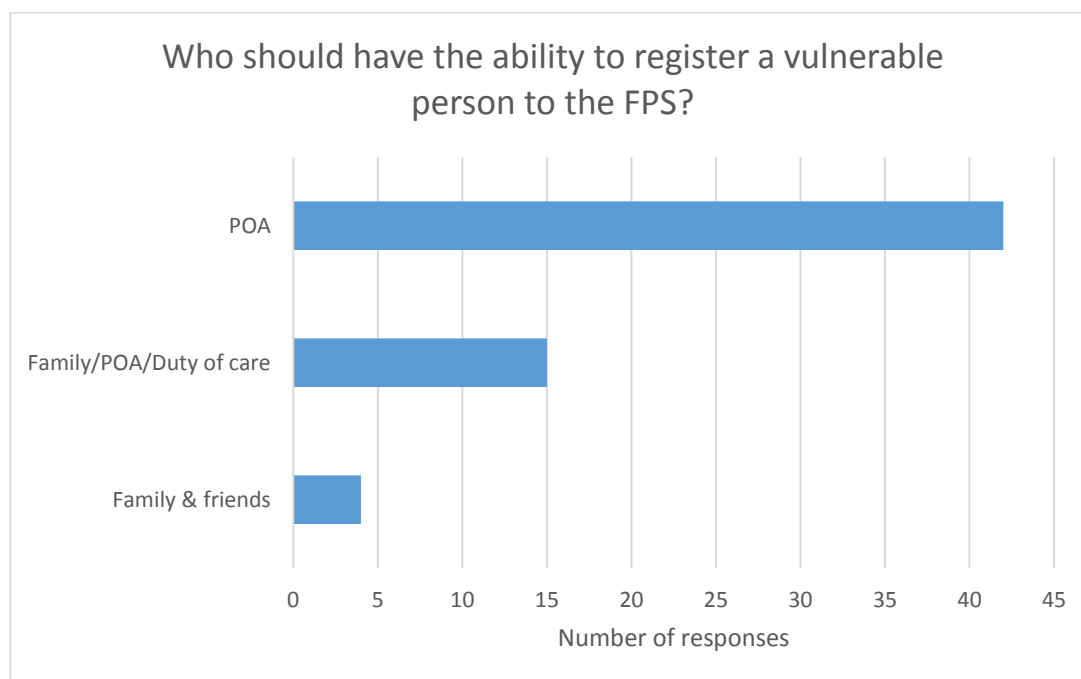
### Q19 Assessing vulnerability

- Twenty-four respondents viewed assessing vulnerability as outside the expertise of the FPS, whilst eleven called for consultation with organisations that work with vulnerable people.

*“In initial research with people affected by dementia on their fundraising preferences, most did not consider themselves to be a ‘vulnerable person’, even if they would probably fit into this category if the FPS were to do an assessment. Many people with dementia do not want to disclose that they have dementia because it is personal information and some were worried about the potential stigma around this categorisation. Therefore it doesn’t seem appropriate for the FPS to engage in any assessment of a person’s vulnerability.”*

### Q20 Registering a third party as vulnerable

- Reflecting the responses to Q19, respondents further emphasised the difficulty in assessing vulnerability. Limiting the power to register a third party was generally accepted. Forty-two respondents believed this should be limited to those with power of attorney, whilst fifteen felt this should be extended to include those with duty of care or a family member.



- *“Allowing family members to register an individual should be allowed, or another person in the absence of family e.g. a solicitor or advocate or social worker.”*



- Others feared that expanding third party registration to include family or friends could expose the FPS to abuse. Twenty-five consultation participants believed that gifts in wills could present a conflict of interest.

*“We strongly believe that the only person permitted to register a person’s vulnerability should be either the individual themselves or the person registered with their lasting power of attorney. We do not believe that this authority should be granted to those with a duty of care, a family member or a friend; as doing so creates opportunities for abuse and discredits the service entirely. This is especially relevant in light of gifts in wills, where communication about this giving method is suppressed against the wishes of an individual who is not vulnerable, in order to financially benefit others.”*

#### **Q21 Notification of FPS registration for vulnerable people**

- To tackle potential abuse, twenty-seven respondents believed that vulnerable people should be notified of any third-party registration. This would give power to registrants to withdraw from FPS if they wish and help limit abuse. However, nine participants suggested that this need not apply to those with lasting power of attorney over the registered individual.

*“It is important that the individual is notified of what is happening and decisions are not completely taken away from them. A receipt-based system would help clarify this to donors, whether the registration is made by the individual or on their behalf.”*

### **Further issues raised by respondents**

In addition to the consultation questions, the following themes emerged from the submissions.

