ROGARE
the fundraising think tank

RIGHTS STUFF

FUNDRAISING'S ETHICS GAP AND A NEW THEORY OF FUNDRAISING ETHICS v1.1

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September 2016

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ABOUT ROGARE

Rogare (Latin for 'to ask') is the University of Plymouth Hartsook Centre for Sustainable Philanthropy's fundraising think tank and the home of Critical Fundraising – the discipline of critically evaluating what fundraisers know, or think they know, about their profession.

Our remit is to explore under-researched and 'under-thought' areas of fundraising. One of our key aims is to generate new practical ideas by pulling together the academic and practitioner branches of the fundraising profession.

MacQuillin, I. R. (2016). Fundraising's ethics gap: a new theory of normative fundraising ethics. Plymouth: Centre for Sustainable Philanthropy, Plymouth University

EXECUTIVE SUMMARY

Fundraising's professional ethics consist of applied ethics – formulated in its various codes of practice. These tell fundraisers *what* they may or may not do. But there is very little in the way of normative ethics underpinning the codes of practice. Normative ethics would help fundraisers understand *why* they may or may not carry out certain practices.

For such a fundamental topic, there has been very little theory development of normative fundraising ethics.

From what has been written, it is possible to glean four sets of ideas that can lay claim to being normative theories of fundraising ethics. These are:

Trustism – fundraising is ethical when it protects public trust and unethical when it damages it.

Relationship Management – fundraising is ethical when it conforms to the two-way symmetrical model of public relations, and unethical when it does not.

Donorcentrism – fundraising is ethical when it prioritizes the needs and wants of the donor.

Service of Philanthropy – fundraising is ethical when it brings meaning to donors' philanthropy.

The various codes of practice appear to be formed of a mix of Trustist and Donorcentrist ethics.

Most of these theories prioritise fundraisers' duties to their donors. None explicitly refers to any duty that fundraisers may have to their beneficiaries and service users.

The purpose of this Rogare project is therefore to develop a new normative theory of fundraising ethics that brings the beneficiary into the ethical decision-making processes. We call this Rights Balancing Fundraising Ethics.

Rights Balancing Fundraising Ethics – fundraising is ethical when it balances the duty of fundraisers to solicit support on behalf of their beneficiaries, with the right of the donor not to be subjected to undue pressure to donate.

The purpose of this white paper is to outline our initial thinking. As the project progresses, we shall expand these ideas and the scope of our thinking, with the input of our advisory group (see Appendix), to the extent that it is possible that these initial ideas could be entirely supplanted. Our next steps also include a global survey of the ethical theories currently being employed by fundraisers to resolve ethical dilemmas. Ultimately, we aim to construct new ethical decision-making frameworks based on Rights Balancing Fundraising Ethics.

1. INTRODUCTION

"We all know what is ethical and what isn't ethical [in fundraising practice]."

Lord Grade
Chair of the UK's Fundraising Regulator
Speaking at its launch event in London, December 2015

In May 2015, Olive Cooke committed suicide by jumping into Avon Gorge in Bristol in south-west England. Mrs Cooke was a long-standing sufferer of depression and had recently been robbed of £250. She was also an extremely charitable person with what appeared to be a strong sense of civic duty: she was Britain's oldest Poppy seller[1] and at one point she was a regular giver to 27 charities.

Being a regular donor to 27 charities meant that she had been embarked on 27 stewardship or supporter journey programmes, each of which entailed further mailings (ask and non-ask) and telephone calls. Mrs Cooke's details were undoubtedly on the databases of several other charities, probably as a result of the one-off cash donations a woman of her philanthropic bent surely made, and because her details had been swapped between charities as part of reciprocal exchanges.

'The problem is precisely the opposite of what Lord Grade said. We do not know what is ethical and what is unethical in fundraising practice. In fact, it is far from obvious what is and what isn't ethical'

The cumulative effect of having given generously to so many charities was that Mrs Cooke received a massive amount of charity marketing and fundraising materials to the point that sometimes she said she felt overwhelmed by it. She was even featured in an article in the *Bristol Post* in October 2014, which showed a photograph of her surrounded by some of the 267 mail items she received in a single month[2]. The article generated little interest.

However, in the immediate aftermath of Mrs Cooke's suicide, a British newspaper, the *Daily Mail*, spoke to a friend and neighbour who claimed that the amount of charity marketing she received "had a bearing on her death"[3]. That simple statement opened a hunting season with the quarry being charities, their fundraising tactics, and their fundraising ethics (even individual fundraisers came in for personal attack from the media). Despite the fact that neither the coroner nor Mrs Cooke's family attributed a causal link between fundraising and her death, the idea that Mrs Cooke was 'hounded to death' by charity fundraisers (Google it!) has become accepted wisdom.

Charity fundraising in the United Kingdom had never come in for such a sustained assault from an alliance of media, political and public opinion. Predictably, it was unable to withstand the attack. A history and narrative of these events is not relevant here. Suffice to say, however, that the culmination was a review of fundraising self-regulation conducted by Sir Stuart Etherington at the National Council for Voluntary Organisations (NCVO) that recommended the creation of a national database of people who did not want to receive fundraising solicitations from charities – the 'do not ask me to donate' register of the Fundraising Preference Service (Etherington et al 2015).

Fundraising's professional ethics had been interrogated and challenged like never before, and found wanting.

But there is a problem. Speaking at the launch of the Fundraising Regulator – the new body set up following the Etherington review to both set and enforce professional standards – the organisation's chair, Lord Grade, said of fundraising practice: "We all know what is and what isn't ethical."

The problem is precisely the opposite of what Lord Grade said. We do not know what is ethical and what is unethical in fundraising practice. In fact, it is far from obvious what is and what isn't ethical. And even more problematically, we don't have the theories and ideas with which to inform such ethical decision-making.

This white paper is an initial attempt to review and rebuild fundraising's professional ethics[4].

1 The Poppy is the symbol of remembrance for the UK's war dead and is sold by the veteran's charity the Royal British Legion in a massive fundraising drive each year in the weeks leading up to the anniversary of the November 11 Armistice that brought an end to hostilities in the First World War.

2 *www.bristolpost.co.uk/PLEADING-DISGRACE-Olive-92-targeted-charities/story-23767974-detail/story.html* accessed 28.9.2015

3 *www.dailymail.co.uk/news/article-3081294/Britain-s-oldest-poppy-seller-dead-Avon-Gorge-aged-92.html* accessed 28.9.2015

4 Rogare had been planning to implement a review of fundraising's professional ethics for six months prior to the death of Mrs Cooke. We had already prepared educational materials based on our initial thinking for a marketing degree at Plymouth University, a graduate fundraising certificate at Avila University in Kansas City, and for the Institute of Fundraising's Certificate in Fundraising.

Poor practice has arisen and decisions have been taken because the fundraising profession does not have its ethical house in order. Because of this, the profession has not been able to present the most persuasive philosophical arguments against some further bad decisions that have been made to supposedly rectify the current situations. And initiatives that fundraisers and regulators are putting in place now will not achieve what they set out to achieve – and may repeat past mistakes – if we do not develop a new ethical foundation for our profession.

'In the summer of 2015, fundraising's professional ethics was interrogated and challenged like never before, and found wanting'

This white paper does not represent our final thoughts. It is not the presentation of a fully-developed, new theory of fundraising ethics. It undoubtedly has holes in it, and flaws (perhaps serious flaws) that will be pulled apart through discussion and examination before they are closed for good. The white paper should be understood as a work in progress and subject to revision at any time.

But we believe that it is better than what we currently have and as such it is a sound platform on which to build.

In conducting this review, we aim to:

a. Improve ethical decision making by fundraisers in their day-to-day roles.

b. Empower fundraisers to ethically justify, advocate and defend their actions to stakeholders (public, colleagues, boards, regulators, politicians and media).

c. Improve ethical decision making in fundraising at a strategic policy level by ensuring fundraising policies are ethically coherent and consistent, not developed solely as a reaction to allegations of unethical practice.

d. Advance fundraising's claims to professionhood by putting its professional ethics on a firmer foundation.

e. Reduce skepticism about, criticism of, and hostility towards fundraising (from the likes of media and politicians) by demonstrating a coherent theory of professional ethics that underpins those activities that attract criticism.

f. Reinvigorate fundraising ethics as a subject for academic study and practitioner relevance.

We propose to do this by:

- Developing a new normative theory of fundraising ethics that seeks to balance fundraisers' duties to their beneficiaries with those to their donors and other stakeholders, and that has universal, global application.
- Developing a global map of fundraising ethics, identifying how fundraisers currently approach ethical dilemmas and which models of normative ethics they currently use and would be likely to use in the future. This will allow us to assess if fundraisers in different countries or cultures approach ethical dilemmas differently and therefore what elements of any new or existing ethical theories would achieve the most effect.
- Assembling a multidisciplinary advisory group comprised of fundraisers with a philosophy/ethics background and academics specializing in nonprofit ethics to oversee and shape the project.
- Creating a regular publication programme of white papers, blogs, and articles as our project progresses.

Ask

2. WHAT DO WE MEAN BY ETHICS?

Before we start looking at 'ethics' in the context of fundraising, we need to acquaint ourselves with an understanding of what ethics is, why we need ethics, and what we use ethics for.

