

Consultation on the Implementation of the New Subscription Contracts Regime

February 2025

About Us

[The Heritage Alliance](#) is the umbrella body for the heritage sector in England, a charity bringing together over 200 organisations representing the breadth of heritage. The Heritage Alliance sits on the Government's Heritage Council, and on the heritage sector's Historic Environment Forum. Our specialist Funding and Investment Advocacy Group has fed into this response.

General Comments

We welcome this consultation and support initiatives to improve consumer rights and strengthen rules around auto-renewal contracts, however there are a number of facets to the proposed new regulations that would negatively impact our members and the wider public-facing heritage sector. As set out in more detail below, these primarily concern:

1. Financial Impact on Heritage Organisations

Refund policies and membership loopholes could lead to significant income loss for heritage sites, as visitors may cancel memberships shortly after signing up, having used services and frontloaded benefit in this short period – perhaps as part of a holiday. This puts pressure on organisations that rely on membership income for site upkeep and public access. Reduced membership income, compounded by potential loss of GiftAid, could force closures, cut outreach programs, or make operations unsustainable. Many heritage sites also depend on membership fees to provide free public access, and any erosion of this income threatens their viability. The combination of income loss and higher operational costs could lead to closures or downsizing of historic sites, undermining public benefit, educational outreach and community engagement. We recommend a waiver for services provided by heritage and culture organisations, and which could apply to membership agreements that provide unlimited free access to sites and attractions as part of an annual membership fee.

2. Operational and Administrative Challenges

Visitor memberships come with additional operational costs, unlike digital subscriptions. This often includes a front-loading of cost as members join with the provisions of cards and guide books that would unlikely be returned on cancellation. The need to manage refunds, track activities, and update sales processes to comply with new rules will create financial and administrative burdens, particularly for smaller organisations. Furthermore, complying with notification and refund requirements would incur significant printing and postage costs for organisations with large non-digital member bases. A shift to fully digital memberships could alienate audiences that are not digitally engaged and carries significant costs through the required digital infrastructure upgrades needed to implement a new system.

3. Wider Risks to Heritage Charities

Lastly, and whilst not covered under the scope of this consultation, we remain concerned about the implications of the Digital Markets, Competition and Consumers Act (DMCCA) for Gift Aid and the effect this could have on charitable income. This is particularly pertinent for the many heritage organisations operating as charities that rely on membership subscriptions (and therefore Gift Aid) for revenue. In particular, we understand that current provisions could mean that it will no longer be possible for charity membership subscriptions to be treated as donations and, as such, leaving charities unable to continue claiming Gift Aid on these subscriptions. For many of our members, this would have a devastating impact on their financial sustainability, with one claiming that it could result in a 25% loss in their income from memberships each year. Whilst we note the Treasury's recent assurance that it will seek to amend existing legislation to enable charities to continue claiming Gift Aid while complying with new consumer protections, it is vital that further clarity, along with a timetable of proposed government action, be provided as soon as possible. We would ask that the sector continue to be consulted on the proposed resolution to this issue to avoid further impacts on public-facing heritage charities.

Consultation Questions

2. Cooling-off cancellation rights: refunds and returns

2.1 Approach for cooling-off return and refunds

Question 1: In developing the approach to cooling-off returns and refunds, we have sought to do the following (set out in [paragraph 23](#)):

- **ensure that the existing level of statutory rights for consumers in the CCRs is maintained – consumers should not lose a right they currently have, even if they gain rights elsewhere**
- **maintain the principle underlying the CCRs that if a consumer exercises a cooling-off right, neither they nor the trader should be unfairly out of pocket – for example, if a trader has already supplied a perishable product that cannot be resold and has therefore incurred non-recoverable costs, that is considered in calculating the refund**
- **take into account the nature of the subscription, including the type of product supplied, and whether or not the consumer has been supplied a product in the cooling-off period before exercising a cancellation right**
- **ensure the consumer has the opportunity to reflect on whether they want to continue with a contract, in keeping with the intention of the DMCCA – this is because they will be liable for ongoing payments unless they take action to stop them**
- **where possible, streamline the operation of the rules to make them accessible to consumers and businesses**

Do you agree with the principles set out in this approach? Please provide the reasoning and any evidence behind your answer.

No. Firstly, this approach has a disproportionate effect on heritage organisations operating as charities. Charity subscriptions are not primarily commercial transactions, but a relationship and a commitment to support the charity. This contract is not based primarily on exchange of goods and therefore should not come under CCR regulations in the same way as commercial contracts.

