

British Heart Foundation (BHF) Response to the Phone-Paid Services Authority's Code 15 Consultation

About the British Heart Foundation

The British Heart Foundation (BHF) is the largest independent funder of medical research into heart and circulatory diseases in the UK, and since we were established in 1961 our research has helped halve the annual number of people dying from these conditions in this country. Today, there are more than 7 million people living with heart and circulatory diseases in the UK and these diseases still cause around a quarter of all UK deaths. Our ambition is to beat heartbreak forever, and we work to transform the detection and treatment of, and support for people with, heart and circulatory diseases.

The BHF's interest in this consultation

The BHF currently raises around £15,000 per month through regular text giving, with a base of over 5,300 people giving through this method. This is a method that we see as a potential area for growth, and as such have a particular interest in ensuring that the provisions within the Phone-Paid Services Authority's (PSA) Code 15 remain proportionate and enable effective fundraising through regular text giving and society lottery subscriptions.

As a result of the Covid-19 pandemic, in the second half of 2020 charities were predicted to see an estimated funding gap of around £10 billion as charity shops were closed and face-to-face fundraising and events were required to stop.¹ Research by Pro Bono Economics in January 2021 showed that almost half of charities saw their income fall in 2020, with almost a quarter stating that their income had fallen by more than 25%.² Given the significant financial challenges charities have faced throughout the pandemic, we have a particular interest in regulatory changes that may inhibit or disincentivise giving.

The BHF's response

Below are the BHF's comments on the consultation questions that are of relevance to our fundraising operations.

Q3 Do you agree with our proposed regulatory approach relating to Guidance? Please provide an explanation as to why you agree or disagree.

Q7 Are there any areas where you consider that Best Practice information would be helpful?

The BHF welcomes the PSA's commitment to publish and consult on best practice information and guidance.

We feel that the PSA's future best practice information and guidance would benefit from including additional resources for charities in relation to running compliant campaigns. This would be of particular benefit if it was drafted to focus on practical steps about how the provisions of the Code apply to charity campaigns and launching new services, with assurances that if the guidance is followed the campaign would be considered compliant.

¹ <https://www.civilsociety.co.uk/news/charities-face-10-billion-funding-gap-over-the-next-six-months-due-to-covid-19.html>

² <https://www.probonoeconomics.com/january-11-18-covid-charity-tracker-survey-results>

Guidance and best practice information could also be improved with some additional clarity on which elements are statutory, and where elements of the guidance and best practice information go over and above this.

Fairness

Q17 Do you agree with our proposal to introduce a new Fairness Standard? Please provide an explanation as to why you agree or disagree.

Q18 Do you agree with our assessment against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?

The BHF agrees with the principle of introducing a new Fairness Standard to ensure that the best interests of consumers are appropriately considered when using phone-paid services. However, we feel that the proposals regarding the automatic cancellation of subscriptions, including donations and society lottery subscriptions, could lead to a significant attrition of charities' text giving donor bases and adversely impact donor experience.

The proposed new requirement would establish opt-in consent every 12 months for subscription services. We feel that this requirement is overburdensome and disproportionate for charitable donations where additional requirements already exist, and that they should therefore be exempted from this requirement. Charities are already required to follow the PSA's Special Condition for Recurring Donations, as well as some additional text giving standards over and above those required by the PSA's Code, which are set out in section 10 of the Fundraising Regulator's Code of Fundraising Practice.

The Fundraising Regulator's 2019/20 Annual Complaints Report showed that fewer than 130 complaints about text giving were reported to the 35 largest fundraising charities who use this method of giving, which represents less than 1% of overall complaints received.³ This report shows that 15% of these complaints were because of the frequency of messaging, which would be exacerbated by the proposal to add in another mandatory message that we are required to send annually. It is also of note that the PSA's advice to introduce this has been considered in line with the Competition and Markets Authority's ongoing work around the loyalty penalty, which investigated concerns that people who stay with a provider can end up paying significantly more than new customers. However, this does not apply to charitable donations or society lottery subscriptions as no benefits are given to new subscribers as they may be in the commercial world, such as discounts for new customers; a donation amount is set by the donor and they are in control of whether they increase or decrease the amount they give, or stop altogether.

In line with the Special Condition for Recurring Donations, the BHF's text giving donor journey currently includes a monthly text reminder the day before a donation is due to be taken, which offers the option to skip the donation for that month. If a donor opts to skip for that month, they are sent a follow-up message with details of how to opt-out permanently should they wish to do so. Donors also receive a double opt-in upon signup. The current proposal will be detrimental to the donor experience, as it will add another administrative text on top of the monthly messages that we already send. Furthermore, the introduction of an annual opt-in may lead to confusion and cause donations to be cancelled unintentionally if the donor does not realise that their action is required to continue; a supporter's current understanding is that donations will continue unless they take

³ <https://www.fundraisingregulator.org.uk/sites/default/files/2020-12/Annual-Complaints-Report-2019-20.pdf>, 37.

action to say otherwise, and it would be counter-intuitive to introduce an additional message requiring the opposite.

While we do not have the resources to model the potential attrition to our donor base if an explicit opt-in is required from each donor annually, it is very likely that the new model would result in a decrease in the number of donations we receive through this method, which we do not believe to be in the spirit or intention of this standard.

We therefore recommend that charities and society lotteries are exempted from the requirement to send an annual opt-in message to donors. This exemption should be relatively simple to implement, as charities are required to use a specific set of text short codes in the 70000 to 70999 range and are therefore easily identifiable. If the PSA later finds that this approach is causing harm in a way that is currently unforeseen, the provisions outlined in sections 542 and 543 of the consultation document could be used to retrospectively amend this.

Organisation and service information

Q27 Do you agree with our proposal to introduce a new Organisation and service information Standard? Please provide an explanation as to why you agree or disagree.

Q28 Do you agree with our assessment of the proposed new Organisation and service information Standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?

The BHF agrees that a comprehensive registration scheme is necessary to protect consumer interests when they are using phone-paid services. However, we would argue that a separate PSA registration is not necessary for registered charities, as a higher level of scrutiny and oversight is already provided by other regulators with whom we are required to register.

Charities are regulated by the Charity Commission for England and Wales, Charity Commission for Northern Ireland, and by OSCR in Scotland. There is separate regulation for fundraising, and a comprehensive Code of Fundraising Practice that all fundraising organisations in the UK are expected to comply with, and which includes standards on text giving and society lotteries with references to the PSA's regulations where appropriate. This is enforced by the Fundraising Regulator in England, Wales and Northern Ireland, and by the Scottish fundraising Panel in Scotland. Charities are, where necessary, also required to register with the Information Commissioners Office, Gambling Commission and other regulators depending on our operations.

On this basis, we would argue that charities should be able to register with the PSA by providing their registered charity number, and without the need to go through the full registration process. Registered charity status demonstrates that appropriate vetting and oversight is already in place, and these checks provide a higher level of vetting and scrutiny than the PSA's registration system. As such, the requirement to go through the full registration process separately creates unnecessary administration for charities.