The dictionary definition[5] of ethics is two-fold:

1. The philosophical study of the moral value of human conduct and of the rules and principles that ought to govern it.

2. A social, religious, or civil code of behaviour considered correct, especially that of a particular group, profession, or individual.

Ethics tells us how to live a good life. This, in a nutshell, is the core content of Aristotlean ethics – that people will be better able to achieve their best if they have a fuller understanding of what it is to flourish.

Ethics outlines our rights and responsibilities. It constructs the language we use to discuss and evaluate what is right and what is wrong. And it assists us with making moral decisions, helping us to differentiate between what is 'good' and what is 'bad'. These last two points are not the same. What's right might not also be what's good. For example, you might think it right that you never lie to your partner, even if this means that he or she feels bad when you divulge a few unpleasant truths.

But – and this is an important point – ethics doesn't give us the right answer to any particular ethical dilemma. An ethical dilemma is where two rights are in conflict or you have a choice of options, all of which seem wrong, but you have to choose one of them (Fundraising Institute of Australia). However, an ethical dilemma is not a choice between right and wrong, which is a "moral temptation", (ibid). The difficulty, of course, comes in identifying and differentiating right from wrong, even before you choose between your competing options.

This is where the process of ethical decision-making comes in, but it's not an equation or formula; you can't approach a moral dilemma, plug it into an ethics equation, and arrive at the right course of action. As Robert Payton, the first director of Indiana University's Center on Philanthropy once said, "there are no ethical answers, only ethical questions" (cited in Tempel 2003b, p420).

The next stage in our understanding of the broad context of ethics is to look at the levels it operates at. There are three levels we need to consider:

- Meta ethics
- Normative ethics
- Applied ethics.

Meta ethics

Meta ethics deals with the nature of moral judgements and the origin and meaning of ethical principles (La Follette 2000, p3-6).

For example, Divine Command Theory, which posits that what is good is what God commands us to do (Quinn 2000), is an example of meta ethics. Alternatively, a different meta-ethical theory is Moral Naturalism (a form of Moral Realism), which argues that the truth of some ethical propositions are objective features of the world that are independent of human opinion and so derive from non-moral features of the world (for example, they could derive from human evolution) (Smith 2000).

Meta-ethical theories don't attempt to assert that one theory is better than another – they are simply concerned with exploring where ethical judgements come from. So in this sense, they are descriptive. Meta-ethical theories do not attempt to tell us *how* we ought to live or *what* we ought to do. This is the role of normative ethics.

Normative ethics

Normative ethics is concerned with the content of moral judgements, and the criteria for what is right or wrong. Normative ethical theories attempt to provide a general theory of how we ought to live.

There are three major approaches to normative ethics: consequentialism, deontology and virtue ethics (Hursthouse 2012), although this white paper focuses only on consequentialism and deontology[6].

Ask ?

5 *www.collinsdictionary.com/dictionary/english/ethics*

6 As explained in the Introduction, this is a first iteration of our ideas. We have not yet considered how virtue ethics – an approach to ethics that emphasizes the moral character of a virtuous person – might influence the actions of fundraisers, though it is something we will do as this project progresses.

Consequentialism

Consequentialism dictates that we are morally obliged to act in a way that produces the best consequences (hence the name). The best-known consequentialist theory is Utilitarianism.

Utilitarianism – famously devised by Jeremy Bentham and developed and popularized by John Stuart Mill[7] – states that we should choose options that maximise the greatest good (or happiness) for the greatest number.

While Utilitarianism is the most well-known consequentialist theory, there are of course others, including: Egoism (maximise good for oneself[8]), Hedonism (maximise pleasure for oneself), Altruism (maximise the good of others[9]), and the latest variant of Altruism, Effective Altruism (MacAskill 2015), which could be described as 'maximise good for those in greatest need'.

Consequentialist theories sound fine in principle, but two problems with them are that they can make permissible what would otherwise be considered an unethical act if the good that is promoted outweighs the bad of performing that act, for instance the practice of executing deserters as an example to others. More practically, it's quite difficult to quantify, predict and evaluate the consequences of 'ethical' actions based on a cost:benefit risk assessment of what those consequences might be.

Deontology

In contrast to consequentialism is deontology[10] – or 'duty-based ethics'. Deontological ethics requires us to carry out an act because it is the 'right thing to do' because it conforms to a moral norm, irrespective of the consequences: what is right takes precedence over what is good (Alexander and Moore 2012). A good example is Kant's injunction against lying[11]: lying is wrong, so you have a duty not to lie, whatever the consequences of not lying might be. This is therefore a 'non-consequentialist' theory because its application is independent of its consequences.

One of the most well known deontological theories is Kantian ethics. This states that moral rules are universal and can be identified through reason. It contains the famous categorical imperative:

Always act in such a way that you would be willing for it to become a general law that everyone else should do the same in the same situation.

Lying, for example, could not become a universal, general law, since if everyone habitually told lies as and when it suited them and day-to-day life would become untenable.

'For a subject that is so vitally important to the fundraising profession and something that ought to form its very bedrock, fundraising ethics has received very little attention'

A criticism of deontology is that a strict adherence to prescribed duties can lead to greater wrongs that could have been avoided. Suppose by telling a lie about someone's personal appearance, you could spare them a lot of personal anguish. Suppose the neighbours are on holiday and someone you know has a conviction for burglary asks you where they are. Should you tell him the truth? Or should you lie and say they are at home?

This is of necessity only a very brief outline of normative ethics and it is, of course, a huge field. But the main thing to take from it as we explore ethics in fundraising is the distinction between consequentialism and deontology.

- Consequentialism leads us to make choices based on the good consequences of our actions.
- Deontology says we should do what is right because it is right, irrespective of the consequences.

So this leads us to the third level – applied ethics.

Applied ethics

This is the application of our preferred normative theory (or theories) to specific issues, such as racial equality or animal rights, telling us the right things we should do, and the wrong things we should refrain from doing.

Of course, one of the specific issues that normative ethics can be applied to is fundraising.

7 And Spock – 'the needs of the many outweigh the needs of the one'.

8 "An action is morally right if the consequences of that action are more favorable than unfavorable only to the agent performing the action" (Catalono 2014, p15)

9 "An action is morally right if the consequences of that action are more favorable than unfavorable to everyone except the agent" (Catalono 2014, p15)

10 *www.bbc.co.uk/ethics/introduction/duty_1.shtml* – accessed 9.5.2016

11 Under Kantian Ethics, lying is always morally wrong for two reasons. First, it robs the liar of his own moral worth. Second it prevents the person who has been lied to from making free and rational choices. Lying harms the moral worth of the the recepient of the lie by treating him as a means rather than an end in his own right, and that is always wrong (Mazur 2015).

Fundraising's ethics gap

For a subject that is so vitally important to the fundraising profession and something that ought to form its very bedrock, fundraising ethics has received very little attention.

Since its launch in 1996, the *International Journal of Voluntary Sector Marketing* has carried 62 articles (that's about three a year) that contain the words 'ethics' and 'fundraising' in the same article, but only one of these (Rosen 2005), looks at ethics as it relates to the entire practice and profession – the others talk about ethics in regards to particular types of fundraising (such as cause related marketing) or ethics is mentioned only in passing, for example, in how legal ethics relate to legacy solicitations. Actually, the total of 62 articles is an overstatement because the search engine also picks up terms that have 'ethic' as a root, such as 'ethical treatment of animals', that have no relation to fundraising. It seems that most aren't actually about fundraising ethics at all.

The *Nonprofit and Voluntary Sector Quarterly* fares similarly, with a search on its website for 'fundraising AND ethics' returning just 70 articles since 1986. These articles are similar to those of the *IJVSM*, and only one article (Clohesy 2003) looks at ethics as a set of principles to be applied to the whole profession.

There *was* a burst of interest in fundraising ethics in the early- to mid-1990s when a spate of booklets (e.g. Briscoe 1994a), magazine articles (especially in the *Chronicle of Philanthropy*) and book chapters (e.g. Elliot 1991, O'Neil 1997) appeared. But with only two journal articles since the turn of the century (Clohesy 2003 and Rosen 2005) it's fair to say that the fundraising profession's academic branch has pretty much ignored the subject of fundraising ethics.

There have been two complete, single author books (as opposed to an edited collection of essays) devoted to fundraising ethics. The first, published in 1996, was *Ethics for Fundraisers*, written by Albert Anderson, who by then had had a 25-year career in higher education management and development. The second book is Marilyn Fischer's *Ethical Decision Making in Fundraising*, published in 2000.

Both of these are books on applied ethics. Anderson's very first line is: "This is a book on applied ethics – ethical decision-making for practitioners in the work of philanthropy" (Anderson 1996, p ix)[12].

But one problem for the fundraising profession is that it attempts to apply ethics to professional dilemmas – such as how much to intrude into a person's personal space in the course of a solicitation – without a sound understanding of which normative theory it is attempting to apply.

When it does attempt this, it usually applies – perhaps 'shoehorns' would be a better description – one of the classic normative theories such as Kantian ethics or Utilitarianism on to the problem.

The profession and its academic branch have never really made a concerted effort to develop a bespoke normative theory of fundraising ethics. This is what this white paper is attempting to do. But before we can even consider what such a normative theory might look like, we need to look at applied ethics as it currently operates in fundraising. We're starting here, and then working back to a normative theory, precisely because there is little normative theory being used. Otherwise it would have made sense to first describe the normative theories and then how they are applied.