Secondly, the proportionate refund model is likely to have a significant financial impact on all types of visitor-facing heritage sites. Visitor memberships are not comparable to digital memberships where the supply of the product does not come at additional cost, or marginal cost, to the organisation per consumer – each visitor carries a cost to the upkeep, staffing, overheads of the site. Some heritage sites are still run on advance booking only or available on a pre-booked tour basis, so any visitors being refunded take the place of a paying visitor and eat into profit margins. As memberships are often sold 'at the gate' of many heritage sites, the proposed new refund rules create an additional loophole that could be widely exploited, and which would be of further detriment to the financial sustainability of many heritage organisations.

Specifically, it could create a scenario in which someone benefited from a site visit(s) (e.g. as part of a new annual membership) but who then chose to cancel their membership within the proposed 14-day 'cooling-off' period – thus contravening the principle that if a consumer exercises a cooling-off right, neither they *nor the trader* should be unfairly out of pocket. In other words, because the proposed rules suggest refunds would have to be calculated on a pro-rata time basis, this would permit organisations to deduct from any refund only a negligible amount, *even when someone had benefited from the value of one or more visits to their site(s) before cancelling their new membership*. Given that the cost of even a single visit to a heritage site may be significantly more than any refund deduction, this loophole could leave many heritage organisations out of pocket, whilst exposing tourism and heritage attractions to a similar 'binge watching' problem that affects digital content providers.

To provide an example from one of our members, if someone were to take out an annual adult membership costing £72 on a visit to a historical site – but then chose to cancel their membership the following day – the site operator would be required under the new proposed rules to provide them with a near full refund, minus just 20p (representing the value of one day's worth of membership). This is despite the fact that they would have benefited from the value of the visit, where the current cost of adult entry to this particular site for non-members pre-booking without a donation is £22.70. Moreover, with many heritage sites located in local clusters, this loophole could be exploited further by allowing people to subscribe as new members at one site (at the start of a two week holiday, say); continue to visit multiple further sites over that fortnight; and then cancel their membership within the 14-day cooling off period – all at minimal cost, but undermining the financial viability and operating model of the organisation. Such loopholes, if left unaddressed, would pose an existential threat to many organisations operating heritage sites and visitor attractions. The loss in income that this would represent (in addition to mounting operational costs) could result in the closure of sites, thus reducing public access to culture.

In order to close this inadvertent loophole, we strongly recommend that the Department for Business and Trade introduces a waiver for services provided by heritage and culture organisations, and which could apply to membership agreements that provide unlimited free access to sites and attractions as part of an annual membership fee – in a similar way to that being proposed for digital content. This would mean that if someone consented to benefit from the value of a visit to a heritage site during the 14-day cooling off period, as part of a new membership, they would subsequently waive their right to a refund if they cancelled during this time.

Question 2: Please provide any evidence you have on the extent to which consumers cancel their contracts or take action to bring their subscription contract to an end within 14 days after:

- **signing up for a subscription**
- **a subscription trial period ending and rolling over into a paid or higher cost subscription**

- **a long-term subscription (12 months or longer) automatically renewing**

As a business-to-business membership organisation we do not have direct evidence of this, but we understand that several of our members including English Heritage and Historic Houses are responding to this consultation with accompanying evidence.

2.3 Refunds for services

Question 7: In our proposals, we have taken into consideration (set out in [paragraph 42](#)) that:

- **due to their nature, services received by the consumer are not returnable to the trader**
- **a consumer may have been supplied with the service before exercising a cooling-off right**
- **by cancelling the contract, consumers should not be able to receive services for free during a cooling-off period**

(a) Do you agree with the factors that we have taken into consideration when developing the proposals for refunds for services? Please provide the reasoning and any evidence behind your answer.

No. Please refer to our response to Question 1 and our recommendation for a waiver for services provided by heritage and culture organisations.

Question 8: To what extent do you agree with the regulatory proposal for refunds for services? Please provide the reasoning and any evidence behind your answer.

Strongly disagree. Providing refunds for services on a partial or pro-rata time basis is impractical and would create a significant administrative burden for heritage sites and visitor attractions, particularly where these are small in scale. For instance, many smaller sites provide paper-only membership cards and lack the digital infrastructure to electronically record visits, thus presenting a significant challenge when it comes to calculating partial refunds. Furthermore, even where more formal membership cards are used, sites may still not actively monitor or record a visit(s) (e.g. with members simply asked to present a valid membership card in order to access the site/parking). Non-digital annual membership cards also cannot be cancelled, meaning the heritage site would rely on the honesty of cancelled members to destroy their cards and not continue to use them. One viable solution to this loophole would be for the return of membership cards (and associated guidebooks etc.) at cost to the consumer to be a condition of refund included in the waiver proposed under Question 1.

