



**MOU between the Scottish Charity Regulator and the Independent Fundraising Standards & Adjudication Panel for Scotland**

## **1. Purpose**

1.1 The purpose of this agreement is to set out the arrangement for joint working and sharing of information between the Office of the Scottish Charity Regulator (OSCR) and the Independent Fundraising Standards & Adjudication Panel for Scotland (the Panel).

## **2. Context**

2.1 Under section 1 of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act) OSCR is responsible for the operation of an effective regulatory framework for charities in Scotland including the granting of charitable status, maintenance of a public register of charities, the investigation of apparent misconduct and facilitation and monitoring of compliance with the 2005 Act.

2.2 The Panel is the independent body that will oversee fundraising standards in Scotland and oversee fundraising complaints about Scottish charities.

2.3 Both OSCR and the Panel receive complaints and concerns about fundraising and recognise there are opportunities for joint working and sharing of information.

## **3. Objectives**

3.1 The objectives of this agreement are to ensure effective liaison on matters relating to functions in which both organisations have a mutual interest and set out the circumstances in which both will share information.

## **4. Sharing of information**

4.1 OSCR will share information with the Panel that is permitted by statute.

4.2 The Panel intends to share information with OSCR about complaints and concerns raised, where the Panel have obtained permission to do so.

## **5. Responsibilities in relation to Fundraising**

### **5.1 OSCR**

5.1.1 OSCR's specific powers in relation to fundraising are set out in Part 2 of the 2005 Act, with OSCR's powers in relation to inquiry and intervention being set out in sections 28-34. OSCR's powers relate only to charities or those bodies/persons representing themselves as charities in Scotland. OSCR has a regulatory remit over all charitable

funds raised, to promote their proper use and administration. OSCR will take action where it decides:

- (i) There is risk of significant damage or detriment to the charity, its assets, beneficiaries or reputation and intervention is a necessary and proportionate response to protect them
- (ii) There is information to suggest serious or sustained mismanagement or misconduct by those in management and control of the charity
- (iii) There is information to suggest that the charity does not meet the charity test
- (iv) Where it is identified that a body may be misrepresenting itself as being a charity in Scotland when it is not.

In doing so OSCR will follow procedures set out in its Inquiry Policy.

## 5.2 The Panel

5.2.1 The Panel is an independent body that has been established to oversee both fundraising standards and fundraising complaints of Scottish charities. The Panel will adjudicate on fundraising complaints in line with the Code of Fundraising Practice. The Panel will also promote good fundraising standards throughout Scotland.

## 6. Liaison over complaints

### 6.1 OSCR

6.1.1 Where OSCR receives a complaint that contains both a regulatory and fundraising matter, it will risk assess the regulatory issue and follow the procedures set out in its Inquiry Policy. In respect of the fundraising issue, the complainant will be advised to take the fundraising complaint forward with the charity, the charity trustees or the Panel as appropriate, in line with the 3-stage process.

6.1.2 If OSCR determines that nothing within the complaint falls within its regulatory remit, the complainant will be advised to take the fundraising complaint forward with the charity, the charity trustees or the Panel, in line with the 3-stage process.

### 6.2 The Panel

6.2.1 Where the Panel receive a complaint that contains both a fundraising and regulatory matter they will follow the appropriate internal procedures in liaising with OSCR.

- 6.2.2 If the Panel determine that the complaint does not fall within their fundraising remit, the complainant will be advised to take the complaint forward with OSCR.

## **7. Other assistance**

### **7.1 Policy**

- 7.1.1 OSCR and the Panel are committed to appropriate liaison on policy matters which are likely to have an impact upon the work of the other such as any new legislation, development of any new policy or relevant guidance, or policy arising in the context of novel or complex cases.

### **7.2 Training**

- 7.2.1 As part of their respective staff training programmes, both OSCR and the Panel will ensure that staff are made aware of the differing organisational, operational and legal frameworks.
- 7.2.2 In order to support joint working and outreach, OSCR and the Panel will also explore opportunities to co-operate on presentations and seminars.

### **7.3 Communication and research**

- 7.3.1 OSCR and the Panel will inform each other of emerging trends identified in their research, and will agree strategies for the dissemination of advice and best practice. Where appropriate we will also consider collaboration to produce research relating to fundraising that are of a mutual interest and of wide public and sectoral interest.
- 7.3.2 Where appropriate we will collaborate on external communications or handling external media interest where there is a matter of mutual interest. We will also consider working jointly in order to raise awareness of fundraising issues and matters of interest to the general public.

## **8. Liaison**

- 8.1 In order to ensure that matters are handled at the appropriate level, contact between OSCR and the Panel should be established between designated points of contact. Where they consider it appropriate, designated points of contact may delegate ongoing liaison to other members of staff.

8.2 For all complaint related information, the SPoC for OSCR is Norma Mackenzie, the C&I Manager:

Tel: 01382 346876  
Email: norma.mackenzie@oscr.org.uk

The SPoC for the Panel is Gillian Mackay, the Secretariat:

Tel: 07380 312387  
Email: fundraisingsecretariat@outlook.com

8.3 For all engagement and media related information, the SPoC for OSCR is Jude Turbyne, the Head of Engagement:

Tel: 01382 356820 / 07891 830961  
Email: judith.turbyne@oscr.org.uk

The SPoC for the Panel is Gillian Mackay, the Secretariat:

Tel: 07380 312387  
Email: fundraisingsecretariat@outlook.com

## **9. General**

9.1 Both organisations are committed to the principles of continuous improvement and therefore will monitor the working arrangements contained in this agreement. The agreement will be reviewed every three years, examining all aspects of the agreement in order to identify areas for improvement and best practice. Representatives of OSCR and the Panel will meet when necessary, and there will be at least one formal policy meeting per year.

9.2 Whilst it is intended that the arrangements in this agreement should apply generally, it is recognised that some circumstances will require special handling. Nothing in this agreement prevents the making of arrangements to meet specific exceptional needs.


9.3 Any disagreement arising from the interpretation of this agreement will be referred to the Chief Executives of OSCR and the Panel, who will endeavour to resolve it within the spirit implicit in the co-operation arrangements. The agreement will be amended if necessary to reflect the agreed outcome of the referral.

## **10. Finance**


10.1 The Scottish Government have provided an interim budget for the Panel in order to achieve its objectives which will be assessed at the one year review.

10.2 OSCR will hold this budget.

10.3 The Chief Executive for OSCR is the accountable officer for their organisation.

  
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Alison Elliot  
Chair

6<sup>th</sup> June 2017

  
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David Robb  
Chief Executive

8 June 2017