12 Although his book is titled *Ethics for Fundraisers*, Anderson (p ix) states that it is for all those working in philanthropy, not just fundraisers, but volunteers and grantmakers, as well as all nonprofit staff. It is therefore not purely a book about fundraising ethics.

3. APPLIED ETHICS IN FUNDRAISING

Fundraising's applied ethics are embodied in its codes of practice – the second of the dictionary definitions of 'ethics' we looked at in the previous section. There are three such codes in the USA and two in the United Kingdom that this white paper will examine in the context of applied fundraising ethics. There are similar codes in Ireland, Australia and New Zealand.

The US codes, which are developed and maintained by the Association of Fundraising Professionals, are:

- AFP Code of Ethical Standards[13]
  - o which contains 25 clauses grouped into four categories
- International Statement of Ethical Principles[14]
  - o with 22 ethical prescriptions
- AFP Donor Bill of Rights[15]
  - o which contains 10 commitments to the donor.

The two British codes are (or were)[16]:

- Code of Fundraising Practice[17], devised in its current form by the Institute of Fundraising and as of July 2016, owned by the Fundraising Regulator, which will henceforth develop and maintain the code of practice
- Fundraising Promise[18], developed by Fundraising Standards Board and is the British equivalent of the AFP's Bill of Rights

These is a lot of cross over and a lot of shared ideas between these codes (Rosen 2005, p177), including the Irish, Australian and New Zealand codes, which is not surprising, since the codes are intended to embody best professional and ethical practice, which ought not vary drastically from country to country, especially countries that share a language and common cultural heritages. Here are a few examples of ideas that are common to all:

- Don't engage in activities that bring the profession into disrepute
- Tell the truth and don't exaggerate
- Use donations in accordance with donors' intentions
- Ensure all solicitation and communication materials are accurate and reflect the organization's mission and use of solicited funds
- Give donors the opportunity to remove their names from marketing lists
- Don't accept commission-based pay.

Unlike the US, the UK does not have a specific code of fundraising ethics. However, what it does have – and what the USA does not – is a very, very detailed Code of Practice that covers 20 different fundraising topics, such as direct mail, telephone fundraising, events, working with companies, remuneration, working with agencies and others.

The UK code is very prescriptive, setting out what fundraisers may and may not do. Until July 2015 (when it was still run by the Institute of Fundraising), the code operated on a traffic light system, prefixing its provisions with a red 'must', amber 'ought', and green 'should' (and, of course, 'must not', 'ought not' and 'should not').

Must – legal requirement: it would be unethical to break the law (in most circumstances as a general principle)

Ought – mandatory for IoF members: an ethical requirement

Should – only guidance: hence potentially ethical grey areas[19].

Here are some of the 'oughts' in the IoF code:

- Not to try to get someone to switch a donation from another charity (s1.2)
- To always act in the best interest of the charity when deciding to refuse a gift (s1.3)
- Not to include a gift in direct mail that's aimed at generating a donation based on 'financial guilt' (s6.3)
- Not to enter into a corporate partnership where there are conflicts of interest (s13.2)
- To always terminate a solicitation on the street when requested to do so (s16.10).

13 *www.afpnet.org/files/ContentDocuments/CodeofEthics.pdf* accessed 8.8.16

14 *www.afpnet.org/Ethics/IntlArticleDetail.cfm?ItemNumber=3681* accessed 8.8.16

15 *www.afpnet.org/ethics/enforcementDetail.cfm?ItemNumber=3359* accessed 8.8.16

16 The Institue of Fundraising transferred its code to the Fundraising Regulator in July 2016. The Fundraising Promise also transferred from the FRSB to the regulator although what the new body proposes to do with it is as yet unclear. However, irrespective of what the Fundraising Regulator does with these codes, it is legitimate to use them as the basis for this exploration of applied ethics since these codes have provided the foundation for professional practice in the UK.

17 *www.fundraisingregulator.org.uk/wp-content/uploads/2016/06/Code-of-Fundraising-Practice-v1-3.pdf* accessed 30.8.16

18 *www.frsb.org.uk/what-we-do/fundraising-promise/ accessed 8.8.16.*

19 In July 2015, following a recommendation from the Fundraising Standards Board (FRSB), the Institute of Fundraising changed every 'ought' to a 'must' to reinforce that they were requirements and not optional. This white paper maintains the distinction between oughts and musts, first because for most of the duration of the code, this is how they were presented, and second, in this context, it is useful to maintain a distinction between actions that are legally required and those that are not legally required but still ethically required. Also, in November 2012, the IoF removed all the 'shoulds' from the code and placed them in a separate guidance section. This had the effect the FRSB could no longer adjudicate against a complaint of a breach of a 'should'.

Here are three prescriptions from the International Statement on Ethical Principles that we'll be returning to later:

- Fundraisers are strictly answerable to all stakeholders including donors, beneficiaries, and employers.
- Funds will be collected carefully and with respect of donor's free choice, without the use of *pressure*, harassment, intimidation or coercion. [Emphasis added.]
- Fundraisers will not accept any gratuity when making decisions on behalf of the organisation.

And one thing from the FRSB's Fundraising Promise:

- We will not put *undue* pressure on you to make a gift and if you do not want to give or wish to cease giving, we will respect your decision. [Emphasis added.]

All these codes contain applied ethical provisions such as: don't accept commission on donations, tell the truth and don't exaggerate, don't pressurise people into giving, respect donors' wishes in how they want to be contacted and how they want their gift used, and so on. To breach these would be to act unethically. (They also contain much that could be considered best practice, such as thanking donors appropriately, that is not necessarily a purely ethical matter.)

But what if the ethical situation is not contained in the code, or is covered ambiguously and so is an ethical grey area?

Here are a few potentially grey areas of applied fundraising ethics that are unanswered or ambiguously answered in the codes:

- What constitutes 'pressure' in the AFP statement? And 'undue' pressure in the FRSB promise?
- Is it acceptable for people to feel guilty if they say no to a fundraiser?
- Is it acceptable to spend donors' money on fundraising and if so, how much?
- What is the 'best interest' of the charity?
- Are donors allowed to derive benefits from their giving or should all charitable giving be purely 'altruistic'?
- Do fundraisers have a right or a duty to approach people for a donation?
- Do the public have a right not to be asked for donations?
- How transparent about the costs and mechanisms of fundraising should charities be?
- Do people have a 'duty' to give to charity and if so, how can fundraisers help people discharge that duty?

Let's look at the idea of pressure in solicitations, which is first on this list.

The first thing to note is that this is ambiguous. The AFP code does not define 'pressure'. But it does say that no pressure (however defined) should be used on a donor. Arguably some sort of 'pressure' has to be applied on donors otherwise all you'd need to do is ask people and they'd give to you. Showing them the need is exerting a sort of moral pressure.

In Britain, the Fundraising Standards Board promised that fundraisers will not exert 'undue pressure'. This mirrors the legal language of the Act of Parliament that legislates certain types of fundraising[20].

If fundraisers are not allowed to apply 'undue' pressure, then it implies that some sort of pressure is 'due' – in other words, 'allowable' or 'permissible', although what constitutes 'pressure' and how much of this is 'permissible' is not defined anywhere.

So we have two ethical standards in Britain and America that don't align. British fundraisers ought not put donors under undue pressure to donate; but American fundraisers must not put them under any pressure at all.

To complicate matters, the British Institute of Fundraising is a signatory to the International Statement on Ethical Principles, so British fundraisers are subject to mutually exclusive ethical standards on how much pressure they can apply to donors in the pursuit of a donation.

And to complicate matters even further, the British code of practice, while maintaining the "undue pressure" line, further prohibits fundraisers from making "unreasonable intrusions" into a person's privacy or engaging in fundraising that is "unreasonably persistent" (s1.2f)[21]. This strongly implies that some intrusion into a person's privacy is 'reasonable', and that some level of persistence in fundraising is also 'reasonable'. Prior to these code changes in November 2015, the code specified that fundraisers were permitted to use "reasonable persuasion". What constituted 'reasonable' was not defined and would presumably have been left to an FRSB investigation to interpret, although at what point 'reasonable persuasion' becomes 'undue pressure' has never been tested by a public complaint[22].

20 There are reserve powers in the Charities Acts of 2006 and 2016 that authorise the government to impose statutory regulation should self-regulation fail. This says the minister can impose a 'good practice requirement' on fundraising organisations. Among other things, this would require that fundraising were carried out in such as way that it "does not result in undue pressure being placed on persons to donate funds" – s69 of Charities Act 2006, amending s64A(5) of the Charities Act 1992.

21 *www.fundraisingregulator.org.uk/wp-content/uploads/2016/06/Code-of-Fundraising-Practice-v1-3.pdf* accessed 30 August 2016

22 The closest the FRSB came to testing this was in a ruling in December 2015 that concluded that a telephone fundraising agency had exerted 'undue pressure' by inflexibly requiring three asks to be made on the phone, irrespective of the context or circumstances of the recipient of the call. *www.frsb.org.uk/fundraising-agency-placed-undue-pressure-on-public-to-donate/* accessed 4.5.2016.

There are other ambiguities in the codes. One of these is in the International Statement on Ethical Principles where it says fundraisers are strictly answerable – not just answerable, but 'strictly' answerable – to their donors, their beneficiaries *and* their organisations.