#### **Funding the FPS**

- A concern that emerged from the responses was how, and by whom, the FPS would be funded.

#### **Emergency Appeals**

- Respondents were anxious to know how the FPS would interact with disaster emergency appeals due to the rapid response they require.

*“When an emergency occurs, a rapid response protects lives. The DEC is effective because we are able to notify donors of new appeals very quickly – often within a few hours. Our research shows that a large percentage of donations to DEC emergency appeals comes within the first few days of launch. Contacting donors with our asks during the height of awareness due to associated media campaigns is key. If the FPS screening adds hours or days to the process of launching an emergency appeal, then we anticipate that there will be significantly fewer funds raised, and that the knock on effect will be that fewer lives are protected.”*

## **Data protection**

- Twenty-four respondents called for clarity on how the FPS a will interact with existing regulation and guidance, especially the Information Commissioner’s Office direct marketing guidance.

## List of respondents

- Action on Hearing Loss
- ActionAid
- Aldrich Fundraising
- Alzheimer's Research UK
- Alzheimer's Society
- Amnesty International UK
- Arts Council England
- Association Fundraising Consultants
- Battersea Cats & Dogs
- Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust
- Bible Reading Fellowship
- Bible Society
- Bishop Fleming
- Blackbaud
- Bluebell Wood Children's Hospice
- Bond Public Fundraising Group
- BookAid
- Bournemouth Hospital Charity
- Breast Cancer Care
- British Heart Foundation
- Buffalo Fundraising Consultants
- Bates Wells & Braithwaite
- Cancer Research UK
- Cats Protection
- Charity Funding and Promotion (CFP) Lotteries Raffles
- Children In Need
- Christian Aid
- Church Army
- Clean Break
- CLIC Sargent
- Combat Stress
- Comic Relief
- Compassion in World Farming
- CPRE
- Crisis
- Crohns Colitis UK
- David Pearce
- Disasters Emergency Committee
- Derbyshire Wildlife Trust
- Diabetes UK
- DMS Agency
- Donna Day Lafferty
- Donorfy
- Each
- Embrace
- Embrace Mothers Union
- Epilepsy Action
- Erskine Stewart Melville School
- Family Action
- Fran McCloskey
- Friends of the Earth
- George Milne
- Girlguiding
- Great Ormond Street Hospital
- Guide Dogs
- Habitat for Humanity
- HospiceUK
- Howard Lake
- Ian Clark
- Information Commissioner's Office
- Institute of Development Professionals in Education
- Indigo (IDPE)
- Institute Legacy Management
- International Glaucoma Association
- Institute of Fundraising
- Joe Saxton
- JustGiving
- Lancaster Royal Grammar School
- Leprosy Mission
- Listen
- Loros
- Macmillan
- Marcia Hibberd
- Mare Foul Sanctuary

- Margaret Clift McNulty
- Marie Curie
- Marie Turnbull
- Martha Trust
- MHA Care homes
- Minerva Fundraising
- MND Association
- MoneyTreeFundraising
- More Partnership
- MyLetterBox
- National Autistic Society
- National Trust
- Newcastle CVS
- NFP Division
- Nottingham Playhouse
- Nottingham Woods Trust
- NSPCC
- Open
- Open University
- Oxfam
- Palestine Solidarity Campaign
- Parkinsons UK
- PFRA
- Practical Action
- Prisoners Education Trust
- RNIB
- RNLI
- Rogare
- Roger Lawson Consulting
- Royal British Legion
- RSA
- RSPB
- RSPCA
- Russell Group
- Save the Children
- Scope
- Scottish Fundraising Working Group
- Scout Association
- Sense
- Severn Hospice
- Sightsavers
- Small Charities Coalition
- Software Bureau
- Society for the Protection of Animals Abroad (SPANNA)
- SSAFA
- St Barnabas Hospices
- St Francis Hospice
- Stonewall
- Summary joint response
- Support Adoption for Pets
- Teenager Cancer Trust
- The Children's Society
- The Fire Fighters
- The Wildlife Trusts
- TrueCall
- UCL
- Unicef UK
- University of Birmingham
- University of Bristol
- University of Cambridge
- University of Leeds
- University of Southampton
- UnLtd
- UUK-CASE
- Victoria Albert Museum
- WaterAid
- Woking Hospice
- Woodland Trust
- Woods Group
- Worcestershire Wildlife Trust
- World Vision UK
- WWF
- YMCA

A joint response was also submitted by the following organisations: Action on Hearing Loss, Breast Cancer Now, Cats Protection, Christian Aid, Crisis, Guide Dogs, National Deaf Children's Society, Plan UK International, RSPB, Scope, WWF.