Ultimately, the proposed regulations could force heritage and visitor sites to go entirely digital. Not only would this create significant, or even insurmountable, operational challenges for many

heritage organisations, but it could leave many in the position of having no option but to issue refunds in full – undermining the principles of the CCRs that consumers should not be able to access services for free. What is more, whilst digital membership cards have undoubted benefits, forcing the market to go digital would unfairly discriminate against people who do not have access to the appropriate technology (e.g. digital phone wallets).

2.4 Refunds for digital content

Question 9: In developing the proposals for digital content, we have taken into consideration (set out in [paragraph 49](#)) that:

- **due to its nature, digital content is not returnable**
- **a consumer may have been supplied with the digital content before exercising their cooling-off right**
- **consumers should not be able to receive digital content for free during a cooling-off period**

(a) Do you agree with the factors that we have taken into consideration? Please provide the reasoning and any evidence behind your answer.

No. As already stipulated in our response to Question 1, we strongly recommend that the Department for Business and Trade introduces a waiver for services provided by heritage and culture organisations – in a similar way to that being proposed for digital content. Indeed, heritage memberships share similar characteristics, given that they are not returnable goods and because access is often provided from the point of taking out a membership (e.g. when visiting a site).

Question 10: (a) Considering the three options set out for how refunds could work for digital content, which approach would you recommend?

- **option 1: proportionate refund for both initial and renewal cooling-off periods**
- **option 2: waiver for initial cooling-off period and proportionate refund for the renewal cooling-off period**
- **option 3: waiver for initial cooling-off period, and waiver for renewal cooling-off period**
- **none of these**
- **don't know**
- **not applicable**

Option 2.

2.5 Refunds for mixed contracts

Question 13: Do you think that there should be regulations for how mixed contracts work, or is guidance sufficient? Please provide the reasoning and any evidence behind your answer.

- **regulations**
- **guidance**

Guidance. We would welcome further clarity on the implications of the proposed new regulations on mixed contracts. For instance, many heritage organisations provide physical welcome packs as part of their initial membership offering, but it is unclear how this would be treated. Similarly, many heritage sites and visitor attractions provide other benefits as part of a membership, such as discounts in gift shops and cafes, free access to exhibitions and car parking – much of which is not recorded on membership cards and would be difficult to calculate the cost of.

2.7 Extension of cooling-off periods

Question 15: To what extent do you agree with the regulatory proposal for the extension and operation of the cooling-off period if the trader does not comply with their duties to inform the consumer of their initial or renewal cooling-off right? Please provide the reasoning and any evidence behind your answer.

Neither agree nor disagree. We would welcome greater clarity on how the proposed regulations seek to mitigate against situations where, for instance, an organisation provides its members with the appropriate pre-contract information but where it may not be received due to events outside of its control (e.g. whilst heritage organisations are able to send members the appropriate information, they cannot account for delays in delivery due to disruptions with third party delivery services). Further consideration is needed to fully understand the implications of this proposal.

7. Information notices

7.1 Reminder notices

Question 23: To what extent do you agree with the regulatory proposals for reminder notices? Please provide the reasoning and any evidence behind your answer.

Disagree. Whilst we recognise the importance of consumers receiving timely reminders about their subscriptions, these proposals would create a significant administrative and financial burden for many of our members, not least the need for additional single-purpose communications. This is particularly problematic for membership organisations who have a substantial membership base without a registered email address and where notification would be required by post. By way of example, our member Historic Houses estimates that around 8% of its members do not have an email address, and so postage would cost them a minimum of £1pp per notice (c. £3,500 per

reminder). Printing costs are in addition to this: another large member organisation estimates that up to a third of their members have not supplied them with an email address, which would equate to £700k in printing costs to contact 1.5 million people.

A measured approach would be to allow membership organisations to use existing regular communications (e.g. mailshots) to serve as reminder notices of live subscriptions, rather than necessitating additional or standalone mailings.

Question 27: Is there anything else that you would like to provide comment or evidence on?

We would like to take this opportunity to raise a final important point regarding friends' schemes. These schemes are typically set up as small monthly or annual donations with arrangements varying from no regular benefits or simple quarterly newsletters at one end of the spectrum, to early booking of exhibitions/events or free entry to the site at the other. Currently, we are unclear how such schemes would be treated under the new proposals and, for instance, whether they would be deemed to be a subscription contract given that the 'exchange of goods and services' is not the primary purpose of such schemes although they can carry benefits. Given that friends' schemes are typically associated with small sites – such as local museums and churches – and are often run by volunteers, we are concerned that an unintended consequence of the proposals would be to force such sites to end the operation of friends' schemes due to a lack of capacity and out of fear of breaching regulations; thus impacting negatively on their financial sustainability. **We would therefore welcome clarity from government on this particular point.**

For further information or queries, please contact The Heritage Alliance:

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