There will be difficulties in making this work in practice. There will be times when donors and organisations have needs, desires and claims that conflict with each other. Donors and beneficiaries might both think they have rights that conflict with each other. In such cases, to whom is the donor actually "strictly answerable"? It can't be all three.

And finally, the codes in both countries contain a lot of concepts and ideas that are promoted as ethical requirements without further justification.

- Why shouldn't fundraisers make donors feel 'financially guilty'? What's wrong with guilt? After all, through our emotional storytelling, we aim to make donors feel angry, outraged, compassionate, sympathetic and other emotions. Why should guilt be off limits?
- Assuming you can define pressure, why shouldn't you exert pressure on a donor? It would be question begging of the highest order to state fundraisers ought not pressure donors because donors should not be put under pressure to give. (The pressure some individuals feel might be because a fundraiser chased them down the street, grabbed hold of their arm and called them a heartless so-and-so for ignoring the starving kiddies. Or it might be that the person felt pressured because the charity called them on the anniversary of their gift to ask them to upgrade at a time that was really inconvenient for them. Or it might be the person felt 'pressured' because they saw a television advert and felt that they ought to do something but couldn't really afford it right now and that made them feel terribly guilty. For some, the very act of being asked to give at all might constitute not just pressure, but pressure that they consider to be 'undue'.)
- Why shouldn't you try to persuade a donor to switch their donation to your charity? Companies are forever trying to win customers from their rivals. Why shouldn't a charity do the same, particularly if it is much more effective and efficient at delivering its charitable purpose (achieving more for less) than a 'competitor' charity?

The answers to these questions are *not* self-evident (this is not to say that it *is* ethically acceptable to make people feel guilty, only that it is not self evident that it is *not*). They have to be arrived at using an ethical decision-making process[23], and those frameworks need to be informed by some kind of normative theory. Yet what is invisible in the applied ethics contained in the various codes of practice is from what normative theories they are derived.

So to resolve these ethical grey quandaries in applied fundraising ethics, we need to apply not just a normative ethical theory such as Utilitarianism, Altruism or Kantian ethics, but a theory of normative fundraising ethics that has been constructed for just this job.

23 Some decision-making frameworks do exist (see Fischer 2000, pp20-31). These will be explored as this project progresses.

4. NORMATIVE FUNDRAISING ETHICS

Fundraising has never had a foundational normative theory of professional ethics that has been robustly described or widely adopted. However, it is possible to discern from the literature at least four collections of ideas that can lay claim to being a normative theory of fundraising ethics, though only one has been formally proposed and presented as such.

These are:

- Protection of public trust – Trustism
- Relationship management
- Servicing the donor's needs, wants and aspirations – Donorcentrism
- Servicing philanthropy.

Trustism

In 1994, fundraising consultant and board member of the AFP Marianne Briscoe suggested that public trust should be: "The first and primary stakeholder in any ethical dilemma in fundraising" (Briscoe 1994b, p110)[24]. She went on to add that most important stakeholders in order of importance were (ibid):

- 'Enterprise of philanthropy'/public trust
- 'Altruistic' donors – those giving altruistically with no expectation of return
- Non-altruistic donors – those giving with a lower degree of altruism (giving for "more mundane reasons", who may therefore be "less creditworthy stakeholders")
- Organisation or institution
- Individual fundraiser.

Michael Rosen argues that the purpose of the codes is to protect public trust in fundraising. (Rosen 2005, p177):

"One way in which organizations can enhance the public trust is to maintain the highest ethical standards and to communicate this commitment to donors and prospective donors."

The protection of public trust features prominently in thinking about fundraising ethics from the early- to mid-1990s. In the 1980s, the Josephson Institute for the Advancement of Ethics argued that a study of the history and philosophy of religion suggests there are 10 core values that transcend cultures and therefore establish ethical norms: honesty, integrity, promise-keeping, fidelity/loyalty, fairness, caring for others, respect for others, responsible citizenship, pursuit of excellence, and accountability (Marion 1994, pp51-52). Delivering a paper to the NSFRE's[25] National Forum on Fundraising Ethics in 1988, the Institute's founder, Michael Josephson, added an eleventh value for nonprofit organisations and their fundraising departments: safeguarding the public trust (ibid p52).

So under a 'Trustist' approach to fundraising ethics:

A fundraising act would be ethical if it promoted, sustained, protected or maintained public trust, and unethical if it damaged these things.

Trustism is therefore a consequentialist theory since ethical actions are based on consequences to public trust.

It seems likely that many of the provisions in the various codes of practice around the world are founded upon a view of 'Trustist' fundraising ethics – in other words, the ethical provisions contained in the codes exists to promote, sustain, protect and maintain public trust in fundraising practices and the fundraising profession.

Albert Anderson (1996, p75), says that building trust is a "fundamental principle [that] underscores the centrality of ethical relationships to fundraising". But it's not just for trust's sake that this formulation of fundraising ethics seeks to preserve and protect it. Trust in the nonprofit sector as a whole determines whether people will give to nonprofits in the first place: people who lack trust in the sector are significantly less likely to be donors (Sargeant and Lee 2002a); and trust is also a main driver of donor commitment to a charity (Sargeant and Lee 2002b), which in turn is a major predictor of donor lifetime value (Sargeant and Lee 2004).

4.1 Trustism

Fundraising is ethical when it promotes, sustains, protects or maintains public trust in fundraising practices and the fundraising profession, and unethical when it damages it.

The next three ethical theories have a common thread in that they all, in some way, focus on the donor, or the relationship with the donor.

24 What she actually says (Briscoe 1994b, p110) is that the first stakeholder should be the "endeavour of philanthropy", which makes her ideas a candidate for a normative theory we shall encounter shortly – 'Service of Philanthropy'. However, in her discussion, Briscoe says the "endeavour of philanthropy" is contingent on public trust: "The legitimacy of the fundraising profession depends on the willingness of the public, particularly the philanthropic public, to allow fundraisers the privilege of 'marketing' to them...If fundraisers are seen as untrustworthy or questionably motivated, the profession will lose its franchise. The first and primary stakeholder in an ethical dilemma in fundraising should therefore be the enterprise of philanthropy."

25 National Society of Fund Raising Executives – the forerunner of the Association of Fundraising Professionals.

Relationship Management

We're going to start with the Relationship Management approach, as this is the only one that has actually been formally articulated into a normative theory of fundraising ethics (Kelly 1998, p156). This was articulated in the late 1990s by Kathleen S. Kelly of University of Florida. She's actually at the university's School of Journalism and Communications, as her main specialism is public relations. In devising her theory, she's borrowed much from the mainstream of academic public relations theory.

Kelly's position is that fundraising is "the management of relationships between a charitable organization and its donor publics" (Kelly 1998, p8).

This is a concept that is borrowed directly from public relations theory, which defines PR as: "The management function that establishes and maintains mutually beneficial relationships between an organisation and its publics on whom its success or failure depends." (Cutlip et at 2006, p9)

Kelly goes on to say (p9) that: "The purpose of fundraising is *not* to raise money, but to help charitable organizations manage their interdependencies with donor publics who share mutual goals and objectives." (Emphasis added.)

Note that she is not saying that the *primary* purpose of fundraising is *not* to raise money – but it might be one of its secondary purposes; or that fundraising is not *just* about raising money. She actually says the purpose of fundraising is *not* to raise money. A different way of saying this with precisely the same meaning is that: It is not the purpose of fundraising to raise money.

Instead, the purpose of fundraising is managing relationships. Presumably any money raised is a happy byproduct of those relationships but – as the definition says – not the purpose of the activity.

Kelly again borrows from PR theory by analysing the history of fundraising in the US and identifying four practices that predominated during four eras (Kelly 1998, pp155-192). These are borrowed directly from the work of US academics James Grunig and Todd Hunt and the 'excellence theory of public relations' (Grunig 1992, p 18; and Grunig & Grunig 1992, pp285-326). The four models of PR/fundraising are:

Press agentry – uses persuasion and manipulation to influence people to act and behave as the organisation wants them to. Truth is secondary to gaining favourable publicity, or "progandising a cause" (Kelly 1998, p156).

Public information – disseminates accurate and truthful information about the organisation through press releases, reports etc.

Two-way asymmetrical – this model uses scientific research to understand public behaviour and uses that to structure the organisation's communications to better influence the public to do what it wants them to do. PR theorists Grunig and Hunt called it "scientific persuasion".

Two-way symmetrical – instead of trying to persuade, much less manipulate, people, public relations is the mediator that negotiates with the public to resolve conflict and promote mutual understanding and respect between the organisation and its stakeholders. In the two-way symmetrical model, all parties benefit, not just the organisation.

Kelly says that, while the first three provide a theory of how fundraising is practised in the US, "only the two-way symmetrical model provides a normative theory of how fundraising should be practised to be ethical and effective". (Kelly 1998, p157). That's because this is the only model that allows genuine relationship building with donors.

Under a Relationship Management approach to fundraising ethics, an act would be ethical if, and only if, it:

Conformed to the two-way symmetrical model of public relations theory, and unethical when it didn't.

Kelly dismisses all other types of fundraising as 'unethical' because they don't allow for this type of relationship building and can cause annoyance to donors.

She uses this to say that paid solicitors – such as those employed to telephone alumni – are unethical, should not be considered to be fundraisers and should be barred from membership of professional organisations (ibid pp278-79). In fact, she implies that, "because fundraising is more than solicitation", any form of fundraising that only covers the solicitation cannot actually be 'fundraising' because it does not contain a relationship building stage (ibid) – which eliminates pretty much all fundraising carried out through direct marketing methods, such as phone, mail, SMS, email and face-to-face (direct dialogue) from the fundraising profession, as well as capital appeals, which Kelly claims also derive from asymmetric methods (ibid, p29). Kelly's definition of a 'fundraiser' is "someone paid to manage donor relationships" (ibid, p7), not someone who is paid to raise money: "Those who only solicit and do not manage relationships *are not* fundraisers" (ibid – emphasis added)

She also says that only the two-way symmetrical model of fundraising is compatible with building public trust, while all three asymmetric models, which all use "manipulation" (ibid, p157) to solicit donations are injurious to public trust (ibid, p168).

Her normative ethical theory is deontological in that it specifies that fundraisers ought to use two-way symmetrical fundraising methods because these build the best relationships for donors and that is the right thing to do in and of itself. She presents evidence that these methods are also effective, but her deontological theory does not stand or fall on these consequences.

It is also the only normative theory of fundraising ethics that has been expressly articulated as such.

4.2 Relationship Management

Fundraising is ethical when it conforms to the two-way symmetrical model of public relations theory, and unethical when it does not.

Donorcentrism

Clearly in the same tradition as Kelly's Relationship Management is 'Donorcentrism' – a termed coined by fundraising consultant Penelope Burk (2003), but which has its intellectual roots in the burst of interest in ethics in the United States in the early- to mid-1990s, for example: "An ethical belief in the importance of the donor" that "recognis[es] that the donor comes first...always putting the donor first in regard to when to ask, how to ask and what to ask for" (Geever 1994, p70).

Donorcentrism is a collection of ideas that all share the common theme of putting the donor at the 'heart' of charity communications (e.g. Orland 2011, Pegram 2016), or at the "centre of fundraising strategies" (Etherington et al 2015, p63). A white paper on the future of fundraising published by the Direct Marketing Association in the wake of the UK's fundraising crisis recommends that in the "ideal" fundraising future, nonprofits will put supporters at the "heart of everything" they do (DMA 2016, p5). In fact, the DMA's accompanying press release describes donors as the "most important people in the entire charity process"[26].

Rogare's review of relationship fundraising – which aimed to build the theory behind Donorcentrist fundraising principles (Sargeant 2016, MacQuillin et al 2016, MacQuillin 2016) – asked fundraisers who had identified themselves as 'relationship fundraisers', about their discipline's strengths and weakness. What emerged from their responses was that there are five components to a Donorcentrist approach to fundraising (MacQuillin 2016, pp15-22):

1. Fundraisers need to understand donors...
2. ...so they can connect them to a cause...
3. ...by focusing on the cause not the organisation...
4. ...and build deeper relationships with them...
5. ...by using two-way communications[27].

British fundraising thought leader Ken Burnett developed the idea of 'relationship fundraising' in the early 1990s, which he defines as (2002, p38):

"An approach to the marketing of a cause that centres on the unique and special relationship between a nonprofit and each supporter. Its overriding consideration is to care for and develop that bond and to do nothing that might damage or jeopardize it. Every activity is therefore geared toward making sure donors know they are important, valued, and considered, which has the effect of maximizing funds per donor in the long term."

It is not clear, however, whether Donorcentrism is a consequentialist or deontological theory. According to Burnett's definition, it is a consequentialist best practice doctrine that impels fundraisers to understand the needs and motives of their donors and provide great customer service to them so they will carry on giving, and give more, to your cause.

Although Burnett's definition of relationship fundraising looks similar to Kelly's Relationship Management in that it talks about protecting the bond between organisation and donor – which would (presumably) be a two-way symmetrical bond – it is different, because Burnett is saying this relationship is the best way to maximise the lifetime value of the donor, not that it should be managed for its own sake, as Kelly appears to say.

But, at the heart of the Donorcentric approach is an ethical proposition that shades into deontology – that you ought to put the donor at the heart of what you do because that is right in and of itself. Burnett says fundraisers must do "nothing to damage the bond". That creates an ethical imperative, but is it an ethical imperative to protect income or to do right by the donor?

So in fact there are two possible alternatives for Donorcentric ethics, one consequentialist and the other deontological.

Under a consequentialist Donorcentric approach to fundraising ethics, fundraising is ethical when it:

Gives priority to the donor's wants, needs, desires and wishes, provided that this maximises sustainable income for the nonprofit.

Under a deontological Donorcentric approach to fundraising ethics, fundraising is ethical when it:

Gives priority to the donor's wants, needs, desires and wishes.

So although not formulated as an ethical theory, Donorcentrism, as it is widely practised – although not necessarily consistently defined – is approaching the status of an ethical theory with two variants, one deontological and one consequentialist. A consequentialist Donorcentrist fundraiser views the quality of the donor relationship as a means to generating income; a deontological Donorcentrist fundraiser cares about the quality of the relationship as an end in itself.

As well as comprising Trustist ethics, it seems probable that the codes of practice are also formulated upon Donorcentrist ethical principles too, whether they are consequentialist or deontological.

4.3

Donorcentrism – consequentialist

Fundraising is ethical when it gives priority to the donor's wants, needs, desires and wishes, provided that this maximises sustainable income for the nonprofit.

Donorcentrism – deontological

Fundraising is ethical when it gives priority to the donor's wants, needs, desires and wishes.

26 *http://dma.org.uk/article/an-ideal-future-for-one-to-one-fundraising* – accessed 20.7.16

27 See section on Relationship Management above for an explanation of 'two-way' communications. Participants in this survey were most probably not referring to 'two-way communications' in its technical sense from PR theory.

Service of Philanthropy

A related but different ethical approach to fundraising ethics is found in the idea that fundraising is the 'servant of philanthropy', a notion first proposed by acknowledged US fundraising 'guru' Hank Rosso. Under this approach to normative fundraising ethics, the purpose of fundraising is to enable donors to give in a way that is meaningful for them. Rosso writes (Tempel 2003a, p4) that:

"Fundraising is justified when it is used as a responsible invitation guiding contributors to make the kind of gift that will meet their own special needs and add greater meaning to their lives."

So this is a very clear normative statement about how fundraising ought to be practised. It is consequentialist because is clearly states that the right course of action for a fundraiser is the one that results in consequences that meet the donors' needs and bring meaning to them. It strongly implies that since fundraising is 'justified' when it brings 'meaning' to donors' philanthropy, then it is unjustified when it doesn't do so[28]. It is a short leap from there to the notion that fundraising is ethical when it brings meaning to philanthropy – which is what Rosso means by saying that fundraising is philanthropy's servant.

Under Service of Philanthropy ethics:

Fundraising is ethical when it brings meaning to a donor's philanthropy.

The Service of Philanthropy concept is therefore different to the other three approaches (Trustism, Relationship Management and Donorcentrism) we have looked at.

While each of those three has a huge focus on the donor experiences, donor satisfaction and quality of donor service, these consequence are not the end result or end intention of the fundraising activity (except with the deontological variant of Donorcentrism, which displays many similarities to the Service of Philanthropy idea). The ethical role of each of these approaches – that's Trustism, Relationship Management, and consequentialist Donorcentrism – is, ultimately, to protect sustainable voluntary income to nonprofits (despite what Kelly says about the role of fundraising being about managing relationships and *not* raising money, that idea is not applied consistently throughout her book and she concedes that the purpose of the ethical symmetrical relationship is to raise money).

That is not the end goal of the Service of Philanthropy idea, however. The purpose of this is to deliver meaningful philanthropy for the donor. If a fundraiser wants to ask for a gift that would not be 'meaningful' to the donor, then she ought not do it, irrespective of the outcome to organisation. To do so would be to act unethically. Instead, an ethical fundraiser would exercise 'professional autonomy' – the freedom, based on exercising specialist knowledge, to act and make decisions in employing professional skills (Kasher 2005, p88) – and direct the prospective donor to a cause that better matched their philanthropic needs, even if the organisation the fundraiser works for wants her to accept the gift.

This highlights a further ethical grey area in the codes of practice. The International Statement of Ethical Principles says that:

- Fundraisers are strictly answerable to all stakeholders including donors, beneficiaries, and employers.

The problem with this is that fundraisers can only be 'strictly' answerable to all three stakeholders if their interests all align. In this case, they do not. It is in the interest of the organisation and the beneficiaries that the fundraiser solicit and accept the gift. It is in the interest of the donor that she give the gift to a different organisation (though she may not realise this until the fundraiser suggests she give it elsewhere).

> *'If a fundraiser wants to ask for a gift that would not be 'meaningful' to the donor, then she ought not do it, irrespective of the outcome to organisation.'*

The fundraiser's ethical duty appears to lie with the donor, rather than the organisation. Not the least of the ethical quandaries this situation throws up is that the fundraiser is effectively being paid by a nonprofit to solicit on behalf of other charities.

4.4 Service of Philanthropy

Fundraising is ethical when it brings meaning to a donor's philanthropy.

[28] However, it is worth pointing out that, at least in this quote of Rosso's, it doesn't explicitly state that he thinks fundraising is unjustified if it doesn't deliver meaning to donors' philanthropy.

Rights Balancing Fundraising Ethics – a new normative theory of fundraising ethics

The literature on ethics stemming from the early 1990s is replete with statements and paragraphs that outline to whom fundraisers owe their greatest (strictest!) answerability, accountability, loyalty and/or duty, even to the point of describing it in a hierarchy. Naturally, according to true Donorcentrist or Service of Philanthropy principles, the donor usually sits at the top, or very near the top, of this hierarchy. For example Barbara Marion (1994, p54) describes a professional "hierarchy of loyalty" of, in decreasing order of prioritisation: philanthropy, donors, organization, profession and self. As we saw in the section on Trustism, Marion Briscoe (1994b, p110) listed a similar hierarchy of: enterprise of philanthropy/public trust, 'altruistic' donors, 'non-altruistic' donors, organisation or institution, individual fundraiser.

What is actually quite striking in most of the literature on fundraising ethics is that the beneficiary or service user is almost totally absent from most thinking and theorising. This can be seen in Figure 1, which shows each of the four putative normative theories of fundraising ethics (and their variants) tabularised to show primary and secondary duties of fundraisers. None of theories developed during the 1990s specifies that fundraisers owe any specific or particular duty to their organisation's beneficiaries or service users.

By overlooking or ignoring the interests of the beneficiary, ethical theorising has neglected to formally state that fundraisers have an ethical duty to beneficiaries – specifically to ensure the organisation they work for has sufficient funds to provide services for beneficiaries. Fundraisers will have failed practically and professionally if they do not raise this necessary income. They may also have failed ethically if their professional failure were due to not giving appropriate consideration to the interests of their beneficiaries.

The bulk of this project to review and rebuild fundraising's professional ethics aims to bring the beneficiary firmly into the ethical decision-making process (see Figure 2). We aim to do this with a new theory of fundraising ethics, which we call 'Rights Balancing Fundraising Ethics'.

Rights Balancing Fundraising Ethics starts with the notion that fundraisers owe their primary duty to their beneficiaries and continues with the idea that fundraisers have a duty to ask for support on behalf of those beneficiaries[29] (see Fig 2).

Under Rights Balancing ethics:

Fundraising is ethical when it balances the duty of fundraisers to solicit support on behalf of their beneficiaries, with the right of the donor not to be subjected to undue pressure to donate.

It is in trying to balance these rights that most ethical dilemmas in fundraising occur, most of which involve some kind of tension between how the donor wants the fundraiser to act, and what the fundraiser needs to do on behalf of her beneficiaries. And yet until now, fundraising's professional ethics has failed to address this very direct ethical tension, preferring instead to do it by the proxy of public trust, donor wants and desires, and meaningful philanthropy.

So it is in this space – the space between the rights of the beneficiary and the rights of the donor – that ethical decision making frameworks (something we shall aim to develop as this project progresses) should be used to determine what amounts to 'undue pressure', and anything else that a donor might consider unethical, such as 'guilt', 'unreasonable intrusion into privacy', 'unreasonably high fundraising costs' etc.

29 We will articulate from where this duty arises as we develop this project, but have decided to exclude this theorising from this initial white paper.

ETHICAL THEORY	TYPE	PRIMARY DUTY	OTHER DUTIES	COMPATIBLE WITH	NOT COMPATIBLE WITH
Donorcentrism	Consequentialist	Donor	• Public trust • Organisation	• Trustism • Relationship Management	• Service of Philanthropy • Donorcentrism (deontological)
Donorcentrism	Deontological	Donor	• Public trust • Organisation	• Trustism • Relationship Management • Service of Philanthropy	• Donorcentrism (consequentialist)
Relationship Management	Deontological	Relationship type	• Donor	• Donorcentrism • Trustism • Service of Philanthropy	• None
Service of Philanthropy	Consequentialist	Donor	• None	• Donorcentrism (deontological) • Trustism • Relationship Management	• Donorcentrism (consequentialist)
Trustism	Consequentialist	Public trust	• Donor • Organisation	• Donorcentrism • Relationship Management • Service of Philanthropy	• None

Fig 1. Normative ethical theories of fundraising indicating fundraisers' primary and other duties

ETHICAL THEORY	TYPE	PRIMARY DUTY	OTHER DUTIES	COMPATIBLE WITH	NOT COMPATIBLE WITH
Donorcentrism	Consequentialist	Donor	• Public trust • Organisation	• Rights Balancing • Trustism • Relationship Management	• Service of Philanthropy • Donorcentrism (deontological)
Donorcentrism	Deontological	Donor	• Public trust • Organisation	• Trustism • Relationship Management • Service of Philanthropy	• Rights Balancing • Donorcentrism (consequentialist)
Relationship Management	Deontological	Relationship type	• Donor	• Donorcentrism • Trustism • Service of Philanthropy	• Rights Balancing
Rights Balancing	Consequentialist	Beneficiary	• Donor • Public trust • Organisation	• Trustism • Donorcentrism (consequentialist)	• Service of Philanthropy • Relationship Management • Donorcentrism (deontological)
Service of Philanthropy	Consequentialist	Donor	• None	• Rights Balancing • Donorcentrism (deontological) • Trustism • Relationship Management	• Donorcentrism (consequentialist) • Rights Balancing
Trustism	Consequentialist	Public trust	• Donor • Organisation	• Rights Balancing • Donorcentrism • Relationship Management • Service of Philanthropy	• None

Fig 2. Normative ethical theories – including Rights Balancing Fundraising ethics – indicating fundraisers' primary and other duties

A Rights Balancing approach is highly relevant for the direction that fundraising ethics is now taking, particularly in the United Kingdom, where the discussion is now framed in terms of donors' 'rights', particularly the 'right to be left alone' (Etherington et al 2015, p4) – a right that, in the UK, will be embodied in and protected by the Fundraising Preference Service. It is also relevant in considering the prevalent assumptions about the primacy of the donor. We have already considered the Direct Marketing Association's report on the ideal future for fundraising in the UK in the section on Donorcentrism. Not only did the DMA's accompanying press release describe donors as the "most important people in the entire charity process" – more so than beneficiaries – the press release goes on to say: "What is right for them [donors] is ultimately best for your organisation and its beneficiaries"[30]. This is a conditional argument – if you 'do the right thing by donors you are automatically doing the right thing by beneficiaries' – that isn't necessarily true, since doing what is ethically correct from a donor's perspective is not guaranteed to be the ethically correct thing from the perspective of a service user.

'What is quite striking in most of the literature on fundraising ethics is that the beneficiary or service user is almost totally absent from most thinking and theorising'

30 *http://dma.org.uk/article/an-ideal-future-for-one-to-one-fundraising* – accessed 20.7.16

While it will be the ongoing aim of Rogare's review of fundraising's professional ethics to fully develop the Rights Balancing approach and develop the decision making frameworks that would fall out of it, we can even at this stage consider how such a Rights Balancing approach could be applied to particular ethical dilemmas in fundraising.

Consider the general ethical question of whether it is appropriate for fundraisers to apply some kind of pressure during solicitation of a gift (we are not considering here whether the pressure is 'due' or 'undue' – just the general principle of whether 'pressure' of any kind is permissible). How might the normative ethical theories consider this question? Are they likely to permit donors to be put under pressure?

Trustism – No.

A Trustist approach would probably conclude that putting pressure on donors would likely undermine public trust in the long-term and so jeopardise long-term sustainable income. So pressurising people is unethical, and the codes would be written to outlaw things that make people feel they have been subject to such pressure, such as prohibitions on expensive enclosures in DM packs (already prohibited in the UK) or restricting the number of times that a fundraiser may ask for a donation (under consideration in the UK in respect of telephone fundraising [Radojev 2015]). But this is an important point: as Trustism is a consequentialist theory, any decisions based on a Trustist approach (including changes to the codes) need to be supported by evidence, such as research that shows the impact on public trust of a particular type of fundraising approach. It's not sufficient to rest on a 'self-evident' assumption that particular types of fundraising are injurious to public trust.

Relationship Management – No.

Pressuring people into donating to charity would probably constitute a press agentry approach at worst or an asymmetric two-way approach at best. But as neither of these corresponds to the ethical norm of two-way symmetry, it is, by definition, unethical (and recall that the Relationship Management approach to fundraising ethics consigns pretty much all direct marketing – irrespective of how well it is done and its impact of public trust and sustainable income – to the file marked 'unethical').

Donorcentrism (consequentialist) – No.

Although it might produce short-term gain, in the long run, pressurising potential donors could make them less likely to give again. So exerting pressure is unethical and the codes would be designed to prevent this. As with Trustism, since this is a consequentialist theory, this will also require supporting evidence clearly demonstrating that donors do give less over the long-term.

Donorcentrism (deontological) – No.

Feeling that they have been pressured about not giving to charity is not in donors' interests and probably doesn't rank highly on their lists of needs or wants. It is simply the wrong thing to do to make people feel like this. So any fundraising that did this would probably be considered unethical.

Service of Philanthropy – No.

A donor can't be made to feel that their philanthropy is 'meaningful' if they have to be pressured into giving: exerting pressure on donors is therefore unethical.

Rights Balancing – Possibly.

All the above theories – based on moral norms or likely consequences – conclude that exerting pressure during the course of a solicitation, would probably be unethical, as a general rule. Only Rights Balancing ethics would consider each case in context, perhaps concluding that there might be times when it would be acceptable to exert some kind of pressure during solicitations: perhaps being doorstepped did leave some people feeling they had been put under pressure, but not enough to outweigh the good that the money raised delivered; perhaps in the case of an urgent emergency, some high-pressure tactics are acceptable, perhaps even required.

'A Rights Balancing approach is highly relevant for the direction that fundraising ethics is now taking, particularly in the United Kingdom, where the discussion is now framed in terms of donors' "rights", particularly the "right to be left alone" '

Let's delve into this question further. Let's suppose there is substantial public disquiet about using paid telephone solicitors (we don't need to suppose this as there often is), which has led to complaints that fundraisers were using pressurising tactics.

Before passing new codes or amending existing codes, or making any kind of pronouncement on what's right and wrong, Rights Balancing Fundraising Ethics would seek to accumulate the best evidence possible (which is essential for consequentialist ethics). Based on this evidence, it can arrive at the balance that works in the best long-term interest of the beneficiary.

If, for example, the complaints are due to extremely poor fundraising service (so the 'pressure' were down to poor Donorcentrist practice), then it may recommend that better fundraising would be in the best interest of the beneficiary, and codes might be amended to include improved training and mystery shopping procedures, but not ban or restrict telephone solicitations.

'It is the tension between the competing rights of donors and needs of beneficiaries that leads to most ethical dilemmas in fundraising'

If the complaints were simply because people did not like to be telephoned at home, which was leading to people feeling moral pressure such as guilt, Rights Balancing ethics would seek to weigh up the long-term effects on public trust using market research and other evidence.

But suppose also that some people were to say that they did not want to be called at home by a telephone fundraiser, and that they had a 'right' not to be called. Such a claim has something behind it if they can register with a do-not-call service (providing it covers nonprofit organisations, which the US register does not). In this case, people do have a clear right not to be called[31].

But let's consider this hypothetical situation in the absence of a do-not-call register in which some people claim they have a 'right' not to be subjected to pressure by telephone fundraisers. In this hypothetical situation, let's assume that investigation revealed that this level public disquiet had little or no damaging impact on overall public trust or long-term income, nor did the calling breach professional standards. Then Rights Balancing Fundraising Ethics may conclude that no redress through the codes is necessary. The ultimate conclusion may be that:

Any right (such that it exists – even a 'right to be left alone') not to be contacted by fundraisers, may be outweighed by fundraisers' duty to ask for support on behalf of their beneficiaries.

Note that it says 'may'. It may well be that on the vast majority of occasions, whatever ethical decision making framework(s) this project develops will err on the side of the donor. But there may be times when it does not. When that happens, Rights Balancing decision-making frameworks will have provided a very good ethical justification why that should be the case.

But there is one very important thing to categorically state about Rights Balancing Fundraising Ethics: it is not an ethical justification to do anything, just because it raises more money. Rights Balancing ethics is a genuine attempt to ensure that by doing right by their donors, fundraisers don't disadvantage their beneficiaries, the very people they exist to support. In doing so, it aims to provide a framework by which fundraisers actually can be answerable to their donors and their beneficiaries, even when the interests of the two don't align.

4.5 Rights Balancing Fundraising Ethics

Fundraising is ethical when it balances the duty of fundraisers to solicit support on behalf of their beneficiaries, with the right of the donor not to be subjected to undue pressure to donate.

31 The UK's Fundraising Preference Service is predicated on an assumption/assertion that the public have a 'right to be left alone' from fundraisers (Etherington et al 2015, p4). This goes beyond a right not to be called that a person has by dint of registering with a do not call service, by basing the establishment of that service on the 'fact' that people already have this right.

5. SUMMARY

Most of fundraising's professional ethics are applied ethics contained in relevant codes of practice.

Most of the answers to ethical dilemmas will be found in these codes. Sometimes however, the ethical dilemmas are ambiguously covered in the code, or not dealt with at all. Then we enter truly ethical grey areas, whose resolution requires a bespoke theory (or theories) of normative ethics that identify the ethical objective of fundraising.

Four such theories have been loosely described in the academic literature.

Trustism says fundraising is ethical when it protects public trust and unethical when it damages it.

Relationship Management says fundraising is ethical when it conforms to the two-way symmetrical model of public relations and unethical when it does not.

Donorcentrism says fundraising is ethical when it prioritises the needs of the donor (and, in the consequentialist version of this theory, that this raises more money).

Service of Philanthropy says fundraising is ethical when it brings meaning to donors' philanthropy.

Under these theories, fundraisers mainly owe ethical duties to their donors and to the public trust.

However, none of these four theories explicitly describes any duty that fundraisers owe to beneficiaries. Yet it is the tension between the competing rights of donors and needs of beneficiaries that leads to most ethical dilemmas in fundraising.

Beneficiaries' interests are served by fundraisers generating sufficient income to provide the services they need. Fundraisers fail in their ethical duty to beneficiaries if they don't succeed in this endeavour. But donors often want to be asked less, asked for less money, asked in different (less intrusive) ways, or just not asked at all.

Rights Balancing Fundraising Ethics attempts to reintroduce the beneficiary to the ethical picture. Under Rights Balancing ethics, fundraising is ethical when it balances the duty of fundraisers to solicit support with the rights of donors not to be subjected to undue pressure to give. Fundraising is unethical when it does not strike this balance.

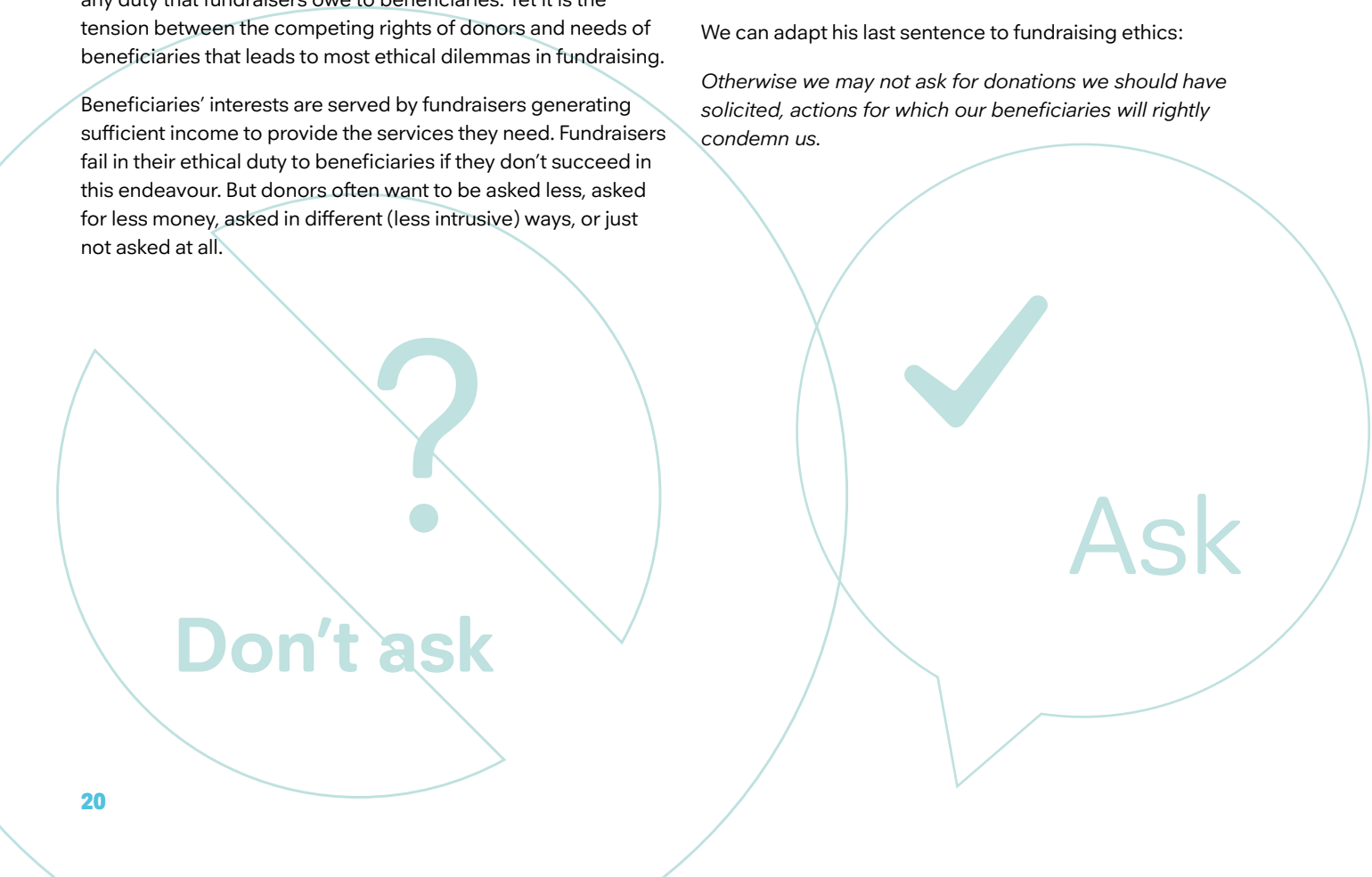
For example, a fundraising campaign that repeatedly solicited donors who had requested not to be contacted would be unethical because the balance does not protect donors from unreasonable intrusion into their privacy nor unreasonably persistent approaches (reasonableness considered against a request/instruction not to be contacted). But regulation that prevents fundraisers from contacting vast swathes of people – as might be a consequence of the Fundraising Preference Service in the UK – would also be unbalanced and therefore unethical. This is because it would prioritize a vague and intangible 'right to be left alone' over beneficiaries' real and very tangible need for the services they rely upon to be adequately funded.

Writing about big picture ethics, professor Hugh La Follette of East Tennessee State University says (1997, pp4-5):

"We must scrutinise our beliefs, our choices, and our actions to ensure that we a) are sufficiently informed, b) are not unduly swayed by personal interest and c) are not governed by the views of others. Otherwise we may perpetrate evils we could avoid, evils for which future generations will rightly condemn us."

We can adapt his last sentence to fundraising ethics:

Otherwise we may not ask for donations we should have solicited, actions for which our beneficiaries will rightly condemn us.



6. NEXT STEPS

This white paper outlines our initial ideas about how fundraising's professional ethics need to be reviewed and renewed with a new normative theory of fundraising ethics. It will serve as the central foundational document for the project, but it is far from the finished article. These ideas will be revised and updated (and possibly supplanted) with input from the advisory group (see Appendix) as this project progresses.

We anticipate that this project will take at least a year to complete and will contain the following stages:

Expand ideas contained in this white paper

The first step is to expand the ideas contained in this white paper, in particular the four existing normative theories (Trustism, Relationship Management, Donorcentrism and Service of Philanthropy) presenting these ideas in much more depth and detail, probably with each one published as a discrete white paper. We shall also articulate our theory of Rights Balancing Fundraising Ethics in far greater depth, in particular articulating how it is based in rights theory and the genesis of the 'duty' of fundraisers to ask for support. At present, our theory is mainly applicable to charities with human beneficiaries, so a challenge for this project will be to expand it to encompass causes that have non-human beneficiaries (e.g. animals, the environment), and causes that enable human flourishing rather than survival (e.g. arts organisations). It is at this point that the project's advisory group will become more actively involved, criticising and critiquing these ideas and contributing new ideas.

Explore ideas not covered in this white paper

We also need to expand the scope of this white paper to explore ideas the project hasn't yet covered.

Chief among these will be to look at how the third main theory of normative ethics – virtue ethics – might apply to fundraising, as well as exploring other deontological theories, such as Contractarianism. We may also need to investigate other normative ethical ideas, such as Feminist Care Ethics (Sander-Staudt 2011).

In this white paper, it is posited that under Rights Balancing Fundraising Ethics, fundraisers owe their primary duty to their beneficiaries, and that:

Fundraising is ethical when it balances the duty of fundraisers to solicit support on behalf of their beneficiaries, with the right of the donor not to be subjected to undue pressure to donate.

According to this formulation, Right Balancing attempts to strike an ethical balance between fundraisers' duties to two stakeholders only: beneficiaries and donors. However, fundraisers owe duties to more than just these two stakeholders. They also have duties to their employers, other fundraisers, the media, regulators, and beneficiaries of other nonprofits and causes, all of which may impose competing claims and rights on fundraisers, which will need to be balanced. This project will therefore also attempt to apply Rights Balancing Fundraising Ethics to ethical dilemmas that exist between these other stakeholders.

For example, when fundraisers claim that they have zero fundraising costs and that all of a donor's gift goes to the cause (because the fundraising costs are paid by a different set of donors), do these fundraisers have duties not to cause harm to other fundraisers and/or the fundraising profession by giving a false idea to donors of the need for investment in fundraising? The ethical balance to be struck here is to raise money to provide services for the beneficiaries of the fundraiser's organisation without making it more difficult for fundraisers of other charities to raise money for their beneficiaries.

And there is the 'framing' issue of how beneficiaries are portrayed in fundraising materials: campaigners and service delivery staff often want beneficiaries to be portrayed in a way that presents their situation in a positive light and maintains their dignity; whereas fundraisers gravitate towards imagery which they know will maximise income, which usually means showing the suffering that beneficiaries encounter.

In this situation, it appears that the ethical balance to be struck is between fundraisers' duties to their beneficiaries (to raise more money) and their duties to the organisation to frame beneficiaries in a certain way. But it is more complex than that. This is an ethical dilemma where fundraisers need to execute two different duties to their beneficiaries: the first is to raise sufficient money to provide the services they need; the second is to frame them in a dignified way. We hope that Rights Balancing Fundraising Ethics will be able to illuminate an approach to this dilemma that moves beyond the conflict between fundraising and campaigning departments.

We have already been in discussion with BOND – the umbrella organisation for aid agencies – about working collaboratively to apply Rights Balancing ethics to this problem, which we hope will form a separate strand of our main project.

Global research into ethics currently practiced by fundraisers

We then plan to conduct a global survey of fundraisers' attitudes and approaches to their professional ethics.

The survey will present fundraisers with a series of ethical dilemmas and ask them to make a decision on what they would do in a variety of scenarios. After each scenario we would explore the issues that fundraisers felt they wrestled with in taking each decision and how they justified the decision eventually taken. This will allow us to gain insight into the type of ethical theories currently guiding their decision-making and allow us to identify where and how Rights Balancing ethics would have most benefit. The advisory group will help draft the survey questions.

Colloquium

At some point during the project's lifecycle, we anticipate we will need to bring together members of the project's advisory group, members of Rogare's ethics special interest group (see Appendix), and any other interested stakeholders, to discuss what the project has so far achieved and what it needs to do in the next stage of its existence to achieve its objectives.

Decision-making frameworks

While we firmly believe that one of the major problems for fundraising's professional ethics is that it attempts to apply ethics in a theoretical vacuum, there is also little point in having vast and deep theories that cannot be applied. Therefore, this project will aim to develop ethical decision-making frameworks that will facilitate the application of Rights Balancing Fundraising Ethics.

APPENDIX – ADVISORY GROUP

This project is informed by an advisory group of academics, pracademics and fundraising practitioners, all of whom have a background in ethics/philosophy, have contributed to the development of professional ethics in fundraising/philanthropy, or have a particular interest in fundraising ethics.

Jessica Burgess – Royal Cornwall Hospitals Trust (UK)*
Nuri Heckler – University of Colorado, Denver (USA)
Derek Humphries – DTV Group (UK)**
Matthew Iredale – Shelter (UK)
Cherian Koshy – Des Moines Performing Arts (USA)*
Meredith Niles – Marie Curie Cancer Care (UK)*
Heather McGinness – Meyer Partnerships (USA)
Lucy Masterson – ceo, Fundraising Ireland (Ireland)
Clive Pedley – Giving Architects (New Zealand)*
Kathy Roddy – Kathy Roddy Training (UK)
Paul Stadelhoffer – *Fundraiser Magazin* (Germany)
Marty Sulek – Indiana University (USA)
Roewen Wishart – Xponential Fundraising (Australia)*
Zoe Woods – independent fundraiser (UK)*

* Rogare Advisory Panel member
** Rogare Associate Member

Rogare Advisory Panel ethics special interest group

These are the members of Rogare's overall Advisory Panel who are also members of our ethics special interest group.

Rodrigo Alvarez – Mobiliza Consulting (Brazil)
Zoe Bunter – Leprosy Mission England & Wales (UK)
Jessica Burgess – Royal Cornwall Hospitals Trust (UK)
Carole French – Auckland Zoo (New Zealand)
Scott Gray – Rapidata (UK)**
Derek Humphries – DTV Group (UK)**
Joe Jenkins – The Children's Society (UK)
Leif Wien Jensen – Norwegian Blind Association
Simon Johnson – Royal British Legion (UK)
Gary Kernahan – Muscular Dystrophy Campaign (UK)
Cherian Koshy – Des Moines Performing Arts (USA)
Kimberley MacKenzie – consultant (Canada)
Tim McInnis – Telethon Kids (Australia)
Nick Mason – consultant (UK)
Meredith Niles – Marie Curie Cancer Care (UK)
Beth Oppenheim – Church World Service (South Africa)
David Pearce – Dignity in Dying (UK)
Clive Pedley – Giving Architects (New Zealand)
Lesley Ray – Mater Foundation (Australia)
Beth Rose – Alaska Community Foundation (USA)
Adrian Salmon – Grenzebach Glier and Associates (UK)
Simon Scriver – One in Four Ireland (Ireland)
Amanda Shepard – independent consultant (UK)
Katharina Steinkellner – Science Museum Group (UK)
Nathalie Veenman – RNW Media (Netherlands)
David Walwin – Ethicall (UK)**
Chris Washington-Sare – Pentatonic Marketing (UK)
Dom Will – HOME Fundraising (UK)**
Roewen Wishart – Xponential Fundraising (Australia)
Zoe Woods – independent fundraiser (UK)

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ROGARE ASSOCIATE MEMBERS

Rogare is supported in its work by a number of Associate Members – partners to the fundraising sector that share our critical fundraising ethos. Our Associate Members are:

Bluefrog – creative agency (UK)

DTV Group – Direct response agency (Global)

Ethicall – telephone fundraising agency (UK)

HOME Fundraising – doorstep fundraising agency (UK)

Pursuant – strategic and creative fundraising agency (USA – lead associate member for North America)

Rapidata – regular giving specialist (UK).

The core funding support provided by our Associate Members has proved key in allowing this review of fundraising ethics to get off the ground.

We also have a research association with the Resource Alliance.

Visit our website for more information on Associate Membership of Rogare.

The University is committed to providing information in accessible formats.
If you require information from this prospectus in an alternative format please contact us.

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